

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT,
GREAT LAKES, AND ENERGY**

LOFT HOLDINGS, LLC

SRN File No: U632401405

Respondent.

HANNA & JARBO, PLLC
Dalen P. Hanna (P81533)
33717 Woodward Avenue, Suite 560
Birmingham, Michigan 48009
dh@hannajarbo.com
(248) 209-6486

RESPONSE TO VIOLATION NOTICE

NOW COMES Respondent, Loft Holdings, LLC (“Loft”), by and through its managing member and attorney at law, Dalen Patrick Hanna, and submits this formal response to the Michigan Department of Environment, Great Lakes, and Energy, c/o Mrs. Tammy Bell:

GENERAL BACKGROUND

Blackacre Management is a growing real estate development company led by a group of local Michigan natives united in their mission to rejuvenate distressed properties across Metro Detroit. Since its establishment in 2018, the company has experienced remarkable growth, stabilizing numerous properties and areas within Metro Detroit. These actions have not only added significant value for Blackacre’s investors but also breathed new life into the neighborhoods where its properties are situated, generating employment opportunities and enhancing the daily experiences of tenants and the communities they serve.

With the exception of one property in Blackacre's portfolio, all the properties it has revitalized and manages were constructed after the 1970s, the exception being the property subject to this notice of violation. Of particular note is the extensive renovation being undertaken at 28 North Saginaw St. This property had languished for decades, neglected by countless previous owners who failed to appreciate its historical significance or invest in its preservation.

While we deny the allegations that we failed to adhere to the requirements outlined in the notice of violation, we are steadfast in our commitment to uphold the principles underlying state and federal statutes governing the redevelopment of this beautiful Property. We recognize the importance of compliance and are fully dedicated to aligning our actions with both the letter and the spirit of these laws. In the spirit of transparency and cooperation, we offer this detailed response, withholding no information and pledging our readiness to undertake any necessary measures to ensure compliance with the statutes cited.

CHRONOLOGICAL DETAILS

1. Blackacre Management, LLC is a real estate development and property management company with its head office in Southfield, Michigan (“Blackacre”).
2. Blackacre specializes in the development and management of commercial properties within the Southeast Michigan region. Established in 2018 by Dalen Hanna, the company operates under the fundamental business model of acquiring older or distressed commercial properties, investing in their redevelopment, and subsequently stabilizing them to enhance their utility for the surrounding markets and communities.
3. As of April 2024, Blackacre has redeveloped and currently manages more than 9 properties located throughout Southfield, Madison Heights, Troy, Bloomfield Twp., Warren, Livonia, and now Pontiac.
4. In early 2021, a 15-story office building situated at 28 North Saginaw Street in Downtown Pontiac was listed for sale. This property stands as a striking historic tower, boasting the distinction of being the tallest structure in Pontiac and one of the loftiest in Oakland County. Its construction dates back to the early 1920s (the “Property”).
5. In June 2021, an affiliate of Blackacre acquired the Property through a limited partnership known as Loft Holdings, LLC, with the purpose of transforming the Property into a multifamily and mixed-use development.
6. Before the acquisition of the Property, the previous owner (“Todd Enterprises”) had intentions to undertake a redevelopment initiative aimed at transforming the building into affordable housing. This endeavor was to be facilitated through the utilization of Low-Income Housing Tax Credit (LIHTC) development incentives, alongside a comprehensive array of federal, state, and municipal grants and programs. However, various impediments emerged, notably a deficit of equity in the property and a lack of enthusiasm from the city government regarding the integration of low-income housing into its prominent downtown area. Consequently, Todd Enterprises found itself unable to realize these envisioned plans.
7. Instead, the building became host to a myriad of illegal activities and occupants engaging in nefarious pursuits. Upon assuming control of the Property, the team at Blackacre uncovered various illicit operations, including unauthorized marijuana cultivation areas, a floor dedicated to housing a sex brothel, and a suite outfitted as an illegal gambling establishment with a fully stocked bar.
8. Immediately upon discovering these uses, Blackacre vacated the entire Property.

9. Throughout both the initial due diligence phase and after the Property acquisition, Blackacre engaged multiple third-party professional services, including architects, structural engineers, and consultants specializing in historic conversions.
10. Long before any demolition or redevelopment work was conducted on the Property, and during its due diligence on the Property, Blackacre acquired several documents and reports including a property condition report, and both a Phase I and Phase II environmental report.
11. One of the environmental reports had been conducted for the previous owner by NTH Consultants, Ltd., with its principal office located at 41780 Six Mile Road, Northville, Michigan 48168. The Report was titled, "Phase I Environmental Site Assessment Oakland Town Center Property 28 N. Saginaw Street Pontiac, Michigan, and was dated July 5, 2012 with a reference of "NTH Project No. 62-120609-00" (the "Report").¹
12. Undersigned counsel reviewed this and all other pertinent documents, noting that within the Report, at least three separate asbestos surveys had been conducted referenced, citing:
 - a. "Asbestos Inspection Report, National Bank of Detroit, Branch 681, Downtown Pontiac, prepared by Allied Enviro Engineering, Inc. (Allied) in May 1990..."
 - b. "Asbestos Bulk Sampling Results, Oakland Town Center, 28 North Saginaw Street, Pontiac, Michigan prepared by AKT in October 2006..." and,
 - c. "Asbestos Abatement Report, Oakland Town Center, Mezzanine and Basement Work Areas, 28 N. Saginaw Street, Pontiac, Michigan prepared by AKT in January 2007..."²
13. Per the Report, the following items were noted from those surveys:
 - a. "...The [1990 survey and report] identified asbestos-containing floor tile, pipe wrap and pipe joints in the bank occupied space. The report also contained handwritten daily field report, which **indicated that the floor tile had been removed in June 1993...**"³
 - b. "...Asbestos Abatement Report, Oakland Town Center, Mezzanine and Basement Work Areas, 28 N. Saginaw Street, Pontiac, Michigan prepared by AKT in January 2007. **According to the report, asbestos-containing pipe wrap was removed from the bank's mezzanine level and shop in the basement of the building....**"⁴

¹ NTH Project No. 62-120609-00 was sent to EGLE c/o Tammy Bell, via email on February 29, 2024

² Blackacre has made several attempts to obtain copies of these asbestos surveys from ATK to no avail.

³ Emphasis added.

⁴ Emphasis added.

14. In addition to these reports referenced in the 2012 Phase I Report, Blackacre (on behalf of Loft Holdings), contracted with another local environmental service provider for a NEW asbestos survey, this was in 2021, and was conducted long before any demolition work commenced.
15. The name of the environmental service provider was Affordable Abatement & Inspections, LLC with its principal office located at 19312 Schaefer Highway, Detroit, Michigan 48325.
16. Blackacre's sole point of contact was a gentlemen named Harry (Mr. Harrison Fleming) and his phone number is/was 313-340-1930 ("Affordable").
17. To the best of the undersigned's recollection and based on internal records, Mr. Fleming and undersigned counsel, Hanna, convened in early 2021 for an in-person meeting. The meeting took place at the Property with the primary objective of introducing Mr. Fleming to the Property and engaging his services to conduct an updated asbestos survey. Mr. Fleming quoted the job to be, "*about \$10,000...*" and would take a few weeks (the "Affordable Report").⁵
18. Despite the uncertainty regarding the report's location, and based on the undersigned's memory, Mr. Fleming and undersigned counsel, Hanna, reconvened at the Property at a later date, possibly during the survey process. It was during this meeting that undersigned counsel, Hanna, was informed that the main area of concern regarding asbestos was the pipe-wrap in the basement near the watermain utility connection valve, as well as on the top floor of the Property where steampipe wrapping was utilized.⁶
19. Following the initiation of the interior (non-structural) demolition of the Property, Blackacre enlisted the assistance of a demolition team, for the removal of debris and scrap metal from the building.
20. All workers of the demolition team were informed about the presence of asbestos in the specific areas mentioned earlier. They were explicitly instructed not to disturb, damage, remove, or otherwise disturb the asbestos-affected areas during the demolition process, emphasizing the associated dangers. Furthermore, as of the date of this response, the areas containing asbestos have remained undisturbed by the demolition work that was carried out.
21. Additionally, stringent safety measures were implemented throughout the demolition, ensuring the well-being of all workers. Adequate personal protective equipment (PPE), including masks, gloves, and other essential items, was not only provided but also strictly enforced for all

⁵ The whereabouts of the report remain uncertain as Blackacre does not possess a copy.

⁶ Upon diligent inquiry, undersigned was advised that given the age of the Property, it was likely that only some parts of the building would contain asbestos. The Property was completed in 1925 and undersigned was advised that most modern presence of asbestos was found in buildings built during or after the 1940s.

- workers, even in areas far removed from where asbestos was identified. This proactive approach underscores Blackacre's unwavering commitment to prioritizing the health and safety of everyone involved in the project.
22. Fast forward about three years and on or about February 26/27, 2024, a complaint investigation was undertaken at the Property by Mrs. Tammy Bell of the Michigan Department of Environment, Great Lakes, and Energy.
 23. Undersigned was not present at the Property when Mrs. Bell arrived for her initial visit. However, upon learning of her presence, undersigned promptly traveled to the Property to meet with Mrs. Bell. Subsequently, undersigned provided her with an unrestricted tour of the Property and granted access to any area she wished to inspect.
 24. Additionally, undersigned, along with several colleagues from the Blackacre office, swiftly made it a paramount objective to gather all pertinent documents, reports, and other relevant items of importance. This concerted effort involved collecting and forwarding a comprehensive range of due diligence reports and any other documentation deemed significant. Subsequently, these gathered materials were promptly organized and presented to Mrs. Bell, ensuring transparency and facilitating her thorough examination and understanding of the pertinent
 25. Furthermore, upon request by EGLE to produce a copy of the report from Affordable, undersigned counsel attempted to contact Mr. Fleming for a copy to submit to EGLE as requested.
 26. Sometime in February 2024, after several calls and messages were left to the last known phone number for Mr. Fleming 313-340-1930, undersigned researched for another phone number for someone associated with Affordable, ultimately obtaining the name and phone number for what appeared to be Mr. Fleming's relative, Mrs. Deborah J. Williams whose phone number appears to be 312-576-7105.⁷
 27. Mrs. Williams's information became relevant after a search of Michigan's Business (LARA) online directory showed her as the resident agent for the company.
 28. Interestingly, during the first phone call to Mrs. Williams, when undersigned requested to speak with Mr. Fleming, the person who answered claimed that they had no idea who that was, had no information or recollection about any company named Affordable Abatement &

⁷ A public records skip trace report was ordered to obtain this phone number.

- Inspections, LLC, etc. Accordingly, undersigned apologized for the wrong-number call and disconnected.
29. Subsequently, Mrs. Bell appeared to take the proactive step of reaching out to Affordable. It was only after this initiative by EGLE that undersigned managed to establish contact with a representative from the company. Remarkably, the individual who responded had the exact same voice as the initial person who had previously denied any knowledge of Mr. Fleming or any association with Affordable.
 30. However, during this interaction, the individual revealed for the first time that she was indeed affiliated with the company. Shockingly, she also disclosed, for the first time, the unfortunate news that Mr. Fleming had passed away in 2021.
 31. During this same conversation, undersigned requested a copy of the Affordable Report or any other relevant documentation pertaining to the Property. The individual on the other end of the call, presumably Mrs. Williams, informed that all notes and copies of reports were not readily accessible to her as she was currently out of town. She further mentioned that her absence would extend for approximately 30 days, during which time she would be unable to search for the requested items.
 32. Later that same or the following day, Mrs. Williams contacted undersigned in a notably dismissive tone. She conveyed that she had indeed conducted a thorough search of her files but was unable to locate any items related to the Property, including copies of the report, notes, records, and other pertinent documentation. Moreover, she expressed pessimism regarding the likelihood of finding these items upon her return home in 30 days, suggesting that the search would likely yield the same disappointing outcome.
 33. Upon discovering Affordable's apparent reluctance to assist undersigned, Blackacre swiftly took action and promptly contacted and retained the services of another environmental reporting company. This decision was made without delay, leveraging a firm with whom Blackacre had previously experienced satisfaction. The chosen company, Structure & Site Inspection Services, LLC ("S&S"), is led by Mr. Martin Pasquinelli. S&S was engaged to undertake a fresh and comprehensive asbestos report, ensuring that Blackacre's needs were addressed with efficiency and professionalism.
 34. Moreover, Mrs. Bell, on behalf of EGLE collected several material samples during her visit(s) to the Property. Those samples were sent to Apex Research, Inc., with its principal office located at 7717 Kensington Court, Brighton, Michigan 48116 on February 27, 2024. Mrs. Bell

was kind enough to share the results of those tests with Blackacre from which the following observations are noted:

- a. There were a total of 17 different sample materials tested;
 - b. Only 5 sample materials came back positive for traces of asbestos; and
 - c. Of those 5 sample materials with a positive reading, not one was over 50% asbestos, with the one item with 50% asbestos being the pipe wrap commonly known as TSI - Air Cell which was one of the items noted by Mr. Fleming and which was not disturbed.
35. As of the date of this response, undersigned eagerly anticipates the completion of the report from Structure & Site Inspection Services, LLC (S&S). Once the report is finalized, undersigned will promptly obtain a copy and forward it to EGLE, ensuring that all relevant parties are provided with the necessary information in a timely manner.
36. Furthermore, as a demonstration of our unwavering dedication to compliance, it is crucial to highlight that Blackacre and undersigned have consistently made substantial good faith efforts to adhere to all regulations. These efforts encompass hiring a specialized architectural firm for historic conversion, as well as applying for and acquiring all requisite permits, including those for demolition, construction, and right-of-way use of the public alleyway. Despite the considerable expenses incurred, we have pursued these actions diligently, even in the face of neighboring properties engaging in unpermitted work, unlawful additions, and renovations.
37. Despite all the preceding facts, which unequivocally refute any suggestion that Blackacre neglected to conduct thorough inspections of the Property before and during the demolition process, it is imperative to highlight the following additional points regarding this Property:
- a. **INVESTMENT:** This is NOT a “fix-and-flip” project. The ownership group behind Loft Holdings is profoundly committed to the revitalization of Downtown Pontiac, demonstrating motivations that sharply diverge from those of property “flippers” or fee-based developers. Millions of dollars of personal funds, as well as a substantial portion of multiple families' overall net worth, have been invested in this Property, underlining the seriousness and dedication with which it is approached.
 - b. **HOUSING:** The development of this Property is centered around a mixed-use concept, primarily featuring executive office spaces alongside a focus on apartment accommodations tailored to meet the demands of middle-income renters. Situated within an area historically lacking in affordable housing options within Oakland County, this project aims to alleviate the housing shortage by providing more than 114 residential

units. Notably, over 70 of these units are designated for restricted rents, aligning with the criteria outlined by the Missing Middle program administered by MSHDA. This strategic allocation reflects our commitment to addressing the pressing need for accessible housing options within our community.

- c. **JOB CREATION:** Throughout the projected two-year duration of this endeavor, a substantial workforce is has emerged and continues to grow, creating local jobs numbering in the hundreds. These job opportunities span across the construction phase, where skilled laborers, craftsmen, and professionals contribute their expertise, as well as in the ongoing operations of the Property once the revitalization is complete. This influx of employment opportunities not only fuels economic growth but also fosters a sense of community development and prosperity within Downtown Pontiac.

[CONCLUSION TO FOLLOW: THIS SPACE LEFT INTENTIONALLY BLANK]

CONCLUSION

In conclusion, Blackacre Management, LLC reiterates its unwavering commitment to transparency, compliance, and swift resolution of the issues at hand. We have diligently addressed the concerns raised and taken proactive steps to ensure adherence to all relevant regulations.

It is essential to emphasize that the initial complaint, which alleged:

"Failure to thoroughly inspect building materials at the affected facility or part of the affected facility where the demolition or renovation operation will occur for the presence of asbestos..."

...was issued in error.

Our thorough review of the situation reveals that Blackacre has consistently prioritized compliance and undertaken extensive measures to address asbestos-related concerns. Considering this clarification and the steps taken to rectify any misunderstandings, we respectfully request that this matter be promptly closed out.

We believe that the diligent efforts undertaken by Blackacre, coupled with the forthcoming completion of the asbestos report from Structure & Site Inspection Services, LLC, demonstrate our commitment to resolving any issues quickly, comprehensively, and transparently.

We appreciate your attention to this matter and your continued cooperation, and most importantly, for your service to our great State. should you require any further information or clarification, please do not hesitate to contact us. thank you for your understanding, and we look forward to a swift resolution.

Respectfully submitted,

**LOFT HOLDINGS, LLC
BLACKACRE MANAGEMENT, LLC**

c/o HANNA & JARBO, PLLC


Dalen P. Hanna, Esq.
Counsel & Managing Member

4/11/2024
Dated