



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
100 BRASS STREET, SUITE 100  
BOSTON, MASSACHUSETTS 02114-2441



SDMS DocID 443508

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

December 26, 2000

Greg Jonsson, Esq.  
683 Main Road  
P.O. Box 3165  
Westport, MA 02790-0740

RE: APRAK Realty Trust  
AP 93, Lot 263

Dear Mr. Jonsson:

As you are aware, EPA is currently in the process of cleaning up the New Bedford Harbor Superfund Site and has made an offer to purchase some property interests from your client by letter dated September 12, 2000. Shortly after that letter was sent, EPA and the U.S. Army Corps of Engineers (COE) met with you and your client as well as with a potentially interested developer to explain the property interests we seek and to describe the project to the potential developer. During those meetings EPA and the COE also expressed an interest in viewing plans of the proposed development of the area and a willingness to work with the potential developer to minimize as much as possible the remedy's impact on your property.

More recently, in mid-November, your client made a counter-offer to the amount of money offered by the United States for the purchase of the required property interests. Shortly thereafter, EPA, through the COE, responded that the counter-offer was unacceptable since it was not supported by an appraisal or an offer to purchase. We offered to meet with you and the potential developer again to continue our discussions but nothing affirmative has resulted to date. Both Mr. Fallon from the COE and I have contacted you on many occasions to arrange a date to meet with the potential developer but have been unsuccessful.

An immediate response from you is critical since EPA is scheduled to begin construction on relocation of the combined sewer overflow in January, 2001 and on the confined disposal facility in March 2001. As explained in our meetings, portions of the relocated pipeline and the confined disposal facility will be permanently located on your client's property. Unless you can confirm, within one week, that your client will be contracting for an independent appraisal and serious negotiations will continue, we will be left with no alternative but to initiate condemnation proceedings to secure the property interests necessary to implement the Superfund remedy. This is a last resort step and not one taken lightly. It is also a lengthy process and

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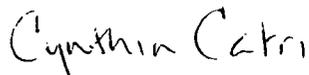
requires some preparation work on the Government's part. At any time during our preparation of the condemnation proceedings, EPA and the COE stand ready to resume acquisition discussions and will make themselves available to meet with you and your client and/or the potential developer.

Having said the above, EPA also recognizes that your client did sign a COE Right of Entry Form on October 23, 2000 which grants the Government an irrevocable right to enter on property for 12 months to perform construction work of any nature. This was an attempt by all parties to allow the work to move forward while negotiations for the property acquisition continued. Upon signing, your client elected to delete the words "in order to erect buildings or any other type of improvements" in the right of entry form. In order to clear up any doubt that deletion of these words does not affect the Government's right to construct an underground pipeline through the property and a confined disposal facility on the property, Mr. Fallon has given you another right of entry form, leaving those words intact for your client's signature. Regrettably, the form has not been signed and returned to EPA or the COE.

As a result, you have left us with no alternative and EPA is compelled, since work is scheduled to commence in January 2001, to prepare an Access Order to carry out this portion of the remediation. Of course, at any time before the Order becomes effective, the Government is more than willing to discuss this matter with you and your client.

I can be reached at (617) 918-1888; Jim Brown, the EPA Remedial Project Manager, can be reached at (617) 918-1308 and Mr. Fallon and Mr. Walsh can be reached at (978) 318-8279 and (978) 318-8583, respectively. Please call if you would like to discuss these matters.

Sincerely,



Cynthia E. Catri  
Senior Enforcement Counsel

cc: Jim Brown, EPA  
Ed Fallon, COE  
Quentin Walsh, COE

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PS Form 3800, July 1999 See Reverse for Instructions