



COMMONWEALTH of VIRGINIA

Karen Shelton, MD
State Health Commissioner

Department of Health
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**STATE BOARD OF HEALTH
SPECIAL ORDER
ISSUED TO
SP Investment Properties, LLC
FOR
Cedar Knoll Apartments Waterworks
PWSID No. 6099110**

Section A. Purpose

This is a Special Order issued by the State Board of Health to SP Investment Properties, LLC under authority granted by § 32.1-175.01 of the Code of Virginia (Code) to resolve certain violations of the Public Water Supplies Law and applicable regulations.

Section B. Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned below:

1. "RFO" means the Office of Drinking Water Richmond Field Office located in the City of Richmond, Virginia.
2. "Board" means the State Board of Health, a permanent citizens' board of the Commonwealth of Virginia, as described in § 32.1-5 of the Code.
3. "Commissioner" means the State Health Commissioner, who supervises and manages the Department, as described in §§ 32.1-16 and 17 of the Code.
4. "Community waterworks" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

5. "Department" or "VDH" means the Department of Health, an agency of the Commonwealth of Virginia, as described in § 32.1-16 of the Code.
6. "Notice of Alleged Violation" or "NOAV" means a type of notice of alleged violation issued under 12VAC5-590-110 of the Regulations.
7. "ODW" means the VDH Office of Drinking Water.
8. "Owner" means SP Investment Properties, LLC.
9. "Owner's Representative" means Shawn Palivoda.
10. "Permit" means written waterworks operation permit 6099110.
11. "Public Water Supplies Law" or "PWSL" means Article 2, Chapter 6 of Title 32.1 of the Code.
12. "Pure water" means water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served.
13. "PWSID" means Public Water System Identification.
14. "Regulations" means the Waterworks Regulations, 12VAC5-590-10, *et seq.*
15. "Special Order" means this document, which the Board may issue, pursuant to § 32.1-175.01 of the Code, and as defined in § 32.1-167 of the Code.
16. "Waterworks" means a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. Waterworks includes all structures, equipment, and appurtenances used in storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered.
17. "Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.

Section C. Findings of Fact and Conclusions of Law

1. The Owner owns Cedars Knoll Apartments Waterworks. The Owner meets the definition of “owner” in § 32.1-167 of the Code and 12VAC5-590-10 of the Regulations.
2. Cedar Knoll Apartments waterworks is located in King George County, Virginia, and serves piped water for human consumption to 8 service connections and approximately 36 year-round residents. The waterworks serves 21 apartment units and the Waterworks Operation Permit Application submitted by Stanley Shawn Palivoda, SP Investments, LLC, dated October 11, 2022, indicates a population served of 36 residents.
3. On November 1, 2002, ODW issued the Permit to the Owner to operate Cedar Knoll Apartments Waterworks to Cedar Knoll Apartments, LLC in compliance with the PWSL and the Regulations.
4. The Owner operated the Cedar Knoll Apartments Waterworks beginning October 1, 2021
5. Based on a review of ODW records, ODW staff made the following observations:
 - a. Around October 2021, the Owner purchased the Waterworks.
 - b. On November 15, 2021, the Owner’s Representative indicated that the Owner purchased Cedar Knoll Apartments.
 - c. On November 15, 2021, RFO conveyed verbally and in email to the Owner’s Representative the steps required to obtain an operation permit for the Waterworks.
 - d. On January 31, 2022, RFO emailed the Owner’s Representative to request a progress report on obtaining a permit and did not hear back.
 - e. The Owner’s Representative did not submit a completed Waterworks Business Operation Plan by the established deadline of September 4, 2022.
6. Section 32.1-172 of the Code requires that the application for a permit to establish, construct, or operate a waterworks “include a comprehensive business operation plan detailing the technical, managerial, and financial commitments to be made by the owner in order to assure that the system performance requirements for providing the water supply will be met over the long term.”
7. The Regulations at 12VAC5-590-190(A) (Permits.) state, “No owner or other person may cause or allow any waterworks to be operated in the Commonwealth without a written operation permit issued by the commissioner.”
8. On April 4, 2022, and June 6, 2022, ODW notified the Owner of the abovementioned alleged violations.

9. Pursuant to § 2.2-4019 of the Code, ODW held the Proceeding on April 23, 2024, to ascertain the fact basis for its case decision through an informal proceeding.
10. After reviewing the record and exhibits from the Proceeding, and the Presiding Officer's Recommended Findings of Fact and Conclusions of Law in the above-referenced matter, the Board adopts those Recommended Findings of Fact and Conclusions of Law, which ODW has incorporated into this Special Order.
11. Based on VDH records, the Board concludes that the Owner has violated Section 32.1-172 of the Code and 12VAC5-590-190(A) of the Regulations as described in paragraphs C.6 and C.7, above.
12. Pursuant to §§ 32.1-20 and 32.1-175.01 of the Code, the Commissioner, acting for the Board, may issue a special order that may include a civil penalty against any waterworks owner who violates the PWSL or any order of regulation of the Board.

Section D. Order for Compliance

Accordingly, by virtue of the authority granted in § 32.1-175.01 of the Code, the Board orders the Owner to:

1. Within 60 days of entry of the Special Order, SP Investment Properties, LLC, must submit an application for an operation permit that is acceptable to VDH such that an operation permit, either temporary or standard, can be issued by VDH. If a temporary permit is issued by VDH, SP Investment Properties, LLC, must abide by all requirements and deadlines of the temporary permit.
2. The operation permit application must include a completed Waterworks Business Operation Plan that is acceptable to ODW.
3. Provide 1,000 gallons of nominal alternative storage. To that end, SP Investment Properties, LLC, must submit a construction permit application and all necessary plans, as built drawings, specifications, and required documentation to ODW's central plan review program within 180 days of the effective date of the Order. If ODW requires any changes to the submitted documentation, SP Investment Properties, LLC, must make such changes and resubmit the documents to ODW within a timeframe as directed by ODW.
4. Construction of the additional storage must be performed by a Class A licensed contractor or master plumber. SP Investment Properties, LLC, must provide proof to ODW that this licensed contractor/master plumber requirement has been satisfied. The

waterworks must be equipped with proper and sufficient storage in order for VDH to be able to issue a standard operation permit upon installation of the additional storage.

5. Complete construction within 180 days of receiving a construction permit. This time period may be extended upon written request of SP Investment Properties, LLC, and at the sole discretion of ODW, for good cause for why SP Investment Properties, LLC, cannot complete construction within the allotted time period. Any approval of extension by ODW must be in writing to be effective.
6. Submit quarterly review of progress with completing the terms of the Special Order to the ODW Richmond Field Office. The quarterly reviews are due by the 10th day of the month of January, April, July, and October. Upon completion of all other requirements, submit a final report that SP Investment Properties, LLC, has complied with all terms of the Special Order.
7. Pay a civil charge of \$1,275 within 30 days of the effective date of this Special Order in settlement of the violations cited in this Special Order.

Payment must be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and must be delivered to:

Office of Drinking Water
Virginia Department of Health
109 Governor Street, 6th Floor
Richmond, Virginia 23219

The Owner must indicate that the payment is being made in accordance with the requirements of this Special Order for deposit into the Virginia Water Supply Assistance Grant Fund. If VDH has to refer collection of moneys due under this Special Order to the Department of Law, the Owner will be liable for attorneys' fees of 30% of the amount outstanding.

Section E. Administrative Provisions

1. This Special Order addresses and resolves only those violations specifically identified in Section C of this Special Order. This Special Order will not preclude VDH from taking any action authorized by law, including but not limited to taking any action authorized by law regarding additional, subsequent, or subsequently discovered violations or taking subsequent action to enforce this Special Order.
2. This Special Order does not suspend, minimize, or otherwise alter the Owner's obligation to comply with federal, state, and local laws and regulations. The Board waives no

lawful means of enforcing the laws it administers, the regulations it has adopted, or this Special Order.

3. To the fullest extent authorized by law, this Special Order is binding on the Owner, its agents and legal representatives, heirs, devisees, executors, administrators, and successors in interest, jointly and severally as applicable.
4. The Board may modify, rewrite, or amend this Special Order with the consent of the Owner. Additionally, the Board may modify, rewrite, or amend this Special Order on the Board's own motion pursuant to the Administrative Process Act, § 2.2-4000, *et seq.*, of the Code after the Owner has received notice and opportunity to be heard. Any request for modification of this Special Order must be submitted to VDH in writing to be considered for approval by the Board or its designee.
5. Failure by the Owner to comply with any terms of this Special Order will constitute a violation of an order of the Board. Nothing herein will waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Department as a result of such violation. Nothing herein will affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Special Order is found to be unenforceable for any reason, the remainder of the Special Order will remain in full force and effect.
7. Any plans, reports, schedules, specifications, or documentation submitted by the Owner and approved by the Department pursuant to this Special Order are incorporated into this Special Order. Any non-compliance with such approved documents will be considered a violation of this Special Order.
8. This Special Order will not preclude the Board, the Commissioner, or the Department from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce this Special Order.
9. The Owner will be responsible for failure to comply with any of the terms and conditions of this Special Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The Owner must demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on their part. The Owner must notify the Department in writing within three

business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Special Order. Such notice must set forth:

- a. The reasons for the delay or noncompliance;
- b. The projected duration of any such delay or noncompliance;
- c. The measures taken and to be taken by the Owner to prevent or minimize such delay or noncompliance; and
- d. The timetable by which the Owner will implement such measures and the date full compliance will be achieved.

Failure by the Owner to notify the Department verbally within 24 hours and in writing within three business days of learning of any condition above, which the Owner intends to assert will result in the impossibility of compliance, will constitute a waiver by the Owner of any claim to inability to comply with a requirement of this Order.

10. This Special Order will become effective on the 15th day after a copy of it is mailed to the Owner.

11. This Special Order will continue in effect until:

- a. The Commissioner or his designee terminates the Special Order after the Owner has completed all of the requirements of this Special Order;
- b. The Owner petitions the Commissioner or his designee to terminate the Special Order after the Owner has completed all of the requirements of the Special Order and the Commissioner or his designee approves the termination of the Special Order; or
- c. The Commissioner or Board, in their sole discretion, terminates the Special Order upon 30 days written notice to the Owner. Termination of the Special Order pursuant to this authority without the Owner having satisfied all terms of the Order may result in VDH pursuing further enforcement related to the violations identified in the Order.

12. Termination of this Special Order, or any obligation imposed in this Special Order, will not operate to relieve the Owner from its obligation to comply with any statute,

regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.

13. The Owner has the right to appeal this Special Order, which is a case decision, by requesting a formal hearing pursuant to, and in conformance with, Code of Virginia § 2.2-4020. Any request for a formal hearing must be in writing and received by the Office of the State Health Commissioner no later than 30 days from receipt of this Special Order. The Owner may also appeal a case decision directly to the jurisdictional circuit court in accordance with Article 5 of the Administrative Process Act, Code of Virginia § 2.2-4000, *et seq.*, and Rule 2A:2 of the Rules of the Supreme Court of Virginia. Rule 2A:2 of the Rules of the Supreme Court of Virginia requires that any party appealing a case decision to a jurisdictional circuit court file a notice of appeal, signed by the appealing party or that party's attorney, with the agency secretary within 33 days after the case decision is sent by certified mail.

It is SO ORDERED this 10 day of July, 2024.

STATE BOARD OF HEALTH
Commonwealth of Virginia



Karen Shelton, MD
State Health Commissioner