



City of Dallas

May 15, 2012

Sent by email ([REDACTED]) and facsimile (972-665-0100)

David L. Kane
5301 Village Creek, Suite D
Plano, Texas 75093

Re: Serious Dallas City Code violations at 818 Pemberton Hill Road, Dallas, Texas ("the Property")

Dear Mr. Kane:

I am writing regarding the Property, which our records indicate is leased and operated by your clients, David Jasso and Zoila Sernade de Jasso, d/b/a Progreso Farms, LLC, d/b/a Progreso Farms (collectively referred to as "the Jassos").

On Wednesday, May 2, 2012, City personnel executed an administrative search warrant to inspect and collect soil and water samples at the Property. This inspection and subsequent laboratory analyses have revealed that the Property contains numerous violations of city ordinances, many of which may create health and safety problems for the employees, customers, neighbors, and the general public. As you know, the Jassos are responsible for maintaining the Property in a safe and sanitary condition.

The specific violations are listed below and copies of the pertinent code sections are attached. This letter does not purport to contain a complete list of all violations of the Dallas City Code on the Property. Moreover, the conditions observed at the Property demonstrate that the Jassos may be in criminal violation of state and/or federal environmental laws.

Violations of the Dallas City Code:

1. Water is being discharged or caused to be discharged that does not consist entirely of stormwater into the stormwater drainage system, waters of the United States, and state water. Section 19-118.2(a).
2. Industrial waste is being discharged or permitted to be discharged into the stormwater drainage system. Section 19-118.2(f)(2).
3. Runoff and/or washdown water from an animal pen and livestock containment area is being discharged or permitted to be discharged into the stormwater drainage system. Section 19-118.2(f)(9).
4. An industrial facility has been operated without complying with all terms and conditions of the multi-sector general permit or an individual NPDES or TPDES permit. An

industrial facility has been operated without best management practices being used to control and minimize the discharge into the stormwater drainage systems, waters of the United States, and state water of any material or substance handled, stored, or generated by the industrial facility and any pollutant that may be attributed to those materials or substances. Sec. 19-118.7(a).

5. The sanitary and storm drainage systems of a structure are not entirely separate. Section 1104.2 of Chapter 54.
6. A slaughterhouse, slaughter pen, yard, ground, or premise is being operated and maintained in such a manner as to exude noxious odors or stench, be offensive or disagreeable, or be injurious to the health or comfort of any of the City's inhabitants. Section 19-19(a).
7. Animals are being killed or slaughtered within the city for the purpose of selling, bartering, donating, or using the animal's flesh for any form of human consumption. Section 19-19(b).
8. Vegetable or animal matter or slop, or any filth of a character likely to affect the public health or to produce offensive smells has been deposited or placed on the premises. Section 19-20.
9. The carcasses of your dead animals are being allowed to remain in or the property more than six hours after their deaths. Section 19-20.
10. Green, tainted, decaying or malodorous hides are being deposited, stored, trimmed, scoured, cured or treated on the property for periods exceeding four hours. Section 19-21.
11. A septic tank or other private sewage facility has been allowed to become foul, offensive, or nauseating, or in any way drain to the surface of the ground, so as to become injurious to the public health. Section 19-92.
12. Solid waste or other waste materials are being disposed on the property other than at a location and in a manner approved by the director of sanitation as complying with federal, state, and local law regulating solid waste processing and disposal. Section 18-10(a)(1).
13. A structure has been erected, constructed, enlarged, added to, altered, repaired, replaced, moved, improved, removed, installed, converted, demolished, equipped, used, occupied, or maintained without a building permit being obtained from the building official. Section 52-301.1.1.
14. There is a cellar, vault, drain, pool, privy, sewer, yard, grounds or premises on the property that has been permitted to become, from any cause, nauseous, foul, offensive or

injurious to the public health, or unpleasant and disagreeable to adjacent residents or persons. Section 19-17.

15. There is a collection of standing or flowing water in which mosquitoes breed or are likely to breed on the premises. Section 19-30.
16. There is litter that has been placed, deposited, or permitted to accumulate on the premises or in or on any gutter or parkway adjacent to the premises or on one-half of that portion of an alley adjacent to the premises that has not been deposited in an authorized private receptacle for collection. Section 7A-18.
17. A slaughterhouse (inside industrial use - potentially incompatible) is being operated in a district zoned Agricultural in violation of Section 51A-4.111, or in a district zoned Light Industrial in violation of Section 51A-4.123.
18. There are holes, excavations, sharp protrusions, and other objects or conditions that exist on the land that are reasonably capable of causing injury to a person. Section 27-11(a)(1).
19. The exterior surfaces of a structure are subject to decay. Section 27-11(b)(1).
20. A structure intended for human occupancy and a structure used as an accessory to a structure intended for human occupancy are not being maintained in a weather-tight and water-tight condition. Section 27-11(b)(5).
21. Floors, walls, ceilings, and all supporting structural members are not being maintained in a sound condition, capable of bearing imposed loads safely. Section 27-11(b)(6).
22. There are holes, cracks, breaks, and loose surface materials that are health or safety hazards in or on floors, walls, and ceilings. Section 27-11(b)(9).
23. Junked vehicles are being parked, left, or maintained on the property. Section 18.20(b).
24. One or more new, used, or old tires are not being kept under a roofed structure on the premises that is sufficient to keep the tires from being exposed to rain. Section 19-34.1(b)(1)

The City demands that the Jassos immediately address and immediately remedy the code violations referenced above, including discontinuing the slaughterhouse use on the Property. In addition to the fact that slaughterhouse is an illegal use at the Property, the Jassos do not appear to have obtained City sanitary sewer service or water service for their industrial operations at the Property. Continued operation of the facilities at the Property without proper water and wastewater service constitute a public nuisance and an immediate and serious threat to public health and safety. It may also be a criminal violation of state and/or federal law, as well as under the City Code as noted above. This letter is sent to you in the City's capacity as regulator and

enforcer of City ordinances, and is in addition to any remedies that the City may have under a lease or other agreement.

If the Jassos fail to take all actions necessary to remedy the ordinance violations on the Property, the City may file suit in state district court requesting injunctive and declaratory relief requiring the Jassos to remedy these violations. The City also may seek penalties of up to \$2,000 a day for each violation, under state, local, and other law. Remedies may be requested under other law and the common law if necessary and appropriate.

Please respond to this letter upon receipt confirming that the Jassos will immediately and permanently cease and desist from operating a slaughterhouse at the Property and will remain closed to the public until the Jassos remedy these code violations. Under the circumstances, you and any other attorneys for the Jassos do not have our permission to contact city employees directly. If you have any questions or concerns, I can be reached at 214-671-9544 and Assistant City Attorney James McGuire can be reached at 214-670-1331. If a satisfactory response to this letter is not received by Monday, May 21, at 5:00 p.m., we will seek all appropriate remedies under the law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Miles', written in a cursive style.

Melissa Miles
Executive Assistant City Attorney

Attachments