



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I - NEW ENGLAND
5 POST OFFICE SQUARE - SUITE 100
BOSTON, MA 02109-3912

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
VIA ELECTRONIC MAIL

April 18, 2012

Adam Spell
P.O. Box 127
Shelburne, VT 05482
e-mail - adam@lavillabistro.com

Re: **REQUEST FOR ACCESS TO PROPERTY**

Dear Mr. Spell:

The United States Environmental Protection Agency ("EPA") respectfully requests permission for EPA, its agents, contractors, and other authorized representatives to have access to your property located at 24 Maple, St. Albans, VT. The property is further defined at the St. Albans Assessor's Office as Parcel ID 23057024.

EPA requests access to your property to conduct a preliminary assessment and site investigation ("PA/SI"). A PA/SI is necessary to evaluate the potential danger to public health and/or the environment posed by the release or threat of release of hazardous substances. The type of activities which EPA expects to perform include further site assessment and soil sampling to determine the nature and extent of contamination of hazardous materials that may be present.

EPA is allowed to conduct such investigations pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(e). The authorization provided by CERCLA includes access to private property for the purpose of determining the need for response actions, performing response actions, and/or enforcing CERCLA.

Please signify your consent to access by signing the attached document in the space provided, and return it to me via e-mail, FAX or U.S. mail at the following address:

Michael J. Nalipinski, On-Scene Coordinator
U. S. Environmental Protection Agency
5 Post Office Square, Suite 100 (OSRR02-2)
Boston, MA 02109-3912
TEL (617) 918-1268
Mobile (617) 680 -5469
FAX (617) 918-0268
Nalipinski.mike@epa.gov

The access agreement must be signed by all owners, operators or their authorized representatives of the property. Please provide the name, address, and telephone number of a designated contact for future communications. Please reply this request within **seven (7) business days** of your receipt of this letter.

Your cooperation in assisting with completion of activities at the Site is appreciated. If you have any questions, I may be contacted at (617) 918-1268. All communications from your legal counsel should be directed to Michelle Lauterback of the EPA Office of Environmental Stewardship at (617) 918-1774.

Sincerely,

A handwritten signature in dark ink, appearing to read "M.J. Nalipinski". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Michael J. Nalipinski, On-Scene Coordinator
Emergency Response & Removal Section 1

Enclosures

cc: Tina Hennessy, EPA Enforcement Coordinator
Michelle Lauterback, EPA Senior Enforcement Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND
5 POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CONSENT FOR ACCESS TO PROPERTY

NAME: Colony Square Apartments

ADDRESS: 24 Maple Street
(Property ID 23057024)
St. Albans, VT

I (We), consent to the officers, employees, agents, contractors, subcontractors, consultants, and other authorized representatives of the United States Environmental Protection Agency ("EPA") entering and having continued access to the above-referenced property for the following purpose(s):

- Taking soil, air and water samples as may be determined necessary.
- Sampling any solids or liquids stored or disposed of on-site.
- Drilling or excavating holes for subsurface investigation.
- Taking other actions related to the investigation of surface or subsurface contamination.

I (We) realize that these actions by EPA are undertaken pursuant to EPA's response and enforcement authorities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.

Consent for Access to Property – Colony Square Apartments
St. Albans Superfund Site
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I (We) give this written permission voluntarily with knowledge of my (our) right to refuse and without threats or promise of any kind.

4/18/2012

Date



Signature of Property Owner or
Owner's Authorized Representative

Adam Spell

Name

Managing

partner

Title

Po box 127 Shelburne vt 04582

Address

(802) 238-0452

Phone Number

Adam@lavillabistro.com

Email

CONSENT OF ADDITIONAL OWNER(s)

Name

Title

Address

Phone Number

Email

Attach additional pages if necessary.

FREQUENTLY ASKED QUESTIONS ABOUT EPA'S REQUESTS FOR ACCESS FOR PRELIMINARY ASSESSMENTS & SITE INVESTIGATIONS (PA/SIs)

EPA has frequently been asked the following questions when we have requested access to property for PA/SIs. We hope these answers assist you.

1. What type of work will be done on my property?

PA/SIs are usually done by an EPA contractor under the direction of the EPA On-Scene Coordinator (the "OSC"). Generally, the OSC and the contractor will walk around the property to get an overview of the area and collect a small number of water, sediment, or soil samples. Typically, the sampling is done as a separate site visit after the initial site reconnaissance. In most cases, sampling is done with a hand auger or similar hand sampling device, and heavy equipment is not used. Sometimes, it is necessary to drive vehicles onto the property. It may also be necessary to take photographs of the property before work begins or during the sampling activities. Unless there is some unusual circumstance, the work is performed during normal business hours.

2. How long with EPA be on my property?

A typical PA/SI will take 1-2 days to complete. The initial site reconnaissance may take several hours. A return visit to perform sampling (usually scheduled within two months of the first visit) could require a full day.

3. Can I be there when EPA is on the property?

Yes, you or your representative may observe the work. However, you may not interfere with the work and your presence may not be a condition for the work to take place.

4. Will the property be changed or damaged in some way?

The work that EPA will be doing will not change or damage the property. It is EPA's policy to leave the property in the same condition as before EPA entered, whenever practicable. Should something happen to the property as a result of EPA's actions, EPA's contractors are required to carry comprehensive general liability insurance. In addition, the protections of the Federal Tort Claims Act would also apply.

5. Do I have to allow EPA onto my property?

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also called the Superfund law, gives EPA the right to enter your property if it has a reasonable basis to believe that there is a release or threat of release of hazardous substances on your property. This

access authority extends to properties adjacent to existing Superfund sites, as well as to the sites themselves.

6. Can I get a release from liability or indemnification from EPA?

No. EPA's right to access to conduct the PA/SI may not be conditioned on the Agency giving up any legal claims which it might have against the property owner. EPA also cannot agree to indemnify an owner for damages caused by EPA or its contractor. Indemnification by EPA is a violation of the Anti-Deficiency Act and illegal for EPA to provide.

7. Can I get copies of any reports EPA prepares about the property?

Yes. You will be given copies of the final PA/SI reports. You may also receive, upon request, copies of any data which has already gone through the sampling analysis quality assurance and quality control process. You may, also receive, upon request a portion of the samples which were collected and which you may have analyzed at your own expense.

8. Will EPA give me notice before coming onto my property?

It is EPA's practice to provide advance notice of property access whenever practicable. However, in the event of any emergency, EPA will require immediate access to the property.

9. What will happen if I do not agree to give EPA access?

If EPA determines that it is necessary to obtain access at this time, the statute allows EPA to issue an administrative order requiring you to provide access, or EPA may request that the U.S. Department of Justice seek a warrant or judicial order for access from the U.S. District Court. The Department of Justice has been successful in obtaining warrants or judicial orders in the past.