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Cook County, IL

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DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2020CH04076

IN THE CIRCUIT COURT FOR COOK COUNTY, ILLINOIS
CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney)
General of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
HILCO REDEVELOPMENT, LLC)
d/b/a HILCO REDEVELOPMENT PARTNERS,)
a Delaware limited liability company, HRP)
EXCHANGE 55, LLC, a Delaware limited)
liability company,)
MCM MANAGEMENT CORP.,)
a Michigan corporation, and)
CONTROLLED DEMOLITION, INC.,)
a Maryland corporation,)
)
Defendants.)

9194105

No. 2020CH04076

COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of the Defendant, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, a Delaware limited liability company, and on his own motion complains of the Defendants HRP EXCHANGE 55, LLC, a Delaware limited liability company, MCM MANAGEMENT CORP., a Michigan corporation, and CONTROLLED DEMOLITION, INC., a Maryland corporation, as follows:

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COUNT I
AIR POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against the Defendant HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS (“Hilco”), a Delaware limited liability company, and on his own motion against Defendants HRP EXCHANGE 55, LLC (“Exchange 55”), a Delaware limited liability company, MCM MANAGEMENT CORP. (“MCM”), a Michigan corporation, and CONTROLLED DEMOLITION, INC. (“CDI”), a Maryland corporation (collectively, “Defendants”), pursuant to the terms and provisions of Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2018).

2. The Illinois EPA is an administrative agency of the State of Illinois, created by Section 4 of the Act, 415 ILCS 5/4 (2018), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Hilco and Exchange 55 have been and are Delaware limited liability companies qualified to transact business in the State of Illinois. They are registered with the Illinois Secretary of State’s Office as foreign limited liability companies and are in good standing.

4. At all times relevant to this Complaint, MCM has been and is a Michigan corporation qualified to transact business in the State of Illinois. It is registered with the Illinois Secretary of State’s Office as a foreign corporation and is in good standing.

5. At all times relevant to this Complaint, CDI has been and is a Maryland corporation in good standing; however, CDI is not registered with the Illinois Secretary of State to do business in Illinois.

6. On December 29, 2017, or on a date better known to Hilco, HRE Crawford, LLC purchased the property located at 3501 S. Pulaski Road, Chicago, Cook County, Illinois (the “Site”).

7. On July 9, 2019, or on a date better known to Hilco and Exchange 55, Exchange 55 received title to the Site from HRE Crawford, LLC.

8. At all times relevant to this Complaint, Hilco has been and is the managing member of HRE Crawford Investments, LLC. HRE Crawford, LLC and Exchange 55 are owned by joint ventures managed by HRE Crawford Investments, LLC.

9. Upon information and belief, as the managing member of HRE Crawford Investments, LLC, the manager of Exchange 55, Hilco is responsible for operations at the Site.

10. Prior to being acquired by HRE Crawford, LLC, the Site operated as a coal-fired power plant known as the Crawford Power Generating Station.

11. From a date or dates in 2018 better known to Hilco and Exchange 55, Hilco and Exchange 55 have been engaged in the demolition of the Crawford Power Generating Station, and the remediation and redevelopment of the Site.

12. Crawford Power Generating Station operated from 1924 to 2012, when it was decommissioned. While in operation, the Crawford Power Generating Station utilized a 378-foot concrete smokestack to release various air pollutants into the atmosphere. Like other coal-fired

power plants, the Crawford Power Generating Station emitted mercury, sulfur dioxide, nitrogen oxides, particulate matter, and other pollutants through its smokestack.

13. The Site comprises approximately 70 acres and is bound by 33rd Street to the North, Pulaski Road to the West, and the Chicago Sanitary and Ship Canal to the East and South. The Little Village neighborhood is located directly to the north of 33rd Street and the Site. Residences are located less than .25 miles from the Site. Piotrowski Park is located approximately .3 miles to the northwest of the Site. Gary Elementary School is located approximately .5 miles to the north of the Site.

14. The Site is located in an Illinois-EPA-designated area of Environmental Justice (EJ) concern. Areas of EJ concern are determined by Illinois EPA based on census block group data identifying higher concentrations of low-income and minority populations where a disproportionate environmental burden may occur.

15. In 2018, on a date better known to the Defendants, Hilco contracted with MCM to manage the demolition of the Crawford Power Generating Station.

16. On July 6, 2018, the City of Chicago issued Wrecking/Demolition Permit No. 100753139 to Hilco and MCM to demolish the Crawford Power Generating Station, including the smokestack, as part of Hilco's demolition and redevelopment project.

17. In February 2020, on a date better known to the Defendants, MCM selected CDI to act as the specialty explosives subcontractor to perform the design for, and the felling of, the smokestack.

18. On February 19, 2020, CDI prepared a “Preliminary Plan & Procedure” for the felling of the smokestack at the request of MCM. The plan provides that dust will last “in the general vicinity for five (5) to ten (10) minutes” following the felling.

19. On April 9, 2020, Hilco issued an “Important Community Notice Demolition Alert” regarding its intention to demolish the concrete smokestack at 8:00 a.m. on Saturday, April 11, 2020. The announcement stated that there would be “extensive dust control and mitigation efforts, including a variety of watering techniques such as water trucks, water cannons and direct-drive misting systems.”

20. On April 11, 2020, at approximately 8:00 a.m., CDI and MCM utilized explosive materials to implode and fell the concrete smokestack.

21. An aerial video taken by a community member captured the felling of the smokestack.¹ The video shows an explosion at the base of the smokestack, causing the smokestack to fall flat on its side to the east. The impact of the smokestack hitting the ground causes a dense cloud of particulate matter and other presently unknown substances the length of the smokestack to rise up from the Site. As the cloud steadily grows larger, it immediately begins travelling to the north, enveloping the adjacent Little Village neighborhood. A truck can be seen spraying water at the lower portion of the cloud, having no effect on its dispersion.

22. Photographs and video taken near the Site following the collapse of the smokestack show people walking through opaque clouds of particulate matter and other presently unknown materials.²

¹ Available at <https://www.youtube.com/watch?v=UzkFYVsNRFE> (accessed on May 5, 2020).

² Available at <https://chicago.suntimes.com/metro-state/2020/4/11/21217604/little-village-implosion-dust-cloud-crawford-coal-plant-hilco> (accessed on May 5, 2020).

23. Particulate matter is the term for a mixture of solid particles and liquid droplets found in the air. Some particles, such as dust, dirt, soot, or smoke, are large or dark enough to be seen with the naked eye. Others are so small they can only be detected using a microscope.

24. Particulate matter may be inhaled into the lungs and cause serious health problems, including aggravated asthma, decreased lung function, increased respiratory symptoms such as difficulty in breathing, irregular heartbeat, nonfatal heart attacks and premature death in people with heart or lung disease.

25. Residents near the Site that were affected by the emissions from the demolished smokestack reported experiencing asthmatic responses and other respiratory distress, such as pain breathing.

26. Residents near the Site also reported feeling anxiety and fear as a result of the felling of the smokestack. Some residents reported being unaware of the community notice referenced in paragraph 19, which was circulated less than 36 hours prior to the felling. Residents who had been notified of the planned felling reported being fearful of potential toxins contained in the smokestack from its decades of use at the Crawford Power Generating Station.

27. For those people who have resided near the Site over a period of years, the public health concerns with air pollution are exacerbated due to historic exposure to emissions from the former Crawford Power Generating Station.

28. Public health concerns were particularly heightened on April 11, 2020, at a time when residents were ordered by the State to be at their homes due to the COVID-19 global pandemic, an illness that is marked by significant respiratory problems.

29. Photographs and video taken near the Site following the collapse of the smokestack show dirt and particulate matter covering and/or otherwise impacting homes, cars, businesses, trees, yards, and other personal property. Particulate matter from the plume also got into homes and vehicles.

30. The Defendants failed to take adequate precautions to minimize the dispersion of particulate matter from the felling of the smokestack. These precautions included adequately wetting the area around the smokestack and in particular the area where the smokestack hit the ground.

31. On April 17, 2020, the City of Chicago issued Administrative Notice of Ordinance Violations E00003580514 and E00003580413 to Hilco. The notices list the following violations of the Municipal Code of Chicago:

11-4-760	Handling of Material Susceptible to Becoming Windborne
13-32-125(2)	Construction Site Cleanliness
11-4-2170(b)(1)	Demolitions: Control of Dust and Debris
7-28-080	Nuisance in Connection with a Business

The notices provide that Hilco failed to take reasonable precautions to minimize windborne particulates from the demolition of the smokestack, failed to adequately wet to prevent the off-site dispersion of dust from the demolition of the smokestack, and caused a dust cloud to migrate off site.

32. On April 17, 2020, the City of Chicago issued Administrative Notice of Ordinance Violations E00003580716 and E00003580615 to Exchange 55. The notices list the following violations of the Municipal Code of Chicago:

11-4-760	Handling of Material Susceptible to Becoming Windborne
13-32-125(2)	Construction Site Cleanliness
11-4-2170(b)(1)	Demolitions: Control of Dust and Debris

7-28-080

Nuisance in Connection with a Business

The notices provide that Exchange 55 failed to take reasonable precautions to minimize windborne particulates from the demolition of the smokestack, failed to adequately wet to prevent the off-site dispersion of dust from the demolition of the smokestack, and caused a dust cloud to migrate off site.

33. On April 17, 2020, the City of Chicago issued Administrative Notice of Ordinance Violations E00003580817 and E00003580918 to MCM. The notices list the following violations of the Municipal Code of Chicago:

11-4-2170(b)(1)	Demolitions: Control of Dust and Debris
7-28-080	Nuisance in Connection with a Business
11-4-760	Handling of Material Susceptible to Becoming Windborne
13-32-125(2)	Construction Site Cleanliness

The notices provide that MCM failed to take reasonable precautions to minimize windborne particulates from the demolition of the smokestack, failed to adequately wet to prevent the off-site dispersion of dust from the demolition of the smokestack, and caused a dust cloud to migrate off site.

34. On April 17, 2020, the City of Chicago issued Administrative Notice of Ordinance Violations E00003581010 and E00003581111 to CDI. The notices list the following violations of the Municipal Code of Chicago:

11-4-2170(b)(1)	Demolitions: Control of Dust and Debris
7-28-080	Nuisance in Connection with a Business
11-4-760	Handling of Material Susceptible to Becoming Windborne
13-32-125(2)	Construction Site Cleanliness

The notices provide that CDI failed to take reasonable precautions to minimize windborne particulates from the demolition of the smokestack, failed to adequately wet to prevent the off-

site dispersion of dust from the demolition of the smokestack, and caused a dust cloud to migrate off site.

35. The particulate matter that was generated from the felling of the smokestack threatened the health of the surrounding community, caused fear and anxiety in the community, and unreasonably interfered with the use and enjoyment of residents' life and property.

36. Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

37. Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides, in relevant part, as follows:

Prohibition of Air Pollution

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter

38. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

39. Hilco, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

40. Exchange 55, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

41. MCM, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

42. CDI, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

43. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides as follows:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

44. Particulate matter is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

45. Section 3.115 of the Act, 415 ILCS 5/3.115 (2012), provides as follows:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

46. On at least April 11, 2020, and such other dates better known to the Defendants, particulate matter and other unknown substances discharged or emitted from the Site into the surrounding neighborhood threatened the health of the local residents in the vicinity of the Site and unreasonably interfered with their enjoyment of life and property. The discharge or emission of particulate matter and other presently unknown substances from the Site as described herein constitutes “air pollution,” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2018).

47. Between April 11, 2020 and the date of the filing of this Complaint, and on such other dates better known to the Defendants, the Defendants caused the emission of particulate matter into the residential neighborhood adjacent to the Site due to the Defendants' insufficient dust suppression controls at the Site during and after the felling of the concrete smokestack.

48. By causing, threatening or allowing the discharge or emission of particulate matter into the environment so as to cause air pollution, the Defendants violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

49. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this honorable Court enter a preliminary and, after trial, a permanent injunction in favor of Plaintiff and against the Defendants, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, a Delaware limited liability company, HRP EXCHANGE 55, LLC, a Delaware limited liability company, MCM MANAGEMENT CORP., a Michigan corporation, and CONTROLLED DEMOLITION, INC., a Maryland corporation, with respect to Count I:

1. Finding that the Defendants, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, HRP EXCHANGE 55, LLC, MCM MANAGEMENT CORP., and CONTROLLED DEMOLITION, INC., have violated Section 9(a) of the Act, 415

ILCS 5/9(a) (2018), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

2. Enjoining the Defendants, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, HRP EXCHANGE 55, LLC, MCM MANAGEMENT CORP., and CONTROLLED DEMOLITION, INC., from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering the Defendants, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, HRP EXCHANGE 55, LLC, MCM MANAGEMENT CORP., and CONTROLLED DEMOLITION, INC., to immediately undertake all necessary corrective action that will result in a final and permanent abatement of violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against the Defendants, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, HRP EXCHANGE 55, LLC, MCM MANAGEMENT CORP., and CONTROLLED DEMOLITION, INC., a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering the Defendants, HILCO REDEVELOPMENT, LLC d/b/a HILCO REDEVELOPMENT PARTNERS, HRP EXCHANGE 55, LLC, MCM MANAGEMENT CORP., and CONTROLLED DEMOLITION, INC., to pay all costs, pursuant to Section 42(f) of

the Act, 415 ILCS 5/42(f) (2018), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
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BY: /s/ Elizabeth Wallace
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