

# CLEVELAND CONSTRUCTION, INC.

14825 BALLANTYNE VILLAGE WAY, SUITE A275

CHARLOTTE, NC 28277

PH. 980-859-0224

NC GC LICENSE #: 42650

September 27, 2019

Attn: Lee Morrison, Stormwater Project Manager, City of Asheville

Re: The Arras Residences and Tribute Hotel Project  
Response to City of Asheville Notice of Violation of stormwater control

Dear Mr. Morrison:

CCI is in receipt of your letter dated September 17, 2019. We offer the following responses as outlined in your letter:

1. Upon initial notification on September 11, 2019, CCI immediately addressed all subcontractors, vendors and the developer, MHG Asheville TR, LLC regarding proper disposal of waste products from construction activities including any clean of tools and equipment.
2. We have disconnected any and all water sources near storm drains, communicate on a daily basis with our subcontractors regarding proper disposal of debris and have been performing daily visual inspections of possible infiltration points. I personally have been inspecting the culvert where the storm system daylights on a daily basis (Mon-Fri) since the original notification. Refer to my previous emails to you.
3. We have had our crews clean storm basins adjacent to the project to the best of our abilities by removing debris and currently have no signs of any illicit discharge into the storm system. Although we do not expect and future issues, we have been in touch with First Restoration Services, LLC who will be our emergency contact in case of any future accidents.
4. We have removed a majority of the material from the perimeter of the site and a most of the parking garage. We intend to have the garage clear of material and debris over the next 10 days. If you wish, we could set up a site inspection for Tuesday of next week to review our storage areas and process for removing debris.
5. Unfortunately, we cannot ensure all workers will adhere to all City of Asheville regulations and NC State guidelines, however we can assure you we communicate to this to all subcontractors and in the case any one person or company violates these policies, they will be removed from the project site immediately. I've attached an example of the message sent to all trades that have the potential to create an illicit discharge due to the nature of their trade. A message similar to this was sent to Owners of several companies while we communicated verbally with tradespeople here on site.

## CLEVELAND CONSTRUCTION, INC.

Currently our biggest concern would be trades washing paint tools in drains, sinks etc. so our new policy is that brushes and rollers are discarded at the end of each work shift, empty paint cans and pails are left over to dry and properly removed via rubbish containers. We are also monitoring roof drains that would discharge directly into the storm system.

If you have any questions, please feel free to contact me at [sbowman@clevelandconstruction.com](mailto:sbowman@clevelandconstruction.com) or by cell, (704) 975-6854.

Sincerely,  
Cleveland Construction, Inc.



Shaun G. Bowman  
Project Manager

## Shaun Bowman

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**From:** Shaun Bowman  
**Sent:** Wednesday, September 11, 2019 11:42 PM  
**To:** Walter Hannah (walterhannah@lomaxtile.com); Benny Hattley  
**Cc:** Allen McGaha; Brad Collins; Richard Morello; John Berg; Mitch Dadante; Dan Williams  
**Subject:** RE: Arras Project - Stormwater Discharge Incident - Lomax Notice

Walter,

CCI was notified today of a stormwater discharge today allegedly from the Arras Project. Rich Morello was contacted by the COA Stormwater Department and I've been in touch with Lee Morrison from the City. There were reports of discharge in the "Reed Creek" area of Asheville. The City claims they inspected and followed the flow back to our site.

This could potentially be from trades washing out tools in the parking garage.

Because the discharge traveled below multiple streets and districts, the City has notified NC State DOT and Buncombe County Metropolitan Sewer District.

We will be receiving a Notice of Violation tomorrow am by 10:00am from COA. I have not been in contact with the State or County MSD yet. It was suggested we follow up with a strong response as soon as possible.

Please inform all of your employees of this situation and that washing tools and equipment into the storm system is strictly prohibited.

**Shaun Bowman, LEED GA**  
Project Manager

**Cleveland Construction, Inc.**  
**Project: The Arras**  
7 Patton Ave.  
Asheville, NC 28801  
Cell: (704) 975-6854

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**Cleveland  
Construction**

September 17, 2019

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

MHG Asheville TR, LLC.  
402 Washington Street SE, Suite 200  
Gainesville, GA 30501

RE: Notice of violation of stormwater control, illicit discharge and connection regulations at 11 Patton Ave (Arras Project)

Dear: MHG Tower, LLC.

The City of Asheville responded to a complaint at the Reed Creek stream near Magnolia Street on September 11, 2019. Upon investigating this complaint, City staff observed that the Reed Creek stream was currently being discolored from run off coming from an arch culvert. After tracking the discolored stream to the arch culvert, up the NCDOT storm system along Broadway Street, and then to the City of Asheville storm system along N. Lexington Avenue from access point to access point, the discolored flow was found to be entering a City of Asheville catch basin from a white PVC pipe that led to a floor drain located inside the parking garage at 11 Patton Ave (see attached photos). After leading City staff to a floor drain inside the parking garage, a representative with Cleveland Construction LLC stated that they have been trying to keep workers from washing out paint brushes and work buckets into this drain. City staff explained that such activity constitutes a violation of the City's illicit discharge ordinance as stated below.

**VIOLATIONS**

1. **Illicit Discharge Violation** - Section 7-12-2 of the City of Asheville Unified Development Ordinance "it is unlawful for any person to throw, drain, run or otherwise discharge to any component of the city's MS4 or to the waters of the State of North Carolina or to cause, permit or allow to suffer to be thrown, drained, run, or allowed to seep or otherwise discharge into such system or receiving water."

**REQUIRED RESPONSE**

1. Cease directing the flow of this illicit discharge directly and indirectly into City stormwater systems.

2. Prevent all construction site debris and material runoff from leaving the site. Install measures to properly capture and dispose of all construction site debris and material runoff.
3. Within ten (10) days of receipt of this letter establish a plan of action to address this illicit discharge issue permanently, including its impact on City stormwater systems, including plan for cleaning storm system, proper protection measures for drains and submit these plans to the City including any supporting documentation (disposal plans, cleaning/ removal plans, permits, etc).
4. Remove any residual illicit discharge materials from all stormwater systems.
5. Ensure all employees and hired contract workers adhere to the regulations set forth within the City's Ordinance and the guidelines set forth by the North Carolina Department of Environment and Natural Resources.

As of the date of this letter, staff with Cleveland Construction LLC, has been in touch with City of Asheville staff expressing their intent to make any necessary arrangements in order to address this issue.

While the City has not yet issued an illicit discharge citation in relation to this runoff/illicit discharge event, it expressly reserves the right to do so in the future, once the extent of the harm caused by this event, and any previous instances of runoff, can be ascertained. **We require that the violations, as detailed above, be abated immediately. Violations of the illicit discharge and connection regulations have up to a maximum civil penalty of twenty-five thousand dollars (\$25,000) and a maximum per day per violation penalty of ten thousand dollars (\$10,000) for continuing violations per Section 7-18-2(b)(2)b of the City's UDO. Each day of a continuing violation shall constitute a separate violation.**

We would appreciate your prompt attention to this matter. We look forward to receiving the required responses above and trust that there will be no further instances of illicit discharges from your property. Should you have any questions regarding these matters, please contact me at (828)777-4833; (828) 259-5401; [lmorrison@ashevillenc.gov](mailto:lmorrison@ashevillenc.gov) or Keisha Lipe, Stormwater Quality Specialist at (828) 259-5401; [klipe@ashevillenc.gov](mailto:klipe@ashevillenc.gov).

Sincerely,



Lee Morrison  
Stormwater Project Manager

Cc: Shaun Bowman, Linda Wiggs, Keisha Lipe, Ken Stines, Jeff Wait, Amy Deyton

Attachments: Photos Taken at 11 Patton Ave on September 11th, 2019.