FILED
COURT OF APPEALS
DIVISION II

2017 JUL 24 AM 9:44

STATE OF WASHINGTON

BY _____ DEPUTY

No. 49899-5-II
Clark County Cause No. 16-2-05058-5

DIVISION II OF THE COURT OF APPEALS
OF THE STATE OF WASHINGTON

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries,

Petitioner,

v.

CITY OF VANCOUVER, a municipal subdivision of the State of Washington,

Respondent.

APPELLANT'S OPENING BRIEF

Ron Meyers WSBA No. 13169
Matthew Johnson WSBA No. 27976
Tim Friedman WSBA No. 37983
Attorneys for Petitioner

Ron Meyers & Associates, PLLC
8765 Tallon Ln. NE, Suite A
Olympia, WA 98516
(360) 459-5600

TABLE OF CONTENTS

I. INTRODUCTION 1

II. ASSIGNMENTS OF ERROR 3

III. ISSUES PRESENTED FOR REVIEW 4

A. Did the trial court err when it dismissed the survival claims based upon a determination that the statute of limitations had run despite the superior knowledge of the City and the minuscule knowledge of Carl Murray regarding fire station radon where the City failed to comply with law and inform him of the nature and scope of the lethal levels of radon contamination? 4

B. Did the trial court err when it dismissed the outrage claim without considering the City's reckless conduct over more than a decade, its failure to comply with mandatory firefighter safety standards during that time, and its failures to comply with law and inform him of the nature and scope of the fire station lethal levels of radon contamination? 4

C. Did the trial court err when it dismissed the loss of consortium claims based upon a determination that the statute of limitations had run despite the superior knowledge of the and the minuscule knowledge of Carl Murray regarding fire station radon where the City failed to comply with law and inform him of the nature and scope of the fire station lethal levels of radon contamination? 4

D. Did the trial court err when it dismissed the strict liability claim under circumstances where for more than a decade the City's conduct exposed Carl Murray to lethal levels of radon contamination in a place where a thing or activity is maintained, in the light of the character of that place and its surroundings regarding fire station radon where the City

failed to comply with law and inform him of the nature and scope of the lethal levels of radon contamination? 4

E. Did the trial court error when it failed to consider *res ipsa loquitar* when (1) the occurrences producing the injury were of a kind that ordinarily does not occur in the absence of negligence, (2) the injury was caused by an agency or instrumentality within the exclusive possession and/or control of the , and (3) the injury-causing occurrence was not due to any contribution or fault of the decedent? 5

F. Did the trial court err when it dismissed all damages except the wrongful death damages reduced by the City's LEOFF payments further reduced to net present value? 5

IV. STATEMENT OF FACTS 5

A. Background Facts 5

B. Proceedings Before the Superior Court 14

C. Declarations and Exhibits Offered by the City 19

D. Declarations and Exhibits Offered by Plaintiff Murray . . 22

E. Superior Court Rulings 24

V. ARGUMENT 25

A. Statute of Limitations 30

Wrongful Death 30

B. Survival 33

C. Negligence 34

D. Outrage 35

1. Notice Pleading Requirements for Outrage 38

E. Loss of Consortium 40

F. Strict Liability 40

Basis for City's strict liability 42

(a) Existence of a high degree of risk of some harm to the person, land or chattels of others 42

(b) Likelihood that the harm that results from it will be great 42

(c) Inability to eliminate the risk by the exercise of reasonable care 42

(d) Extent to which the activity is not a matter of common usage 43

(e) Inappropriateness of the activity to the place where it is carried on 43

(f) Extent to which its value to the community is outweighed by its dangerous attributes 43

G. *Res Ipsa Loquitar* 43

H. Damages 44

VI. CONCLUSION 45

Appendices are Certified copies of the inadvertantly misfiled pleadings:

APPENDIX A - Amended Declaration of Ron Meyers in Support of Plaintiff's Response in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment

APPENDIX B - Declaration of Wendy Murray in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment

APPENDIX C - Plaintiff's Response in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment

TABLE OF AUTHORITIES

Cases

Birklid v. Boeing Co.
127 Wn.2d 853, 867, 904 P.2d 278 (1995) 38, 39

Brower v. Ackerley
88 Wash.App. 87, 99-102, 943 P.2d 1141 (1997) 36

Christensen v. Swedish Hospital
59 Wn.2d 545, 548, 368 P.2d 897 (1962) 30

Covey v. W. Tank Lines
36 Wash.2d 381, 390, 218 P.2d 322 (1950) 44

Degel v. Majestic Mobile Manor, Inc.
129 Wash.2d 43, 48, 914 P.2d 728 (1996) 25

Doe v. Puget Sound Blood Ctr.
117 Wash. 2d 772, 819 P.2d 370 (1991) 29

Douglas v. Bussabarger
73 Wash.2d 476, 482, 438 P.2d 829 (1968) 44

Eisenmann v. Cantor Bros., Inc.
567 F.Supp. 1347 (N.D.Ill.1983) 32

Havsy v. Flynn
88 Wn. App. 514, 518, 945 P.2d 221 (1997) 30

Hertog v. of Seattle
138 Wash.2d 265, 275, 979 P.2d 400 (1999) 25

Hogland v. Klein
49 Wash.2d 216, 219, 298 P.2d 1099 (1956) 44

Jones v. Allstate Ins. Co.
146 Wash.2d 291, 300, 45 P.3d 1068 (2002) 25

Kemalyan v. Henderson
45 Wash.2d 693, 702, 277 P.2d 372 (1954) 44

Klein v. Pyrodyne Corp.
117 Wash.2d 1, 810 P.2d 917 (1991) 40

Kloepfel v. Bokor
149 Wash.2d 192, 66 P.3d 630 (2003) 35

Miller v. Kennedy
91 Wash.2d 155, 159–60, 588 P.2d 734 (1978) 44

Pederson v. Dumouchel
72 Wash.2d 73, 81, 431 P.2d 973 (1967) 44

Reeves v. Sanderson Plumbing Prods., Inc.
530 U.S. 133, 150, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000) 25

Smith v. Rodene
69 Wash.2d 482, 418 P.2d 741, 423 P.2d 934 (1966) 36

Sofie v. Fibreboard Corp.
112 Wn.2d 636, 771 P.2d 711, 780 P.2d 260 (1989) 45

Spurrell v. Bloch
40 Wash.App. 854, 863, 701 P.2d 529 (1985) 37, 38

Target Nat. Bank v. Higgins
180 Wash. App. 165, 192–93, 321 P.3d 1215, 1229 (2014) 27

Washington State Physicians Ins. Exch. & Ass'n v. Fisons Corp.
122 Wash. 2d 299, 342, 858 P.2d 1054 (1993) 27

White v. Johns-Manville Corp.
103 Wash.2d 344, 358-360, 693 P.2d 687 (1985) 30

Statutes

RCW 4.20.010 . . . . . 3, 25

RCW 4.20.020 . . . . . 3, 25

RCW 4.20.046 . . . . . 3, 33

RCW 4.20.060 . . . . . 3, 33

RCW 4.56.250(1) 44

RCW 4.56.250(1)(a) 44

RCW 4.56.250(1)(b) 45

RCW 41.26.281 26

RCW 49.17.060 . . . . . 26, 40

Other Authority

1986 Tort Reform Act 45

CR 8(a) 29

CR 26(I) 16, 20, 21, 22, 23

CR 30(b)(6) 30

CR 41 22

CR 56 16

ER 201 . . . . . 1, 26, 29

https://fortress.wa.gov/doh/wtn/WTNPortal/home/#!q0=868 1

https://www.epa.gov/radon 1

RAP 202(a)(1) 25

Restatement (Second) of Torts, Section 46, Comment k 38

WAC 296-305 . . . . . 13, 40

WAC 296-305-01003 . . . . . 27, 28

WAC 296-305-01509 . . . . . 26, 27

WPI 14.03 45

WPI 14.03.01 45

WPI 14.03.02 45

WPI 14.03.03 45

WPI 30.00 45

WPI 30.01.01 45

WPI 30.01.03 45

WPI 30.04 45

WPI 30.05 45

WPI 30.06 45

WPI 30.07.01 45

WPI 30.08.01 45

WPI 30.09.01 45

WPI 30.09.02 45

WPI 31.01 45

WPI 31.01.02 45

WPI 31.02 45

WPI 31.02.01 45

WPI 31.03.01 45

I. INTRODUCTION

Wendy Murray as Personal Representative for the Estate of Carl Murray respectfully requests review and reversal of all decisions made by the Superior Court.

This case arises from career firefighter Carl Murray's lethal radon exposures in the firehouses of the City of Vancouver (City) likely from 1992 until his last shift on July 28, 2013. The claims involve wrongful death, survival, loss of consortium, strict liability, outrage, and *res ipsa loquitar*.

The record indicates that radon is the number one cause of lung cancer in non-smokers. This Court is requested to take ER 201 judicial notice -- that radon is the second leading cause of lung cancer behind cigarette smoking and that there is no safe level of radon exposure according to the US EPA. https://www.epa.gov/radon.

This Court is requested to take ER 201 judicial notice that the Washington State Department of Health has tracked radon in Washington state since at least 1989. DOH follows the U.S. Surgeon General and the Environmental Protection Agency (EPA) guidelines: Radon test results of 4.0 pCi/L or greater, action should be taken to reduce radon exposure. https://fortress.wa.gov/doh/wtn/WTNPortal/home/#!q0=868.

Carl Murray was a non-smoker and athlete who was unknowingly

exposed to the highest levels of radon – hundreds of times over two decades. For decades, the City took little or no action to eliminate the high levels of radon. The City was in violation of mandatory firefighter safety standards during every shift because it had a duty to inform firefighters of all hazards in the workplace and did not tell Carl Murray, or other firefighters, about the extensive and ongoing radon contamination likely occurring at all times throughout his career.

Without full and fair discovery or opportunity to review discovery, depose witnesses, and retain experts, the trial court granted the City's motion for partial summary judgment, dismissing the survival, outrage, loss of consortium, and strict liability. The court did not consider *res ipsa loquitar*, even though the lethal levels of radon were within City's exclusive control for the entirety of Carl Murray's career. The court limited the Plaintiff's damages to the total damages reduced by amounts paid by City under LEOFF. The court further reduced the damages to the present value of the amount payable by LEOFF and limited the Plaintiff to a negligence theory only for wrongful death without any opportunity for Plaintiff to review the late-produced discovery and retain experts for opinion testimony. The court did not consider the conduct of the City as to strict liability and outrage claims regarding radon levels.

The court then dismissed the remaining claim for wrongful death under a proviso that reversal of claims would reinstate the wrongful death claim.

The superior court erred in dismissing each of Plaintiff's causes of action. The Plaintiff respectfully requests that this Court reverse the trial court's decisions and remand all issues for jury determination.

II. ASSIGNMENTS OF ERROR

Appellant Murray seeks review by the Washington State Court of Appeals, Division II, of the trial court's June 10, 2016 and January 10, 2017 orders and decisions as follows:

The trial court's June 10, 2016 Order dismissing Plaintiff's 1) RCW 4.20.046 Survival Claim; 2) Outrage Claim; 3) Loss of Consortium Claim; Strict Liability Claim; 5) Limiting Plaintiff's damages to the total damages reduced by amounts paid by City under LEOFF, reduced further by the present value of the amounts payable by LEOFF; 6) limiting Plaintiff's remaining claims to a negligence theory under the wrong death statues, RCW 4.20.010, RCW 4.20.020 and RCW 4.20.060; and, 7) per the January 10, 2017 Order "[i]f the June 10, 2016 order is reversed the wrongful death cause of action (RCW 4.20.010 and RCW 4.20.020) will be reinstated along with any other cause(s) of action the appellate court may reinstate. If the June 20,

2016, Order is affirmed, all of Plaintiff's claims will remain dismissed with prejudice.

Each of the trial court's rulings constitute reversible error.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

A. Did the trial court err when it dismissed the survival claims based upon a determination that the statute of limitations had run despite the superior knowledge of the City and the minuscule knowledge of Carl Murray regarding fire station radon where the City failed to comply with law and inform him of the nature and scope of the lethal levels of radon contamination?

B. Did the trial court err when it dismissed the outrage claim without considering the City's reckless conduct over more than a decade, its failure to comply with mandatory firefighter safety standards during that time, and its failures to comply with law and inform him of the nature and scope of the fire station lethal levels of radon contamination?

C. Did the trial court err when it dismissed the loss of consortium claims based upon a determination that the statute of limitations had run despite the superior knowledge of the and the minuscule knowledge of Carl Murray regarding fire station radon where the City failed to comply with law and inform him of the nature and scope of the fire station lethal levels of radon contamination?

D. Did the trial court err when it dismissed the strict liability claim under circumstances where for more than a decade the City's conduct exposed Carl Murray to lethal levels of radon contamination in a place where a thing or activity is maintained, in the light of the character of that place and its surroundings regarding fire station radon where the City failed to comply with law and inform him of the nature and scope of the lethal levels of radon contamination?

E. Did the trial court error when it failed to consider *res ipsa loquitar* when (1) the occurrences producing the injury were of a kind that ordinarily does not occur in the absence of negligence, (2) the injury was caused by an agency or instrumentality within the exclusive possession and/or control of the , and (3) the injury-causing occurrence was not due to any contribution or fault of the decedent?

F. Did the trial court err when it dismissed all damages except the wrongful death damages reduced by the City's LEOFF payments further reduced to net present value?

IV. STATEMENT OF FACTS

A. Background Facts.

The first radon testing date for a City Fire Station produced to Plaintiff to date was 2001. *Appendix A.* Carl Murray began working as a City firefighter in 1992. *CP 504-513.*

There is a strong inference that radon levels were high, and the City failed to monitor for radon, based upon the high levels of radon recorded in 2001, 2005, 2006 and 2013. Although the City told residents of City of the dangers of residential radon, it apparently did not consider the fire stations where firefighters lived, worked, ate and slept 24 hours a day, 365 day a year as residences. It should have tested from the time of Carl Murray's hire in 1992 on a routine and quarterly or annual basis – but never did. *Appendix A, CP 504-513.*

On September 13, 2001 PBS Environmental performed radon testing

at City Fire Station 82 a.k.a. Fire Station 1 and City Fire Station 86 a.k.a. Fire Station 2. *Appendix A*. According to the "Radon Screening Results" from City a total of 6 radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a "duration of approximately four days." *Id.* The radon level for City Fire Station 82 a.k.a. Fire Station 1's Weight Room was **11.2** (pCi/l). *Id.* The radon level for City Fire Station 86 a.k.a. Fire Station 2's Weight Room was **172.1** (pCi/l). *Id.* **This reading is 43 times the 4 pCi/l radon level for mitigation and remediation.** *Appendix A.*

In October of 2001 PBS Environmental conducted baseline radon testing within the ten (10) City Fire Stations. *Appendix A*. Clayton Group Services, Inc. completed sampling exercises in **April and May of 2003.** *Id.* This finally occurred nearly two years after the high radon levels were discovered in City Fire Stations in 2001. *Id.*

On **November 8-12 and 19-21, 2001** PBS Environmental performed radon testing at City Fire Station 82 a.k.a Fire Station 1. *Appendix A*. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of "approximately two to four days for each testing cycle." *Id.* The radon level for City Fire Station 82 a.k.a Fire Station 1's Basement ranged from **25.1-37.2** (pCi/l) – this was after radon investigation and ongoing radon mitigation efforts at the City building. *Id.* The radon level for

City Fire Station 82 a.k.a Fire Station 1's Weight Room was still **17.0** (pCi/l) after radon investigation and ongoing radon mitigation efforts at the City building. *Id.* The radon level for City Fire Station 82 a.k.a Fire Station 1's Mechanical Room was still **31.8** (pCi/l) after radon investigation and ongoing radon mitigation efforts at the City building. *Id.* The radon level for City Fire Station 82 a.k.a Fire Station 1's Dorm Room was still **13.2** (pCi/l) after radon investigation and ongoing radon mitigation efforts at the City building. *Id.* Radon levels in the Fire Stations were still far above the EPA action level of 4 pCi/l. *Id.*

From **November 7, 2005 through February 13, 2006** Clayton Group Services, Inc. ("Clayton" hereafter) was retained by City to conduct long term radon testing (three months long) at ten (10) City Fire Stations. *Appendix A.* PBS Environmental had conducted baseline radon testing within the ten (10) Fire Station in October 2001 – five (5) years prior to this testing. *Appendix A.* Clayton followed up with sampling exercises in April and May of 2003 – two (2) years later. *Appendix A.* Now three years after the last radon testing was performed – City Fire Station 82 a.k.a Fire Station 1 radon testing and sampling results from November 7, 2005 through February 13, 2006 indicated Fire Station 82 a.k.a. Fire Station 1 had radon levels that were remained above the EPA recommended action level. *Id.* Five (5) years after

the City became aware of high levels of radon in their Fire Stations they were still testing above the EPA recommended action level. *Id.* Of note, during the course of the November 7, 2005 through February 13, 2006 long-term (3 months radon testing in the City Fire Stations; (1) a test canister could not be located in Fire Station 82 a.k.a Fire Station 1; (2) one canister was missing from Fire Station 84 a.k.a. Fire Station 3; and (3) one other canister was missing from Fire Station 81 a.k.a. Fire Station 5. *Appendix A.*

From **April 3, 2006 through July 10, 2006** Clayton performed long term radon testing (three months long) within the City's Fire Station 82 a.k.a Fire Station 1. *Appendix A.* In a prior short-tem sampling episode (April 22 through 25, 2003) some results were above the EPA action level for radon particularly in the Fire Prevention Office. *Id.* According to the 2006 Clayton Report, at City Fire Station 82 a.k.a Fire Station 1, there were "upgrades and added efficiencies to the HVAC system" being made." *Id.* Once again, it had taken five (5) years for these "upgrades and added efficiencies" to be made at <u>one</u> City Fire Station. *Appendix A.*

In 2006 Clayton provided the City with a copy of their "Long Term Radon Testing Fire Station 82" Report. *Appendix A.* The Clayton "Long Term Radon Testing Fire Station 82" Report was based on the sampling results and observations made during the April 3, 2006 through July 10, 2006

survey. *Id.* In 2006 Clayton offered the City the following radon mitigation recommendations:

> A. Periodic radon sampling should be undertaken at Fire Station 82 a.k.a. Fire Station 1 to insure the proper utilization of the air handling system.
> B. Establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.
> C. Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year. *Appendix A.*

Clayton prepared the 2006 Radon Report and above-listed radon mitigation recommendations to aid the City in evaluating Fire Station 82 a.k.a. Fire Station 1 for further high indoor radon concentrations. *Appendix A.*

From **March 9, 2011 through March 11, 2011** TCS Industries, Inc. performed radon testing at Fire Station 82 a.k.a. Fire Station 1. *Appendix A.* The radon concentration ranged from 3.2 (pCi/l) through 5.4 (pCi/l). *Id.* Ten (10) years after the testing in 2001, the City's Fire Station's indoor radon levels were still above the EPA action level. *Id.*

From **January 23, 2013 through January 25, 2013** TCS Industries, Inc. performed radon testing at Fire Station 82 a.k.a. Fire Station 1. *Appendix A.* The "Radon Concentration" level was **11.8** (pCi/l) in the City Firefighters' Second Floor Classroom. *Id.* Twelve (12) years later the City's

Fire Station's indoor radon level was still multiples of the EPA action level. *Id.*

On **February 27, 2013** T. Jeff O'Neal II, P.E. of McCann Engineering LLC ("McCann" hereafter) wrote the City regarding "Radon Investigation." *Appendix A*. Mr. O'Neal stated in his letter to Mr. Norfleet – Facilities Superintendent for the City – that when they met at Fire Station 82 a.k.a. Fire Station 1 on February 4, 2013 for a site visit the radon readings that had previously been "marginally" high had recently become very high. *Id.* There is no safe level for radon exposure.

On **April 23, 2013** Mr. O'Neal of McCann again wrote Mr. Norfleet – Facilities Superintendent for the City – regarding "Radon Investigation." *Appendix A*. Mr. O'Neal wrote to the City employee Norfleet, "On 25 April 2013 Chief Knable and I met with you at your office and traveled to fire stations 3, 8, 9, and 4, respectively. We observed the conditions at each site and assessed each building relative to elevated radon levels." *Id.* Mr. O'Neal's April 23, 2013 Report found: (1) Fire Station 84 a.k.a Fire Station 3 required mitigation; (2) Fire Station 88 a.k.a Fire Station 4 required mitigation; (3) Fire Station 83 a.k.a Fire Station 8 required mitigation; and (4) Fire Station 89 a.k.a Fire Station 9 required mitigation. *Id.* Further, it was recommended at Fire Station 89 a.k.a Fire Station 9, due to the fact the

Classroom HVAC unit was on the roof, that radon readings should be taken in the Classroom to see if mitigation in this area was necessary. *Id.* At this point it had now been at least twelve (12) years since the City had become aware of elevated radon levels in their City Fire Stations – including Fire Station 9 – according to data the City has released to Plaintiff. *Appendix A*.

On **June 12, 2013** Wilson Associates Architects and Planners ("Wilson" hereafter) wrote a project proposal titled "Radon Mitigation/HVAC Upgrade Review" to the City for "reviewing original construction documents and recent mechanical drawings for an upgrade of the HVAC system at the existing City Fire Station 1 located at 990 West Evergreen Boulevard." *Appendix A*. The purpose of the review was to "determine existing fire separation locations and assist with resolving code questions with respect to fire damper requirements." *Id.* Following a site visit of City Fire Station 82 a.k.a Fire Station 1Wilson would generate a report for the City outlining the existing conditions they found and probable fire separation upgrade requirements. *Id.* Wilson also agreed to review their findings, and probable solution(s) with the City Building Department. *Id.* Following final resolution of the outlined issues, Wilson agreed to provide the Mechanical Engineer-of-Record, McCann, with the information necessary for them to "revise their system design for compliance with IBC

requirements." *Id.*

The statute of limitations does not even begin to run until there is meaningful notice to Carl Murray of the ongoing high levels of radiation and medical evidence that radon caused – or was a cause – of Carl Murray's death. The City never told Carl Murray of the continuing high levels of radon. The City acknowledges only that smoke, fumes and toxic substance exposures while responding to fires as a public servant was the cause of his cancer. *CP 117-128, Appendix B.*

"We met with an investigator from Labor and Industries. The investigator spent several hours in our home asking about family history, whether or not Carl was ever a smoker, and about Carl's extracurricular activities. There was no mention of radon in City fire stations as a potential cause of Carl's lung cancer. In fact, the word radon was never mentioned by any of us. Again, the City never said that Carl's cancer was associated with decades of radon exposure in the City's Fire Stations. The City employees never mentioned that radon had contaminated many of the Fire Stations for decades. The City employees never told us about the high levels of radon that had been present in its Fire Stations during Carl's entire career." *Appendix B.*

"As a captain Murray has taken more of a supervisory role, as opposed to doing all of the hands-on activities of a firefighter.....Murray

thinks that the job of captain decreases his chances of exposure to toxins.....Murray stated that he doesn't think he has been exposed to a lot of toxins on-the-job at all." *CP 504-513.* His beliefs were clearly based upon City's failure to inform its firefighters of the high levels of radon. WAC 296-305 requires City to inform its firefighters of hazardous conditions. *CP 12, Appendix A.*

On **October 4, 2013** Plaintiff faxed a Public Records Request to City requesting documents regarding radon in any of Vancouver fire stations from 1988 to the present. *Appendix A.*

On **October 6, 2013** City sent an email to Plaintiff stating, in part, that City was in receipt of the Public Records Request and was "in the process of gathering documentation" related to Plaintiff's counsel's office's request. *Appendix A.* City anticipated being able to fulfill the request by November 1, 2013. *Id.*

On **October 28, 2013** the <u>first installment</u> of Plaintiff's counsel's office's Public Records Request documents were provided via electronic reproduction by City. *Appendix A.* The limited records produced by City included emails containing the terms "radon" and "fire station" that had been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626." *Id.*

On **March 20, 2014** the <u>second installment</u> of Plaintiff's Public

Records Request documents were provided via electronic reproduction by City. *Appendix A.* The Assistant Attorney for City responded to Plaintiff on March 19, 2014 letter concerning the fact that documents regarding radon testing at City Fire Station 85 a.k.a Fire Station 6 were omitted from the documents produced on October 28, 2013 – pursuant to Plaintiff's initial Public Records Request. *Id.* In response to Plaintiff's counsel's concern, the Assistant Attorney for City provided several pages of inexplicably omitted documents. *Id.*

By March 20, 2014 City had produced approximately 221 pages of "Radon" and "Fire Station" documents to Plaintiff pursuant to Plaintiff's initial Public Records Request of October 4, 2013. *Appendix A.* City represented that these documents, together with approximately 626 pages of emails, were the complete and responsive documents to Plaintiff's October 4, 2013 Public Records Request to City. *Id.*

Many of the 626 pages of "Radon" and "Fire Station" emails produced by City pursuant to Plaintiff's counsel's Public Records Request were duplicative of one another. *Appendix A.* Further, the majority of the emails reference the time period of 2011 through 2013 – <u>after</u> Carl Murray was diagnosed with lung cancer. *Id.*

B. Proceedings Before the Superior Court.

On February 6, 2015, Plaintiff served the City the First Notice of Tort Claim For Damages Form via US Mail Certified Return Receipt based upon the release of information by the City regarding radon levels and failures to address the City Fire Station and Firefighter radon contamination issues. *CP 12, Appendix A.*

Decedent, Carl Murray, was a career firefighter for the City who was tragically taken from his family, friends, and community due to lung cancer that was likely caused by long term exposure to fire station radon during his career. *CP 117- 128.* This case was first filed on February 2, 2016, and was served on the City on February 5, 2016. *CP 1-10, CP 117-128.* Since that time the City has been on notice of the scope of the wrongful death, negligence, outrage, and firefighter "right to sue" allegations. *CP 1-10, CP 117-128.*

On March 29, 2016, Plaintiff served the City with Plaintiff's First Interrogatories and Requests for Production. *CP 431-444.* On April 26, 2016, the City produced over 70,000 pages of new discovery allegedly in response to Plaintiff's First Interrogatories and Requests for Production to the City. *Appendix A.* Although Plaintiff's request was only for the work dates and fire stations where Carl Murray pulled shifts for the City – Plaintiff received over 70,000 pages of discovery apparently containing the shifts for <u>every fire station</u>, for <u>every firefighter employed by the City</u> and <u>for the past</u>

two decades or longer. *Id.*

On April 29, 2016, the City filed a Motion for Partial Summary Judgment. *CP 56-70.* On May 16, 2016, Plaintiff inadvertently filed Plaintiff's Response In Opposition To Defendant's CR 56 Motion For Partial Summary Judgment, the Amended Declaration of Ron Meyers in Support of Plaintiff's Response with referenced exhibits A through P, and the Declaration of Wendy Murray with referenced exhibit A in *Murray v. of Vancouver, Cause No. 15-2-041197. Appendix A-C.*

In Appellant's Designation of Clerk's Paper's the appellant requested that the Clark County Clerk include in the Clerk's Papers for this appeal the copies of the pleadings which were inadvertently filed under the incorrect cause number (15-2-04119-7). *CP 525-528.* The Clark County Clerk was unable to include those documents in the Clerk's Papers submitted for this appeal. *CP 529.* These documents were, however, considered by the Superior Court in response to the Respondent's Motion for Partial Summary Judgment as referenced in the Order Granting Defendant of Vancouver's Motion for Partial Summary Judgment. *CP 81-83, Appendix A-C.*

On May 10, 2016, a Civil Rule 26(I) conference was held with the City at Plaintiff's request due to their inadequate and burdensome responses to Plaintiff's discovery requests. *Appendix A.* Defense counsel Melissa Roeder represented City during the discovery conference. *Id.*

By May of 2016 Plaintiff had received nearly 200,000 pages of unorganized and unresponsive discovery from the City. *CP 117-128, CP 129-153.* The City strategically and tactically put Plaintiff at a disadvantage with the unorganized and the largely irrelevant "data dump." *Id.* Many of the produced documents were handwritten and illegible. *Id.* 65,000 pages of this handwritten discovery included log books. *CP 117-128, CP 129-153.* This was produced by the City in response to Plaintiff's very limited request for the dates and stations were Carl Murray worked during his career. To the extent it was even legible to some degree, the production must be reviewed by hand. However, the vast majority of the produced documents that were legible had nothing to do with Carl Murray's work days or stations. *CP 117-128, CP 129-153.*

On June 10, 2016, the trial court entered an order granting partial summary judgment to the City dismissing Plaintiff's survival claim, loss of consortium claim, strict liability claim and tort of outrage claim. The trial court also limited Plaintiff's damages to the total economic damages reduced by amounts paid by City under LEOFF, reduced further to the present value of the amounts payable by LEOFF. The trial court further limited the Plaintiff to a negligence theory under the wrongful death statue. *CP 81- 83.*

On June 13, 2016, the City chose to supplement their discovery responses. *CP 117-128, CP 129-153.* However, for a second time the City

failed to provide the documents relevant to Plaintiff's First Interrogatories and Requests for Production – documents essential to Plaintiff's case in chief. *CP 117-128, CP 129-153.*

On September 14, 2016 Plaintiff filed a Motion Compelling the City To Provide Full And Immediate Discovery Of Payroll, Call Logs, Scheduling By Station, And All Other Documents Providing Information Regarding Decedent Carl Murray's Work Dates And Fire Station Assignments During His Career With Defendant; For Sanctions, Costs And Attorney Fees; And For An Order Finding Spoliation By Defendant. *CP 117-128, CP 129-153.*

On October 21, 2016 Defense Counsel sent Plaintiff's counsel and email and contended that in the years prior to 2008 the City was not utilizing a computer technology system to manage their employees' whereabouts. *CP 428 - 430, CP 431-444.* Defense Counsel's email also conceded that there may have been other records that existed responsive to Plaintiff's discovery requests. *Id.* However, those avenues had only recently been explored even though Plaintiff propounded her discovery requests to the City over six months ago – at that point in time. *CP 428 - 430, CP 431-444.*

On December 12, 2016, the City filed a Motion to Clarify Partial Summary Judgment Order. *CP 493 - 499.*

On January 4, 2017 Plaintiff filed a Response, together with the Declaration of Matt Johnson with referenced exhibit A, to the City's

Motion's to Clarify Partial Summary Judgment. *CP 514 - 516, CP 504 - 513.*

On January 10, 2017, a Stipulation and Order Dismissing Remainder of Lawsuit with Prejudice Subject to Conditions was signed by Judge Gregerson and entered with the Clark County Court. *CP 519 - 521.*

C. Declarations and Exhibits Offered By The City.

On 04/29/2016 the Declaration of Kathy Heil with the following Exhibit was filed in Clark County Superior Court. *CP 42-47.*

> Exhibit A – True and correct copy of a Hazards Material Exposure Report. *CP 42-43.*

On 04/29/2016 the Declaration of Melissa K. Roeder with the following Exhibit was filed in Clark County Superior Court. *CP 48-55.*

> Exhibit A – True and correct copy of the December 22, 2010 Diagnosis Record of Carl Murray. *CP 45-55.*

On 04/29/2016 the Declaration of Patrick Gilbride with the following Exhibits was filed in Clark County Superior Court. *CP 22-41.*

> Exhibit A – Email sent January 13, 2009 by Terry Sott to "DL, Fire-All". *CP 26-34.*
> Exhibit B – Email sent January 5, 2011 from Roxy Barns to Carl Murray. *CP 35-36.*
> Exhibit C – Email sent January 8, 2011 from Roxy Barns to Carl Murray. *CP 37-38.*
> Exhibit D – Email sent January 9, 2011 from Roxy Barns to Carl Murray. *CP 39-41.*

On 10/21/2016 the Declaration of Daniel G. Lloyd, with the following Exhibits was filed in Clark County Superior Court. *CP 171-294.*

Exhibit A – True and correct copy of a letter sent to Plaintiff's counsel dated, October 4, 2016. *CP 177-182.*
Exhibit B – True and correct copy of the Amended First Set of Interrogatories and Requests for Production that were emailed to Plaintiff on June 23, 2016. *CP 183-209.*
Exhibit C – True and correct copy of the pertinent excerpts from Plaintiff's Responses to the 's First Set of Interrogatories and Requests for Production. *CP 210-228.*
Exhibit D – True and correct copy of an order from the Department of Labor and Industries dated January 28, 2014. *CP 229-230.*
Exhibit E – Is a *.pdf converted from "Indemnity Payments" Excel file. *CP 231-235.*
Exhibit F – Is a *.pdf converted from the "Medical File" Excel file. *CP 236-257.*
Exhibit G – True and correct copy of Plaintiff's Responses to Requests for Admission. *CP 258-272.*
Exhibit H – True and correct copy of the pertinent excerpts from Plaintiff's Amended Responses to the 's First Set of Requests for Admission. *CP 273-278.*
Exhibit I – True and correct of an Order entered on January 30, 2015, in *In re Estate of Carl Murray*, No. 15-4-00081-1. *CP 279-282.*
Exhibit J – True and correct copy of Dan Lloyd's email dated October 14, 2016. *CP 283-284.*
Exhibit K – True and correct copy of the October 19, 2016 letter from Plaintiff's counsel. *CP 285-286.*
Exhibit L – True and correct copy of the October 14, 2016 letter regarding Wendy Murray's income. *CP 287-289.*
Exhibit M – True and correct copy of the email thread showing requests for another CR 26(I) conference. *CP 290-294.*

On 10/25/2016 the Declaration of Daniel G. Lloyd with the following Exhibit was filed in Clark County Superior Court. *CP 321-325.*

Exhibit A – True and correct copy of an email Dan Lloyd sent to Ron Meyers summarizing a conversation that took place on October 25, 2016. *CP 324-325.*

On 10/26/2016 the Declaration of Daniel G. Lloyd with the following Exhibits was filed in Clark County Superior Court. CP 366-409.

> Exhibit A – True and correct copies of excerpts from Plaintiff's First Set of Requests for Production. *CP 372-375.*
> Exhibit B – True and correct copy of an excerpt of the City's Answers and Objections to Plaintiff's Requests for Production Nos. 1-2. *CP 376-381.*
> Exhibit C – True and correct copy of the invoice from DTI documenting the City's expenditure. *CP 382-383.*
> Exhibit D – True and correct copy of Dan Lloyd's email to Plaintiff's counsel that accompanied the spreadsheet attachment. *CP 384-388.*
> Exhibit E – True and correct copy of the email received from the paralegal for Plaintiff's counsel on September 19. *CP 389-390.*
> Exhibit F – True and correct copy of a letter sent from Dan Lloyd's co-counsel, Melissa Roeder, to Plaintiff's counsel Ron Meyers on July 30, 2015. *CP 391-393.*
> Exhibit G – True and correct copy of email sent to Ron Meyers on August 14, 2015 regarding exporting roughly 15,000 emails. *CP 394-395.*
> Exhibit H – True and correct copy of excerpts from the Plaintiff's renewed requests for emails in a Second Set of Interrogatories and Requests for Production. *CP 396-404.*
> Exhibit I – True and correct copy of Dan Lloyd's September 7th letter. *CP 405-406.*
> Exhibit J – True and correct copy of email sent from Plaintiff's counsel paralegal to Dan Lloyd. *CP 407-409.*

On 10/26/2016 the Declaration of Melissa K. Roeder with the following Exhibits was filed in Clark County Superior Court. *CP 366-409.*

> Exhibit A – Email regarding a CR 26(I) conference. *CP 342-344.*

Exhibit B – Email regarding the VFD log books that were not produced as Plaintiff filed a CR 41 Motion to Dismiss on October 29, 2015. *CP 345-362.*
Exhibit C – Email regarding Request for Production No. 1. *CP 363-365.*

On 10/31/2016 the Declaration of Eric Knowles with the following Exhibit was filed in Clark County Superior Court. *CP 478-484.*

Exhibit A – True and correct copy of Eric Knowles curriculum vitae. *CP 481-484.*

D. Declarations and Exhibits Offered By Plaintiff Murray.

On 09/14/2016 the Declaration of Ron Meyers with the following Exhibits was filed in Clark County Superior Court. *CP 92-116.*

Exhibit A – True and correct copies of 5 sample pages of 2001 log books produced by Defendant in their responses to Plaintiff's First Set of Interrogatories and Requests for Production of documents. *CP 96-101.*
Exhibit B – True and correct copies of correspondence between Plaintiff's counsel and Defense counsel regarding the service of of Vancouver's Objection and Responses to Plaintiff's First Interrogatories and Requests for Production of Documents. *CP 102-111.*
Exhibit C – True and correct copies of correspondence between Plaintiff's counsel and Defense counsel regarding the scheduling of the Civil Rule 26(I) conference commenced on May 10, 2016. *CP 112-114.*
Exhibit D – True and correct copies of correspondence between Plaintiff's counsel and Defense counsel regarding service of Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories and Requests for Production of documents. *CP 115-116.*

On 10/17/2016 the Declaration of Ron Meyers with the following Exhibits was filed in Clark County Superior Court. *CP 129-153.*

> Exhibit A – True and correct copies of 5 sample pages of 2001 log books produced by Defendant in their Responses to Plaintiff's First Set of Interrogatories and Requests for Production of documents. *CP 133-138.*
> Exhibit B – True and correct copies of correspondence between Plaintiff's counsel and Defense counsel regarding the service of of Vancouver's Objection and Responses to Plaintiff's First Interrogatories and Requests for Production of documents. *CP 139-148.*
> Exhibit C – True and correct copies of correspondence between Plaintiff's counsel and Defense counsel regarding the scheduling of the Civil Rule 26(I) conference commenced on May 10, 2016. *CP 149-151.*
> Exhibit D – True and correct copies of correspondence between Plaintiff's counsel and Defense counsel regarding service of Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents. *CP 152-153.*

On 10/28/2016 the Declaration of Ron Meyers with the following Exhibits was filed in Clark County Superior Court. *CP 455-477.*

> Exhibit A – True and correct copy of correspondence between Plaintiff and Defense counsel regarding Mr. Lloyd's admittance that Plaintiff had not answered Defendant's Amended Interrogatories. *CP 458-459.*
> Exhibit B –True and correct copy of correspondence between Plaintiff and Defense counsel regarding the previous CR 26(I) conference. *CP 460-461.*
> Exhibit C – True and correct copy of an email stating that Wendy Murray's wages and benefits not provided by Carl Murray are not subject to offset. *CP 462-464.*
> Exhibit D – True and correct copy of Defendant's discovery responses bate stamped "COV422064" with email from Carl Murray. *CP 465-466.*

Exhibit E –True and correct copy of Defendant's discovery responses bate stamped "COV422063 with email from Carl Murray stating, "I have fantastic support from my wife but I still need to do some things myself." *CP 467-477.*

On 10/28/2016 the Reply Declaration of Ron Meyers with the following Exhibits was filed in Clark County Superior Court. *CP 455-477.*

Exhibit A – True and correct copy of Plaintiff's First Interrogatories and Requests for Production propounded to Defendant on March 29, 2016. *CP 434-442.*
Exhibit B –True and correct copy of defense counsel's October 21, 2016 email to Plaintiff's counsel. *CP 443-444.*

On 1/4/2017 the Declaration of Matthew G. Johnson with the following Exhibit was filed in Clark County Superior Court. *CP 504-513.*

Exhibit A – True and correct copy of the March 17, 2011 statement of Carl Murray. *CP 506-513.*

E. Superior Court Rulings.

On June 10, 2016, the Court entered an order granting the City's Motion for Partial Summary Judgment which dismissed Murray's Survival, Outrage, Loss of Consortium and Strict Liability claims, and limited Appellant's remaining claim to a negligence theory under the wrongful death statutes. *CP 81-83.* Appellant requested discretionary review which was denied. *CP 489-492.*

On January 10, 2017, a Stipulation and Order Dismissing Remainder of Lawsuit with Prejudice Subject to Conditions was entered. *CP 519-521.*

This Stipulation dismissed Murray's remaining claim of "a negligence theory under the wrongful death statutes, RCW 4.20.010-.020", but with the condition that if the June 10, 2016 order *CP 81-83* were reversed, "the wrongful death cause of action *RCW 4.20.010 and RCW 4.20.020* will be reinstated along with any other cause(s) of action the appellate court may reinstate." *CP 519-521.* Murray entered into this Stipulation to constitute a final judgment under RAP 2.2(a)(1) so this appeal could be pursued.

V. ARGUMENT

"The standard of review of an order of summary judgment is de novo, and the appellate court performs the same inquiry as the trial court." *Jones v. Allstate Ins. Co.*, 146 Wash.2d 291, 300, 45 P.3d 1068 (2002). The standard on a motion for judgment as a matter of law mirrors that of summary judgment. See *Reeves v. Sanderson Plumbing Prods.*, Inc., 530 U.S. 133, 150, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000). The elements of negligence include the existence of a duty to the plaintiff, breach of that duty, and injury to the plaintiff proximately caused by the breach. *Degel v. Majestic Mobile Manor, Inc.*, 129 Wash.2d 43, 48, 914 P.2d 728 (1996). Whether or not the duty element exists in the negligence context is a question of law that is reviewed de novo. *Hertog v. of Seattle*, 138 Wash.2d 265, 275, 979 P.2d 400 (1999).

Judicial notice can be taken at any time before final determination of a case. ER 201.

> **RCW 41.26.281 Cause of action for injury or death, when.**
> If an **injury or death results** to a member **from the intentional or negligent act or omission of a member's governmental employer**, the member, the widow, widower, child or dependent of the member **shall have the privilege to** benefit under this chapter and also **have a cause of action against the governmental employer as otherwise provided by law**, for any excess of damages over the amount received or receivable under this chapter. [**emphasis added**]

The City's attempts to restrict the legislature's firefighter "right to sue" statute, and eliminate other Washington law, must fail. All causes of action survive, including loss of consortium damages.

> **RCW 49.17.060 Employer—General safety standard—Compliance.**
> **Each employer:**
> **(1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees** . . . ; and
> **(2) Shall comply with the rules, regulations, and orders promulgated under this chapter.**
> [bold, underline emphasis added]

> **WAC 296-305-01509 Management's responsibility.**
> **(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:**
> **(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.**
> . . .
> **(2) The fire department shall be responsible for providing**

> **suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.**
>
> . . .
>
> **(6) The fire department shall develop and maintain a hazard communication program as required by WAC 296-800-170, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.**
>
> . . . . [bold, underline emphasis added]
>
> **WAC 296-305-01003 Scope and application.**
>
> . . .
>
> (2) The provisions of this chapter apply to all firefighters and their work places . . . .
>
> . . .
>
> (6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries. **In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply**.

The City's rush to summary judgment, before the discovery was completed, before the discovery was reviewed by Plaintiff's counsel and before the discovery could be provided to experts violates the spirit and intent of full and fair discovery. It is trial by ambush, without a trial. *Washington State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wash. 2d 299, 342, 858 P.2d 1054 (1993).

This case is analogous to the situation in *Target Nat. Bank v. Higgins*, 180 Wash. App. 165, 192–93, 321 P.3d 1215, 1229 (2014). The fact that

"[l]arge corporate defendants can be uncooperative in discovery leading to an increase in effort expended by the debtor's attorney. The delay by Target and its filing of a summary judgment motion before answering discovery illustrates the truth to this generalization."

The statute of limitations did not run as to any cause of action. The decedent Carl Murray's statement shows that he had no idea as to the cause of his lung cancer. A radon exposure document he signed on October 16, 2001 did nothing to provide meaningful notice of the career exposures to radon at all of the City's fire stations.

City's acts and omission in failing to report as mandated by law tolled the statute in any event. The provisions of the Fire Fighter Safety Standards apply to all firefighters and their work places. These standards trump all other general and health safety standards. WAC 296-305-01003. Because the City failed to give notice of each exposure or the high levels of exposure, over many years, a single radon exposure notice that failed to convey the ongoing exposure, the levels of exposure, the locations of the exposures and the risk of such exposures there is insufficient notice to begin running the statute of limitations. The City allowed his occupational disease claim and actively led him to believe that his lung cancer was caused by responses to fires. City said nothing about radon. Nothing. This Court can also take judicial notice that

Carl Murray's name has been enscribed on the fallen firefighters memorials in Olympia and in Boulder, Colorado because his death was a line of duty death. ER 201. The issue of what caused his death has been concealed in violation of statute and regulation.

Reckless conduct in allowing ongoing exposure to lethal exposures of radon over decades leaves the outrage claim viable – certainty of outcome is not a requirement for this cause of action. Survival and loss of consortium damages are provided by statute to certain statutory beneficiaries such as surviving spouses. Strict liability is a tort based claim also allowed under Washington tort law.

"It is common legal knowledge that **extensive discovery is necessary** to effectively pursue either a plaintiff's claim or a defendant's defense." [bold emphasis added]. *Doe v. Puget Sound Blood Ctr.,* 117 Wash. 2d 772, at 782, 819 P.2d 370 (1991).

Under Washington's notice pleading requirements, a party alleging a cause of action need only state those facts and theories necessary to give notice to the opposing party of the nature of the claim. Notice is sufficient if there is (1) a short and plain statement of the claim showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which he deems himself entitled. CR 8(a). A complaint provides adequate notice if it

contains "allegations from which an inference fairly may be drawn that evidence on these material points will be introduced at trial." *Havsy v. Flynn*, 88 Wn. App. 514, 518, 945 P.2d 221 (1997). Complaints sounding in tort need only show (1) a legal wrong, and (2) damages foreseeably resulting therefrom. *Id*; see also *Christensen v. Swedish Hospital*, 59 Wn.2d 545, 548, 368 P.2d 897 (1962) (same).

In essence the judge conducted a trial without plaintiff having any meaningful chance to review documents, retain experts, conduct CR 30(b)(6) and other depositions and produce witnesses in a jury trial.

A. Statute of Limitations

Wrongful Death.

*White v. Johns-Manville Corp.*103 Wash.2d 344, 358-360, 693 P.2d 687 (1985):

> We decline defendants' invitation to rule either that, as a matter of law, a survivorship action "accrues" at the time of death, or is barred if it was not actually or constructively discovered by the decedent during his lifetime. RCW 4.20.046 does not create a separate claim for the decedent's survivors; rather, it merely preserves the causes of action that a person could have maintained had he not died. *Wooldridge v. Woolett*, 96 Wash.2d 659, 662-63, 638 P.2d 566 (1981). **Defendants confuse the existence of a cause of action and the accrual of a cause of action; while *359 the plaintiff in the present case may have been injured by defendants during his life, his cause of action did not accrue unless he discovered, or should have discovered, the cause of his injuries.** *See Sahlie v. Johns-Manville Sales Corp.*, 99

Wash.2d 550, 554-55, 663 P.2d 473 (1983). Since the decedent would have benefitted from the discovery rule had he not died, his representatives should likewise benefit from it: what survives to the personal representatives are not only the decedent's ripe causes of action but include their potential causes of action which may not have accrued at the time of death.

Our decision to apply the discovery rule to survivorship actions finds support in *Eisenmann v. Cantor Bros., Inc.*, 567 F.Supp. 1347 (N.D.Ill.1983). In that case an administratrix sued her deceased husband's employer alleging his occupational exposure to benzine proximately caused his death. On motions to dismiss, the defendant asserted plaintiff's claim was barred by the Illinois statute of limitation, which provided that "actions to recover damages for an injury to the person survive the death of the injured person." *Eisenmann*, at 1351 (quoting Ill.Ann.Stat. ch. 110 ½, § 27-6 (Smith-Hurd 1978)). The court denied defendant's motion to dismiss.

The *Eisenmann* court provided several reasons for its decision. **First, it noted that the survival statute related to a right of action for personal injury arising during the life of the injured person. Second, the court stressed that the general policy of survival statutes was to ensure that wrongdoers actually were not relieved of some portion of their liability because their acts had been so grievous as to cause death. Third, the court emphasized that in the cause of invidious occupational diseases the discovery rule was often the only fair means by which a statute of limitation fairly can be applied to survival and wrongful death actions**. Finally, the court rejected the holding of *McDaniel v. Johns-Manville Sales Corp.*, supra, in which the court refused to apply the discovery rule to survivorship **697 actions. The Eisenmann court noted:

*360 While it is true that the [wrongful death and survivorship] Acts provide for different types of damages, the two causes of action are similar in their fundamental respects. The elements of both causes of action are essentially the same, as are the defenses generally available. Additionally, experience teaches us that both causes of action are predicated

> on the same set of operative facts. If, as is manifest, Mr. Eisenmann would have had the benefit of the discovery rule if he brought a tort action in his own name, neither policy nor logic will support a contrary result due to his death.
> Eisenmann, at 1353.
> We concur with the views expressed in Eisenmann. **The date of death in a case involving an invidious occupational disease does not necessarily mark the time at which the claimants knew or should have known of the cause of the deceased's death. If death marks the time at which the claimant obtained actual or constructive notice of the cause of the decedent's death, this always may be proved at trial.**
> A survivor takes the rights of the decedent-no more and no less. Therefore if the decedent would have had a cause of action during his lifetime, **but for the invidious nature of his disease and his inability to link the injury to the wrongdoer, then that cause of action, when discovered, should survive his death.**

Eisenmann, at 1354. [bold emphasis added]

The statute of limitations does not run in Washington until the Plaintiff knows of the cause of his occupational disease. Likewise, the statute of limitations does not run while the fact of lethal doses of radon are being concealed by the firefighter's employer. In fact, the City allowed the lung cancer claim based upon exposure to smoke, fumes and toxic substances – and never mentioned radon as the most likely cause. The City concealed years of lethal doses of radon from Carl Murray. The City would have exposed itself to liability if it acknowledged that radon and failed mitigation attempts were the most likely cause of Carl Murray's death as opposed to first

responder calls.

There was never adequate notice of the ongoing lethal radon exposures, failed mitigation, and the strongest relationship between radon and lung cancer to start the statute of limitations. At the very earliest, the requisite "notice" did not occur until the City responded to the Public Records Requests on October 28, 2013 or March 20, 2014.

B. Survival

RCW 4.20.046 Survival of actions.

> (1) **All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former** and against the personal representatives of the latter, whether such actions arise on contract or otherwise, **and whether or not such actions would have survived at the common law or prior to the date of enactment of this section**: PROVIDED, HOWEVER, That **the personal representative shall only be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased on behalf of those beneficiaries enumerated in RCW 4.20.020**, and **such damages are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action**.

RCW 4.20.060 Action for personal injury survives to surviving spouse, state registered domestic partner, child, stepchildren, or heirs.

> **No action for a personal injury to any person occasioning death shall abate**, nor shall such right of action determine, **by reason of such death, if such person has a surviving spouse**, state registered domestic partner, **or child living, including stepchildren**. . . . [Emphasis added.]

Survival includes all elements available in negligence including economic, and noneconomic damages, including loss of consortium.

C. Negligence.

The elements of negligence are duty, breach, proximate cause, and damages. The statute of limitations does not run in Washington until the decedent knows of the **cause** of his occupational disease. The statute of limitations does not run while the fact of lethal doses of radon are being concealed by his employer – especially egregious in the presence of **statutory duties and regulatory duties** to inform firefighters of the ongoing radon danger.

Passing on data about radon in homes did nothing to inform Carl Murray of the City's reckless disregard of the lethal levels of radon in its fire stations and reckless failure to comply with firefighter safety standards regarding informing firefighters of the lethal radon danger. No doctor has yet provided causation testimony because City never told the Murrays about years of lethal and continuous levels of radon exposure Carl Murray experienced in its fire stations.

Radon existed in City's fire stations where Carl Murray worked for over 20 years, the City knew it, but chose not to comply with the mandatory firefighter safety standards in Washington state and tell him, and every other

firefighter they employed, that they were being exposed to levels of radon every shift that was many times higher than the level that requires mitigation or remediation. Information regarding recklessly high and continuous levels of radon contamination in City's fire stations was not provided to firefighters – despite its duty to inform them.

There is no legitimate dispute that radon was present in lethal levels in City's fire stations, that there is **no safe level of radon exposure**, and that these facts were known to City. The City recklessly and outrageously failed – day after day, week after week, month after month and year after year to protect its firefighters as mandated by law.

D. Outrage

Kloepfel v. Bokor, 149 Wash.2d 192, 66 P.3d 630 (2003):

> The tort of outrage requires the proof of three elements: (1) extreme and outrageous conduct, (2) intentional or reckless infliction of emotional distress, and (3) actual result to plaintiff of severe emotional distress. *Reid v. Pierce County*, 136 Wash.2d 195, 202, 961 P.2d 333 (1998) (citing *Dicomes v. State*, 113 Wash.2d 612, 630, 782 P.2d 1002 (1989) *196 citing *Rice v. Janovich*, 109 Wash.2d 48, 61, 742 P.2d 1230 (1987))). These elements were adopted from the *Restatement (Second) of Torts § 46* (1965) by this court in *Grimsby v. Samson*, 85 Wash.2d 52, 59-60, 530 P.2d 291 (1975).3
>
> *Grimsby* held any claim for intentional infliction of emotional distress must be predicated on behavior " 'so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.' " Id. at 59,

> 530 P.2d 291 (quoting *Restatement (Second) of Torts § 46* cmt. d). That must be conduct " 'which the recitation of the facts to an average member of the community would arouse his resentment against the actor and lead him to exclaim "Outrageous!" ' " *Reid*, 136 Wash.2d at 201-02, 961 P.2d 333 (quoting *Browning v. Slenderella Sys. of Seattle*, 54 Wash.2d 440, 448, 341 P.2d 859 (1959) (quoting Restatement of Torts § 46(g) (Supp.1948))). Consequently, the tort of outrage " 'does not extend to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.' In this area plaintiffs must necessarily be hardened to a certain degree of rough language, unkindness and lack of consideration." *Grimsby*, 85 Wash.2d at 59, 530 P.2d 291 (quoting *Restatement (Second) of Torts § 46* cmt. d).

In *Smith v. Rodene*, 69 Wash.2d 482, 418 P.2d 741, 423 P.2d 934 (1966), the Supreme Court stated:

> "We think that a fair summary of the holdings in such cases is as follows: (1) Where plaintiff suffers mental or emotional distress which is caused by some negligent act of the defendant, there is no right of action, even although the mental condition in turn causes some physical injury; unless the act causing the mental fright or emotional distress also threatens an immediate physical invasion of plaintiff's personal security, that is, threatens immediate bodily harm. (2) But where mental suffering or emotional distress is caused by a wilful act, recovery is permitted."

Brower v. Ackerley, 88 Wash.App. 87, 99-102, 943 P.2d 1141 (1997):

> The Ackerleys initially contend Brower's distress, as described, cannot be viewed as severe because it fails to identify "objective symptomatology." That requirement, however, belongs to the tort of negligent infliction of emotional distress. No Washington case has incorporated *100 it into the tort of outrage.30 Similarly the Restatement has recognized that bodily harm is not necessary.31
>
> ...

> "When the conduct offered to establish the tort's first element is not extreme, a court must withhold the case from a jury notwithstanding proof of intense emotional suffering. The situation is different when the alleged conduct sufficiently satisfies the first two elements, outrageous and extreme conduct, and intentional or reckless infliction of emotional harm. In such cases, we hold a case of outrage should ordinarily go to a jury so long as the court determines the plaintiff's alleged damages are more than "mere annoyance, inconvenience, *102 or normal embarrassment" that is an ordinary fact of life.41
>
> ...
>
> Our holding is consistent not only with Spurrell and Lawson, but also with the Restatement. According to comment j in the Restatement, severe distress "must be proved; but in many cases the extreme and outrageous character of the defendant's conduct is in itself important evidence that the distress has existed."42 In our view, this is such a case. Unlike the conduct considered in Spurrell and Lawson, the telephone harassment as alleged by Brower fits within the definition of a criminal statute, with no imaginable purpose except to cause emotional distress. For purposes of summary judgment, the Ackerleys do not dispute that a rational jury could conclude the entire episode was extreme and outrageous.43 If a jury does eventually reach that conclusion, the extremity of the conduct is in itself important evidence of the severity of distress experienced by the target. Taking into consideration the threatening nature of the final calls, a jury could find from Brower's description of his acute and enduring anxiety that he experienced more emotional distress than a person should ordinarily be expected to put up with as "a part of the price of living among people."44 We conclude Brower is entitled to take his outrage claim to a jury.

In *Spurrell v. Bloch*, 40 Wash.App. 854, 863, 701 P.2d 529 (1985), this court rejected the claim of negligent infliction of emotional distress with reference to the lack of physical symptoms and "fact of life" standards set

forth in the negligence case of Hunsley, but, with regard to the outrage claim, merely held that the plaintiff failed to establish a genuine issue of material fact as to severe emotional distress, without further explanation. This is not a *Spurrell* case. There is extreme emotional distress on the part of all family members. Carl Murray suffered bodily harm, illness and death.

Restatement (Second) of Torts, section 46, comment k, provides:

> Normally, severe emotional distress is accompanied or followed by **shock, illness, or other bodily harm**, which in itself affords evidence that the distress is genuine and severe. The rule stated is not, however, limited to cases where there has been bodily harm; and if the conduct is sufficiently extreme and outrageous there may be liability for the emotional distress alone, without such harm. In such cases the courts may perhaps tend to look for more in the way of outrage as a guarantee that the claim is genuine; but if the enormity of the outrage carries conviction that there has in fact been severe emotional distress, bodily harm is not required. [emphasis added]

1. Notice Pleading Requirements For Outrage.

Outrage consists of (1) extreme and outrageous conduct; (2) intentional or reckless infliction of emotional distress; and (3) actual result to the plaintiff of severe emotional distress. *Birklid v. Boeing Co.*, 127 Wn.2d 853, 867, 904 P.2d 278 (1995). "**The question of whether certain conduct is sufficiently outrageous is ordinarily for the jury**." *Id.* (emphasis added).

In determining whether a plaintiff has sufficiently pled an outrage claim, courts must determine whether reasonable minds could differ on

whether the conduct has been sufficiently extreme and outrageous to result in liability. *Birklid v. Boeing Co.*, 127 Wn.2d 853, 867, 904 P.2d 278 (1995). In making this determination, courts are to consider (a) the position occupied by the defendant; (b) whether plaintiff was peculiarly susceptible to emotional distress, and if defendant knew this fact; (c) whether defendant's conduct may have been privileged under the circumstances; (d) the degree of emotional distress caused by a party must be severe as opposed to constituting mere annoyance, inconvenience or the embarrassment which normally occur in a confrontation of the parties; and, (e) the actor must be aware that there is high probability that his conduct will cause severe emotional distress and he must proceed in a conscious disregard of it. *Id.*

Obviously, this test involves more than just looking at a complaint and finding it fails to state an outrage claim because it claims "emotional and mental distress," rather than "severe and extreme emotional distress."

Plaintiffs are not required to give an exhaustive listing of every instance of Citys' outrageous behaviors in their complaints to establish the tort of outrage.

Plaintiff's Complaint states an outrage claim. Facts known to date establish the reckless disregard by the City of its duties to remove the radon hazard and also to inform Murray and other firefighters of the ongoing high levels of radon exposure in its fire stations. The reckless disregard caused

Carl Murray's radon exposures during his career and is the most likely cause of his death. The City's reckless conduct in violation of common sense, statutes and mandatory safety regulations prevented Murray from protecting himself.

E. Loss of Consortium

The statement of Carl Murray to his employer's investigator, the declaration of Wendy Murray, the facts, and the ongoing reckless violations of RCW 49.17.060 and WAC 296-305 by the City establish that this is a case where all issues should be decided by a jury – after full and fair discovery.

F. Strict Liability

The City's position regarding its liability is inconsistent with concealing radon levels for decades rather than addressing the hazard and eliminating it, what it did when in blaming fighting fires when Carl Murray was diagnosed, then died of lung cancer -- and what it is trying to do now to avoid liability for decades of reckless and outrageous conduct.

Strict liability applies to the City's decades of abnormally dangerous activity in allowing firefighters exposure to lethal levels of radon gas in its fire stations. The level were frequently measured at multiples of the level that requires mitigation of the radon hazard.

Klein v. Pyrodyne Corp., 117 Wash.2d 1, 810 P.2d 917 (1991) is the law on strict liability. Determination of whether an activity is abnormally dangerous activity is a question of law. *Klein* was argued by this Plaintiff's counsel at all levels:

> The basic principle of *Rylands v. Fletcher* has been accepted by the Restatement **920 (Second) of Torts (1977).

See generally Prosser and Keeton § 78, at 551 (explaining that the relevant Restatement sections differ in some respects from the Rylands doctrine). Section 519 of the Restatement provides that any party carrying on an "abnormally dangerous activity" is strictly liable for ensuing damages. The test for what constitutes such an activity is stated in section 520 of the Restatement. **Both Restatement sections have been adopted by this court, and determination of whether an activity is an "abnormally dangerous activity" is a question of law**. *New Meadows Holding Co. v. Washington Water Power Co.*, 102 Wash.2d 495, 500, 687 P.2d 212 (1984); *Langan v. Valicopters, Inc.*, 88 Wash.2d 855, 567 P.2d 218 (1977); *Siegler v. Kuhlman*, 81 Wash.2d 448, 502 P.2d 1181 (1972), cert. denied, 411 U.S. 983, 93 S.Ct. 2275, 36 L.Ed.2d 959 (1973).

Section 520 of the Restatement lists six factors that are to be considered in determining whether an activity is "abnormally dangerous." The factors are as follows:

(a) existence of a high degree of risk of some harm to the person, land or chattels of others;

(b) likelihood that the harm that results from it will be great;

(c) inability to eliminate the risk by the exercise of reasonable care;

(d) extent to which the activity is not a matter of common usage;

(e) inappropriateness of the activity to the place where it is carried on; and

(f) extent to which its value to the community is outweighed by its dangerous attributes.

Restatement (Second) of Torts § 520 (1977). As we previously recognized in *Langan v. Valicopters, Inc.*, supra, 88 Wash.2d at 861–62, 567 P.2d 218 (citing Tent. Draft No. 10, 1964, of *7 comment (f) to section 520), the comments to section 520 explain how these factors should be evaluated:

Any one of them is not necessarily sufficient of itself in a particular case, and ordinarily several of them will be required for strict liability. On the other hand, **it is not necessary that each of them be present, especially if others weigh heavily**. Because of the interplay of these various factors, it is not possible to reduce abnormally dangerous activities to any definition. The essential question is whether the risk created is so unusual, either because of its magnitude or because of the circumstances surrounding it, as to justify the imposition of strict liability for the harm that results from it, even though it is carried on with all reasonable care. [bold, underline emphasis added]

This Court should rule as a matter of law that strict liability applies to the City's conduct in recklessly endangering its firefighters by allowing ongoing high levels of radon exposure for years and years without informing the firefighters!

Basis for City's strict liability.

The six factors considered in determining whether leaving lethal levels of radon in fire stations for decades is an activity that is abnormally dangerous are as follows:

(a) Existence of a high degree of risk of some harm to the person, land or chattels of others.

Radon exposure is the leading cause of lung cancer in non-smokers like Murray. There is a high degree of risk of harm, including death. That the City knew about the continuing presence of radon but chose not to share this information with its firefighters over more than a decade is a reckless and continuing violation of statutory and regulatory firefighter right to know safety standards.

(b) Likelihood that the harm that results from it will be great.

Lung cancer causes great economic and non-economic harm – and death. That the City knew about the continuing presence of radon but chose not to share this information with its firefighters is a reckless and continuing violation of firefighter right to know safety standards.

(c) Inability to eliminate the risk by the exercise of reasonable care.

Carl Murray could not prevent the ongoing exposures to radon

because he and other firefighters were not told their workplaces that were controlled exclusively by the City were contaminated with lethal levels of radon and that the City was not mitigating on a quarterly or even annual basis as required by the City's non-delegable duty to provide a safe work place and to report all dangers to firefighters.

(d) Extent to which the activity is not a matter of common usage.

Exposing firefighters to high levels of radon in fire stations where they exercise, work, eat and sleep over several decades is a dangerous and lethal activity that is not a matter of common usage.

(e) Inappropriateness of the activity to the place where it is carried on.

The City's knowing exposure of firefighters to lethal levels of radon in fire stations is beyond inappropriate -- it is reckless and outrageous.

(f) Extent to which its value to the community is outweighed by its dangerous attributes.

There is no redeeming value in the City's choice in exposing firefighters who are serving in a most dangerous position to protect the community and its members from unnecessary and protracted high levels of lethal radon in fire stations exclusively controlled by the City.

G. *Res Ipsa Loquitar*

The doctrine of *res ipsa loquitur* spares the plaintiff the requirement of proving specific acts of negligence in cases where a plaintiff asserts that he or she suffered injury, the cause of which cannot be fully explained, and the injury is of a type that would not ordinarily result if the City were not

negligent. In such cases the jury is permitted to infer negligence. *Miller v. Kennedy*, 91 Wash.2d 155, 159–60, 588 P.2d 734 (1978); *Douglas v. Bussabarger*, 73 Wash.2d 476, 482, 438 P.2d 829 (1968) (citing *Pederson v. Dumouchel*, 72 Wash.2d 73, 81, 431 P.2d 973 (1967)); *Kemalyan v. Henderson*, 45 Wash.2d 693, 702, 277 P.2d 372 (1954). The doctrine permits the inference of negligence on the basis that the evidence of the cause of the injury is practically accessible to the defendant but inaccessible to the injured person. *Covey v. W. Tank Lines*, 36 Wash.2d 381, 390, 218 P.2d 322 (1950); see also *Hogland v. Klein*, 49 Wash.2d 216, 219, 298 P.2d 1099 (1956).

The City knew that the fire stations where Carl Murray worked had high levels of radon. This information was not disclosed to Carl Murray, even though the City had statutory and regulatory duties to do so. The information was withheld from Murray and other City firefighters for years and years.

Res ipsa loquitur applies based upon the known facts in this case.

H. Damages

All tort damages are available for jury consideration for each cause of action pled in Plaintiff's Complaint as determined in a jury trial.

RCW 4.56.250(1) defines economic and noneconomic damages in actions for personal injury or death. Economic damages are "objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities." RCW 4.56.250(1)(a).

Noneconomic damages are "subjective, nonmonetary losses,

including, but not limited to pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship." RCW 4.56.250(1)(b).

Although the 1986 Tort Reform Act originally capped the amount of noneconomic damages that may be recovered pursuant to a formula based on a percentage of the average annual wage and the life expectancy of the person incurring the damages, this cap was later struck down as unconstitutional in *Sofie v. Fibreboard Corp.*, 112 Wn.2d 636, 771 P.2d 711, 780 P.2d 260 (1989) (interpreting the constitutional right to a jury trial).

See also WPI: 30.00; 30.01.01, 30.01.03, 30.04, 30.05, 30.06, 30.07.01, 30.08.01, 30.09.01, 30.09.02, 31.01, 31.01.02, 31.02, 31.02.01, 31.03.01, 14.03, 14.03.01, 14.03.02, and 14.03.03.

VI. CONCLUSION

The Appellate Court should reverse each of the trial court's rulings and remand the case for full and fair discovery, then a jury trial on all issues, except the issue of strict liability. Strict liability should be determined by this court in Plaintiff's favor as a matter of law.

DATED: July 21, 2017.

RON MEYERS & ASSOCIATES PLLC

By: Ron Meyers

Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA No. 27976
Tim Friedman, WSBA No. 37983
Attorneys for Firefighter Murray

APPENDIX A

99

Document SerialID: 02XXXXX17671112029XX231627642
Wednesday, June 07, 2017
Time: 14:22:53 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

E-FILED

05-17-2016, 13:55

Scott G. Weber, Clerk

Clark County

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries, Plaintiff, v. CITY OF VANCOUVER, a municipal subdivision of the State of Washington, Defendant.	Cause No.: 15-2-04119-7 **AMENDED** DECLARATION OF RON MEYERS IN SUPPORT OF PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S CR 56 MOTION FOR PARTIAL SUMMARY JUDGMENT

PURSUANT TO RCW 9A.72.085, Ron Meyers of Ron Meyers & Associates PLLC, declares as follows:

1. I am over the age of 18 years and am competent to testify. I am an attorney of record for the Plaintiff.

2. The facts in this Declaration and set forth in Plaintiff's Response In Opposition To Defendant's CR 56 Motion For Partial Summary Judgment are true and correct to the best of my knowledge and belief.

3. On **April 26, 2016** Defendant City of Vancouver ("COV" hereafter) produced over 70,000 pages of new discovery in response to Plaintiff's First Interrogatories and Requests for Production to Defendant. *See Dec. of Meyers, Ex. A.*

4. Although Plaintiff's request was only for the work dates and fire stations where

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Carl Murray pulled shifts for Defendant – Plaintiff received over 70,000 pages of discovery apparently containing the shifts for every fire station, for every firefighter employed by the Defendant and for the past two decades or longer.

5. On **May 10, 2016** a Civil Rule 26(i) conference was held with Defendant COV at Plaintiff's request due to their inadequate and burdensome responses to Plaintiff's discovery requests. *See Dec. of Meyers, Ex. B.* Defense counsel Melissa Roeder represented COV during the discovery conference. *Id.*

6. Plaintiff has now received nearly 200,000 pages of unorganized discovery from Defendant COV. This is vastly different than the less than 1,000 pages of documents Plaintiff's counsel received from Defendant COV through a Public Records Request in October of 2013.

7. On **October 4, 2013** Plaintiff faxed a Public Records Request to COV requesting documents regarding radon in any City of Vancouver fire stations from 1988 to the present. *See Dec. of Meyers, Ex. C.*

8. On **October 6, 2013** COV sent an email to Plaintiff stating, in part, that COV was in receipt of the Public Records Request and was "in the process of gathering documentation" related to Plaintiff's counsel's office's request. *See Dec. of Meyers, Ex. D.* COV anticipated being able to fulfill the request by November 1, 2013. *Id.*

9. On **October 28, 2013** the first installment of Plaintiff's counsel's office's Public Records Request documents were provided via electronic reproduction by COV. *See Dec. of Meyers, Ex. E.* The limited records produced by COV included emails containing the terms "radon" and "fire station" that had been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626." *Id.*

10. On **March 20, 2014** the second installment of Plaintiff's Public Records Request documents were provided via electronic reproduction by COV. *See Dec. of Meyers, Ex. F.* The Assistant City Attorney for COV responded to Plaintiff on March 19, 2014 letter concerning the fact that documents regarding radon testing at COV Fire Station 85 a.k.a Fire Station 6 were

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

omitted from the documents produced on October 28, 2013 – pursuant to Plaintiff's initial Public Records Request. *Id.* In response to Plaintiff's counsel's concern, the Assistant City Attorney for COV provided several pages of inexplicably omitted documents. *Id.*

11. By March 20, 2014 COV had produced approximately 221 pages of "Radon" and "Fire Station" documents to Plaintiff pursuant to Plaintiff's initial Public Records Request of October 4, 2013. *See Dec. of Meyers, Ex. C - F.* COV represented that these documents, together with approximately 626 pages of emails, were the complete and responsive documents to Plaintiff's October 4, 2013 Public Records Request to COV. *Id.*

12. Many of the 626 pages of "Radon" and "Fire Station" emails produced by COV pursuant to Plaintiff's counsel's Public Records Request were duplicative of one another. *See Dec. of Meyers, with exhibits.* Further, the majority of the emails reference the time period of 2011 through 2013 – after Carl Murray was diagnosed with lung cancer. *Id.*

13. The first Radon testing date for a COV Fire Station produced to Plaintiff to date was 2001. *See Dec. of Meyers, Ex. G.* This is the first indication Plaintiff had that Defendant COV ever tested any COV Fire Station for Radon. *Id.*

14. On **September 13, 2001** PBS Environmental performed Radon testing at COV Fire Station 82 a.k.a. Fire Station 1 and COV Fire Station 86 a.k.a. Fire Station 2. *See Dec. of Meyers, Ex. G.* According to the "Radon Screening Results" from COV a total of 6 radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a "duration of approximately four days." *Id.* The Radon level for COV Fire Station 82 a.k.a. Fire Station 1's Weight Room was **11.2** (pCi/l). *Id.* The Radon level for COV Fire Station 86 a.k.a. Fire Station 2's Weight Room was **172.1** (pCi/l). *Id.* **This reading is 43 times the 4 pCi/l level for mitigation and remediation.**

15. In **October of 2001** PBS Environmental conducted baseline Radon testing within the ten (10) COV Fire Stations. *See Dec. of Meyers, Ex. H.* Clayton Group Services, Inc. completed sampling exercises in **April and May of 2003.** *Id.* This finally occurred nearly two

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

years after the high radon levels were discovered in COV Fire Stations in 2001. *Id.*

16. On **November 8-12 and 19-21, 2001** PBS Environmental performed Radon testing at COV Fire Station 82 a.k.a Fire Station 1. *See Dec. of Meyers, Ex. H.* A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of "approximately two to four days for each testing cycle." *Id.* The Radon level for COV Fire Station 82 a.k.a Fire Station 1's Basement ranged from **25.1-37.2** (pCi/l) – this was after Radon investigation and ongoing Radon mitigation efforts at the COV building. *Id.* The Radon level for COV Fire Station 82 a.k.a Fire Station 1's Weight Room was still **17.0** (pCi/l) after Radon investigation and ongoing Radon mitigation efforts at the COV building. *Id.* The Radon level for COV Fire Station 82 a.k.a Fire Station 1's Mechanical Room was still **31.8** (pCi/l) after Radon investigation and ongoing Radon mitigation efforts at the COV building. *Id.* The Radon level for COV Fire Station 82 a.k.a Fire Station 1's Dorm Room was still **13.2** (pCi/l) after Radon investigation and ongoing Radon mitigation efforts at the COV building. *Id.* Radon levels in the Fire Stations were still far above the EPA action level of 4 pCi/l.

17. From **November 7, 2005 through February 13, 2006** Clayton Group Services, Inc. ("Clayton" hereafter) was retained by COV to conduct long term Radon testing (three months long) at ten (10) COV Fire Stations. *See Dec. of Meyers, Ex. I.* PBS Environmental had conducted baseline Radon testing within the ten (10) Fire Station in October 2001 – five (5) years prior to this testing. *See Dec. of Meyers, Ex. H & I.* Clayton followed up with sampling exercises in April and May of 2003 – two (2) years later. *See Dec. of Meyers, Ex. I.* Now three years after the last Radon testing was performed – COV Fire Station 82 a.k.a Fire Station 1 Radon testing and sampling results from November 7, 2005 through February 13, 2006 indicated Fire Station 82 a.k.a. Fire Station 1 had Radon levels that were once again above the EPA recommended action level. *Id.* Five (5) years after Defendant COV became aware of high levels of Radon in their Fire Stations they were still testing above the EPA recommended action level. *Id.* Of note, during the course of the November 7, 2005 through February 13, 2006 long-term (3 months

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Radon testing in the COV Fire Stations; (1) a test canister could not be located in Fire Station 82 a.k.a Fire Station 1; (2) One canister was missing from Fire Station 84 a.k.a. Fire Station 3; and (3) One other canister was missing from Fire Station 81 a.k.a. Fire Station 5. *Dec. of Meyers, Ex. J.*

18. From **April 3, 2006 through July 10, 2006** Clayton performed long term Radon testing (three months long) within Defendant COV's Fire Station 82 a.k.a Fire Station 1. *See Dec. of Meyers, Ex. J.* In a prior short-tem sampling episode (April 22 through 25, 2003) some results were above the EPA action level for Radon particularly in the Fire Prevention Office. *Id.* According to the 2006 Clayton Report, at COV Fire Station 82 a.k.a Fire Station 1, there were "upgrades and added efficiencies to the HVAC system" being made." *Id.* Once again, it had taken five (5) years for these "upgrades and added efficiencies" to be made at <u>one</u> COV Fire Station. *Dec. of Meyers, Exs. I & J.*

19. In 2006 Clayton provided Defendant COV with a copy of their "Long Term Radon Testing Fire Station 82" Report. *See Dec. of Meyers, Ex. I.* The Clayton "Long Term Radon Testing Fire Station 82" Report was based on the sampling results and observations made during the April 3, 2006 through July 10, 2006 survey. *Id.* In 2006 Clayton offered Defendant COV the following Radon mitigation recommendations:

A. Periodic Radon sampling should be undertaken at Fire Station 82 a.k.a. Fire Station 1 to insure the proper utilization of the air handling system. *Dec. of Meyers, Exs. I & J.*

B. Establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities. *Dec. of Meyers, Exs. I & J.*

C. Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average Radon Concentration during the year. *Dec. of Meyers, Exs. I & J.*

Clayton prepared the 2006 Radon Report and above-listed Radon mitigation recommendations to aid Defendant COV in evaluating Fire Station 82 a.k.a. Fire Station 1 for

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

further high indoor Radon concentrations. *Dec. of Meyers, Exs. I & J.*

20. From **March 9, 2011 through March 11, 2011** TCS Industries, Inc. performed Radon testing at Fire Station 82 a.k.a. Fire Station 1. *See Dec. of Meyers, Ex. K.* The Radon Concentration ranged from 3.2 (pCi/l) through 5.4 (pCi/l). Ten (10) years later Defendant COV's Fire Station's indoor Radon level was still above the EPA action level. *Id.*

21. From **January 23, 2013 through January 25, 2013** TCS Industries, Inc. performed Radon testing at Fire Station 82 a.k.a. Fire Station 1. *See Dec. of Meyers, Ex. L.* The Radon Concentration level was **11.8** (pCi/l) in the COV Firefighters' Second Floor Classroom. *Id.* Twelve (12) years later Defendant COV's Fire Station's indoor Radon level was still multiples of the EPA action level. *Id.*

22. On **February 27, 2013** T. Jeff O'Neall II, P.E. of McCann Engineering LLC ("McCann" hereafter) wrote Defendant COV regarding "Radon Investigation." *See Dec. of Meyers, Ex. M.* Mr. O'Neal stated in his letter to Mr. Norfleet – Facilities Superintendent for Defendant COV – that when they met at Fire Station 82 a.k.a. Fire Station 1 on February 4, 2013 for a site visit the Radon readings that had previously been marginally high had recently become very high. *Id.*

23. On **April 23, 2013** Mr. O'Neal of McCann again wrote Mr. Norfleet – Facilities Superintendent for Defendant COV – regarding "Radon Investigation." *See Dec. of Meyers, Ex. N.* Mr. O'Neal wrote to Defendant COV employee Norfleet, "On 25 April 2013 Chief Knable and I met with you at your office and traveled to fire stations 3, 8, 9, and 4, respectively. We observed the conditions at each site and assessed each building relative to elevated radon levels." *Id.* Mr. O' Neal's April 23, 2013 Report found: (1) Fire Station 84 a.k.a Fire Station 3 required mitigation; (2) Fire Station 88 a.k.a Fire Station 4 required mitigation; (3) Fire Station 83 a.k.a Fire Station 8 required mitigation; and (4) Fire Station 89 a.k.a Fire Station 9 required mitigation. *Id.* Further, it was recommended at Fire Station 89 a.k.a Fire Station 9, due to the fact the Classroom HVAC unit was on the roof, that Radon readings should be taken in the Classroom

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

to see if mitigation in this area was necessary. *Id.* At this point it had now been at least twelve (12) years since Defendant COV had become aware of elevated Radon levels in their COV Fire Stations – including Fire Station 9 – according to data Defendant has released to Plaintiff. *See Dec. of Meyers, with exhibits. Id.*

24. On **June 12, 2013** Wilson Associates Architects and Planners ("Wilson" hereafter) wrote a project proposal titled "Radon Mitigation/HVAC Upgrade Review" to Defendant COV for "reviewing original construction documents and recent mechanical drawings for an upgrade of the HVAC system at the existing City of Vancouver Fire Station 1 located at 990 West Evergreen Boulevard." *See Dec. of Meyers, Ex. O.* The purpose of the review was to "determine existing fire separation locations and assist with resolving code questions with respect to fire damper requirements." *Id.* Following a site visit of COV Fire Station 82 a.k.a Fire Station 1Wilson would generate a report for Defendant COV outlining the existing conditions they found and probable fire separation upgrade requirements. *Id.* Wilson also agreed to review their findings, and probable solution(s) with the City of Vancouver Building Department. *Id.* Following final resolution of the outlined issues, Wilson agreed to provide the Mechanical Engineer-of-Record, McCann, with the information necessary for them to "revise their system design for compliance with IBC requirements." *Id.*

25. On **February 6, 2015** Plaintiff served COV the First Notice of Tort Claim For Damages Form via US Mail Certified Return Receipt based upon the release of information by Defendant regarding radon level and failures to address the COV Fire Station and Firefighter Radon contamination issues. *See Dec. of Meyers, Ex. P.*

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 17th day of May, 2016 at Olympia, Washington.

RON MEYERS & ASSOCIATES PLLC

Ron Meyers

Ron Meyers, WSBA No. 13169

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the State of Washington that on the date stated below I caused to be served the foregoing document upon:

Attorney for Defendant
Daniel G. Lloyd
City Attorney's Office
PO Box 1995
Vancouver, WA 98668

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: dan.lloyd@cityofvancouver.us
deborah.hartsoch@cityofvancouver.us

Attorney for Defendant
Melissa K. Roeder
Foley & Mansfield PLLC
999 Third Avenue Ste 3760
Seattle, WA 98104

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: mroeder@foleymansfield.com
swalker@foleymansfield.com

DATED this 17th day of May, 2016 at Olympia, Washington.

RON MEYERS & ASSOCIATES PLLC
BY: SHANA PITTMAN
COMPLEX LITIGATION PARALEGAL
Email: shana.p@rm-law.us

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Shana Pittman

From: Shannon D. Walker [swalker@foleymansfield.com]
Sent: Tuesday, April 26, 2016 11:47 AM
To: Ron Meyers; Matthew G. Johnson; Shana Pittman; Lena Ulschmid
Cc: Melissa K. Roeder; dan.lloyd@cityofvancouver.us; deborah.hartsoch@cityofvancouver.us
Subject: Murray v. City of Vancouver

Attached please find Defendant City of Vancouver's Objections and Responses to Plaintiff's First Interrogatories and Requests for Production. The original Verification page will be forwarded upon receipt. Please let us know if you have any questions.

ShareFile Attachments

Title	Size
COV's Ans to Pl's Rogs RFP_rev by DGL.pdf	86.5 KB
Fire Suppression Contract 1992-1994 Part 1.pdf	2.2 MB
Fire Suppression Contract 1992-1994 Part 2.pdf	517.8 KB
Fire Suppression Contract 1995-1997 Part 1.pdf	2.2 MB
Fire Suppression Contract 1995-1997 Part 2.pdf	72.8 KB
Fire Suppression Contract 1998-2000.pdf	189.1 KB
Fire Suppression Contract 2001-2002.pdf	137.6 KB
Fire Suppression Contract 2003-2005.pdf	163.6 KB
Fire Suppression Contract 2006-2008.pdf	200.2 KB
Fire Suppression Contract 2009.pdf	3.9 MB
Fire Suppression Contract 2010-2013.pdf	755.4 KB
No Station Number_1954-1968.PDF	36.5 MB
No Station Number_1967.PDF	131.7 MB
No Station Number_1968.PDF	37 MB
No Station Number_1969.PDF	53.2 MB
No Station Number_1970.PDF	56.2 MB
No Station Number_1972.PDF	53.7 MB
No Station Number_1975.PDF	36.7 MB
No Station Number_1976.PDF	47.2 MB
No Station Number_1977.PDF	57.4 MB
No Station Number_1979.PDF	21.6 MB

Exhibit A

No Station Number_1994.PDF	7 MB
Station 1, 2, 3_1_1961.PDF	7.6 MB
Station 1, 2, 3_1957.PDF	7.6 MB
Station 1, 2, 3_1958.PDF	6.3 MB
Station 1, 2, 3_1959.PDF	5.7 MB
Station 1, 2, 3_1960.PDF	7.2 MB
Station 1, 2, 3_1962.PDF	7 MB
Station 1, 2, 3_2_1961.PDF	4 MB
Station 1_1956.PDF	11.4 MB
Station 1_1966.PDF	82.9 MB
Station 1_1971.PDF	64.8 MB
Station 1_1973.PDF	28.7 MB
Station 1_1974.PDF	32.3 MB
Station 1_1978.PDF	71.3 MB
Station 1_1980.PDF	58.8 MB
Station 1_1981.PDF	80.7 MB
Station 1_1982.PDF	18.6 MB
Station 1_1983.PDF	47.6 MB
Station 1_1984.PDF	19.1 MB
Station 1_1985.PDF	50.2 MB
Station 1_1986.PDF	40.7 MB
Station 1_1987.PDF	50.7 MB
Station 1_1998.PDF	93.1 MB
Station 1120_1954.PDF	24 MB
Station 1120_1957.PDF	5.5 MB
Station 1550_1954-1956.PDF	25 MB
Station 2_1978.PDF	122.2 MB
Station 2_1980.PDF	41.6 MB
Station 3_1979.PDF	52.3 MB
Station 3_1982.PDF	45.4 MB
Station 3_1983.PDF	54.4 MB
Station 3_1984.PDF	48.5 MB
Station 3_1985.PDF	40.5

	MB
Station 3_1986.PDF	30.7 MB
Station 3_1987.PDF	79 MB
Station 3_1988.PDF	46.5 MB
Station 5_1963.PDF	7.4 MB
Station 5_1967-1972.PDF	138.9 MB
Station 5_1981-1984.PDF	118 MB
Station 5_1984-1986.PDF	114.9 MB
Station 5_1988.PDF	69 MB
Station 51_1989.PDF	69.8 MB
Station 51_1990.PDF	68.4 MB
Station 51_1991.PDF	131.3 MB
Station 51_1992.PDF	93.4 MB
Station 51_1993.PDF	111.6 MB
Station 51_1994.PDF	142.4 MB
Station 512_1984-1985-1986.PDF	45.7 MB
Station 512_1987-1989.PDF	71 MB
Station 53_1989.PDF	99.4 MB
Station 53_1990.PDF	128.3 MB
Station 53_1991.PDF	62.4 MB
Station 53_1992.PDF	104.3 MB
Station 53_1993.PDF	69.5 MB
Station 53_1994.PDF	141.1 MB
Station 55_1989.PDF	126 MB
Station 55_1990.PDF	56.4 MB
Station 55_1991.PDF	58.5 MB
Station 55_1992.PDF	73.7 MB
Station 56_1991.PDF	59.4 MB
Station 56_1992.PDF	91.2 MB
Station 56_1993.PDF	76 MB
Station 58_1991.PDF	15.5 MB
Station 58_1992.PDF	62.8

	MB
Station 58_1993.PDF	60.3 MB
Station 6_1988.PDF	63.8 MB
Station 6_1989.PDF	78.5 MB
Station 6_1990.PDF	23 MB
Station 81_1998.PDF	3.5 MB
Station 81_1998.PDF	18.3 MB
Station 81_2000.PDF	32.5 MB
Station 81_2000.PDF	70 MB
Station 81_2000_1.PDF	24.2 MB
Station 81_2000_2.PDF	30.6 MB
Station 81_2001.PDF	17.9 MB
Station 81_2001-2002.PDF	120.7 MB
Station 81_2002-2003.PDF	105.2 MB
Station 81_2003.PDF	90 MB
Station 81_2003-2004.PDF	121 MB
Station 81_2004.PDF	121.3 MB
Station 81_2005.PDF	107.3 MB
Station 81_2005_1.PDF	98.2 MB
Station 81_2006.PDF	126.6 MB
Station 81_2007.PDF	84.5 MB
Station 82_1994.PDF	36.2 MB
Station 82_1998.PDF	5.5 MB
Station 82_1998.PDF	17.8 MB
Station 82_2000.PDF	32.4 MB
Station 82_2000.PDF	58.8 MB
Station 82_2000_1.PDF	23.4 MB
Station 82_2000_2.PDF	34.3 MB
Station 82_2001.PDF	27.9 MB
Station 82_2001-2002.PDF	123.5 MB
Station 82_2002-2003.PDF	104.3 MB
Station 82_2003.PDF	24.4

	MB
Station 82_2003-2004.PDF	105.1 MB
Station 82_2004.PDF	25.3 MB
Station 82_2005.PDF	93.2 MB
Station 82_2005.PDF	124.2 MB
Station 82_2006.PDF	112.8 MB
Station 82_2007.PDF	110.2 MB
Station 82_2007-2008.PDF	72.6 MB
Station 82_2008.PDF	21.9 MB
Station 83_1998.PDF	4.4 MB
Station 83_1998.PDF	11.4 MB
Station 83_2000.PDF	34.7 MB
Station 83_2000.PDF	33.7 MB
Station 83_2000_1.PDF	21.7 MB
Station 83_2001.PDF	80.2 MB
Station 83_2001.PDF	16 MB
Station 83_2002.PDF	79.7 MB
Station 83_2003.PDF	91.4 MB
Station 83_2003_1.PDF	98.2 MB
Station 83_2004.PDF	105 MB
Station 83_2005.PDF	95.6 MB
Station 83_2005.PDF	25.4 MB
Station 83_2006-2007.PDF	93.8 MB
Station 83_2007.PDF	79.4 MB
Station 84_1998.PDF	6.5 MB
Station 84_1998.PDF	16.4 MB
Station 84_2000.PDF	22.6 MB
Station 84_2000.PDF	115.2 MB
Station 84_2000_1.PDF	33.3 MB
Station 84_2001.PDF	58.1 MB
Station 84_2001_1.PDF	90.4 MB

Station 84_2002.PDF	54.3 MB
Station 84_2003.PDF	82.4 MB
Station 84_2003_1.PDF	95.1 MB
Station 84_2004.PDF	12.2 MB
Station 84_2005.PDF	129.2 MB
Station 84_2005.PDF	57.9 MB
Station 84_2006-2007.PDF	109.2 MB
Station 84_2007.PDF	79.6 MB
Station 84_2007-2008.PDF	74.2 MB
Station 85 #2_2003.PDF	79.5 MB
Station 85_1994.PDF	385.8 MB
Station 85_1998.PDF	4.7 MB
Station 85_2000.PDF	22.5 MB
Station 85_2000.PDF	46.4 MB
Station 85_2000_1.PDF	33.8 MB
Station 85_2001.PDF	116.9 MB
Station 85_2001.PDF	138 MB
Station 85_2002.PDF	116.7 MB
Station 85_2003.PDF	180.9 MB
Station 85_2004.PDF	133.2 MB
Station 85_2005.PDF	74.8 MB
Station 85_2005.PDF	113.2 MB
Station 85_2006.PDF	71.7 MB
Station 85_2006-2007.PDF	33.8 MB
Station 86_1994-1995.PDF	36.5 MB
Station 86_1998.PDF	5.3 MB
Station 86_1998.PDF	10.2 MB
Station 86_2000.PDF	22 MB
Station 86_2000.PDF	25.5 MB
Station 86_2000_1.PDF	29.5 MB
Station 86_2001.PDF	140.8 MB

Station 86_2001-2002.PDF	196.1 MB
Station 86_2002-2003.PDF	177.7 MB
Station 86_2003.PDF	137.7 MB
Station 86_2003-2004.PDF	210 MB
Station 86_2004.PDF	104.6 MB
Station 86_2005.PDF	92.3 MB
Station 86_2005.PDF	103.6 MB
Station 86_2005_1.PDF	97.1 MB
Station 86_2007.PDF	65.7 MB
Station 87_1999.PDF	10.7 MB
Station 87_2000.PDF	9.7 MB
Station 87_2006.PDF	63 MB
Station 88_1994.PDF	273.7 MB
Station 88_1998.PDF	12.2 MB
Station 88_1998_1.PDF	4 MB
Station 88_2000.PDF	28.4 MB
Station 88_2000.PDF	50.5 MB
Station 88_2000_1.PDF	21.8 MB
Station 88_2001.PDF	69.8 MB
Station 88_2001_1.PDF	55.7 MB
Station 88_2002-2003.PDF	193.9 MB
Station 88_2003.PDF	65.7 MB
Station 88_2003_1.PDF	87.3 MB
Station 88_2004.PDF	42.1 MB
Station 88_2005.PDF	67.4 MB
Station 88_2005.PDF	21.6 MB
Station 88_2006.PDF	90.8 MB
Station 88_2007.PDF	62.2 MB
Station 88_2008.PDF	14.5 MB
Station 89_1998.PDF	4.3 MB
Station 89_1998.PDF	8.5 MB

Station 89_2000.PDF	21.9 MB
Station 89_2000.PDF	49.8 MB
Station 89_2000_1.PDF	31 MB
Station 89_2001.PDF	148.7 MB
Station 89_2001-2002.PDF	101.5 MB
Station 89_2002-2003.PDF	74.4 MB
Station 89_2003.PDF	121 MB
Station 89_2003_1.PDF	107.5 MB
Station 89_2004.PDF	89.5 MB
Station 89_2005.PDF	88.9 MB
Station 89_2005.PDF	95.1 MB
Station 89_2006.PDF	69.1 MB
Station 89_2007.PDF	88.8 MB
Station 89_2007.PDF	67.2 MB
Station BC 81_2000.PDF	22.5 MB
Station BC 81-82_2005.PDF	86 MB
Station BC 82_2000.PDF	22.1 MB
Station BC_2000.PDF	23.7 MB
Station BC_2001.PDF	65.7 MB
Station BC_2002.PDF	36.7 MB
Station BC_2003.PDF	72 MB
Station BC_2004.PDF	76.1 MB
Station BC_2007.PDF	63.8 MB
Station BCs 81, 82_2000.PDF	19.9 MB

Download Attachments

Shannon Walker uses ShareFile to share documents securely. Learn More.

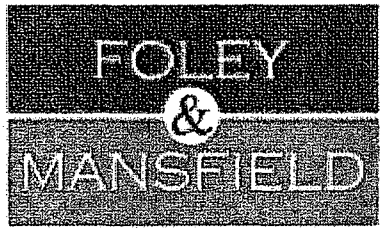
FOLEY & MANSFIELD

Shannon D. Walker | Paralegal | T: 206-456-5069 | F:206-456-5361
999 Third Avenue, Suite 3760 | Seattle, WA 98104 | foleymansfield.com

Shana Pittman

From: Melissa K. Roeder [mroeder@foleymansfield.com]
Sent: Tuesday, May 10, 2016 9:57 AM
To: 'Lloyd, Dan'; Lena Ulschmid; Shannon D. Walker; Hartsoch, Deborah; Gennifer Holland
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

I am in my office and ready to discuss. M.



Melissa K. Roeder | Attorney - Of Counsel | T: 206-456-5068 | F:206-456-5361
999 Third Avenue, Suite 3760 | Seattle, WA 98104 | foleymansfield.com

Chicago | Detroit | Kansas City | Los Angeles | Miami | Minneapolis | New York | Oakland | Portland | **Seattle** | St.
NOTICE: Important disclaimers and limitations apply to this email. Please click HERE to view these disclaimers and limitations.

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Tuesday, May 10, 2016 9:57 AM
To: 'Lena Ulschmid'; Melissa K. Roeder; Shannon D. Walker; Hartsoch, Deborah; Gennifer Holland
Cc: 'Ron Meyers'; 'Shana Pittman'
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

Please direct the call to Melissa only. My wife just called and she is ill so I cannot be available.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lena Ulschmid [mailto:Lena.U@rm-law.us]
Sent: Monday, May 09, 2016 3:03 PM
To: Lloyd, Dan; 'mroeder@foleymansfield.com'; 'swalker@foleymansfield.com'; Hartsoch, Deborah; gholland@foleymansfield.com
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

Good afternoon,

The CR 26(i)conference tomorrow at 10am has been confirmed by all parties. Please call our office at 360-459-5600 and we will get everyone connected.

Thank you,

Lena Ulschmid

Exhibit B

Lena Ulschmid
Legal Assistant
8765 Tallon Ln NE Ste A
Lacey WA 98516
Phone: 360-459-5600
Fax: 360-459-5622
E-mail: lena.u@rm-law.us
Web: www.vulnerableadultabuse.com
Web: www.olympiainjurylawyer.com

RON MEYERS
& ASSOCIATES PLLC

CONFIDENTIAL COMMUNICATION
This email and any attachments are intended only for the above-named addressee, and may contain information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the intended recipient or agent of the recipient, you are hereby notified that any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you received this message in error, please notify our office immediately. Thank you.

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Friday, May 06, 2016 3:03 PM
To: Lena Ulschmid; 'mroeder@foleymansfield.com'; 'swalker@foleymansfield.com'; Hartsoch, Deborah
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference

May 10 at 10am works for us. Melissa Roeder is lead counsel so she will need to be on the call.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lena Ulschmid [mailto:Lena.U@rm-law.us]
Sent: Friday, May 06, 2016 2:33 PM
To: mroeder@foleymansfield.com; swalker@foleymansfield.com; Lloyd, Dan; Hartsoch, Deborah
Cc: Ron Meyers; Shana Pittman
Subject: Murray v. City of Vancouver - CR 26(i) conference
Importance: High

Good afternoon,

We request a CR 26(i) conference to discuss Defendant's responses to Plaintiff's First Interrogatories and Requests for Production propounded to Defendant City of Vancouver. In particular, we intend to discuss Defendant's inadequate answers to all Plaintiff's Interrogatories and inadequate responses to Plaintiff's Requests for Production Nos. 1, 2, 5, and 6 to Defendant City Of Vancouver.

With respect to RFP No. 1, wherein Plaintiff requested Defendant COV **state in detail** the **specific** times, **specific** dates, and **specific** fire station locations Carl Murray was assigned to work at during his entire career as a City of Vancouver Firefighter, Plaintiff received and was referred to over seventy thousand pages referencing all firefighters, in all fire stations. This is unacceptable.

Mr. Meyers is available on the following dates:

May 10, 2016 at 10am or 11am
May 12, 2016 at 10am or 11am

Please advise if one of these dates will work for your office. If not, please provide your available dates.

Thank you,

Lena Ulschmid

RON MEYERS
& ASSOCIATES PLLC

Lena Ulschmid
Legal Assistant
8765 Tallon Ln NE Ste A
Lacey WA 98516
Phone: 360-459-5600
Fax: 360-459-5622
E-mail: lena.u@rm-law.us
Web: www.vulnerableadultabuse.com
Web: www.olympiainjurylawyer.com

CONFIDENTIAL COMMUNICATION
This email and any attachments are intended only for the above-named addressee, and may contain information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the intended recipient or agent of the recipient, you are hereby notified that any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you received this message in error, please notify our office immediately. Thank you.

TRANSACTION REPORT

OCT/04/2013/FRI 10:28 AM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	OCT/04	10:27AM	13604878719	0:00:45	4	MEMORY OK SG3	1717

Ron Meyers & Associates *PLLC*
8765 Tallon Lane NE, Suite A ❖ Lacey, WA 98516 ❖ 360-459-5600

FAX TRANSMITTAL FORM

To: Records Division	From: Amberle DuVal
Company: City of Vancouver, WA	Company: Ron Meyers & Associates PLLC
Fax: 360 487 8719	Fax: 360-459-5622

- ☐ For Your Information
- ☐ For Your Files
- ☐ For Your Review
- ☑ Please Reply

Date Sent: 10/04/2013
Time Sent: 10:15 am
Number of Pages Including Cover Page: 4

Re: Public Records Request

RON MEYERS & ASSOCIATES PLLC
By: Amberle DuVal
Receptionist / Legal Assistant
Email: amberle.d@rm-law.us

Exhibit C

Ron Meyers & Associates *PLLC*

8765 Tallon Lane NE, Suite A ❖ Lacey, WA 98516 ❖ 360-459-5600

FAX TRANSMITTAL FORM

To: Records Division	From: Amberle DuVal
Company: City of Vancouver, WA	Company: Ron Meyers & Associates PLLC
Fax: 360 487 8719	Fax: 360-459-5622

- ☐ For Your Information
- ☐ For Your Files
- ☐ For Your Review
- ☑ Please Reply

Date Sent: 10/04/2013
Time Sent: 10:15 am
Number of Pages Including Cover Page: 4

Re: Public Records Request

RON MEYERS & ASSOCIATES PLLC
By: Amberle DuVal
Receptionist / Legal Assistant
Email: amberle.d@rm-law.us

The information in this fax message is privileged and confidential. It is intended only for the use of the recipient named above or the employee or agent responsible to deliver it to the intended recipient. If you received this in error, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us at 360-459-5600. Thank you.

CITY OF VANCOUVER, WASHINGTON
PUBLIC RECORDS ACT OFFICER

Public Records Act Request
Via Fax: (360) 487-8719

I. Public Disclosure Request

Please provide the following Public Records:

1. All **internal documents** and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations **from 1988 to the present.**

2. All **third party documents** received by the City of Vancouver regarding radon in any City of Vancouver fire stations **from 1988 to the present.**

3. All documents setting forth every **measurement** of radon levels in any City of Vancouver fire stations **from 1988 to the present.**

4. All documents, investigative reports and supporting data, findings, conclusions, and all other written or imaged material, not provided in the prior requests regarding the **presence** of radon in any City of Vancouver fire stations **from 1988 to the present.**

5. All documents regarding **implementation** of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations **from 1988 to the present.**

6. All emails to or from any City of Vancouver employee containing the word **"radon"** or **otherwise referencing the presence of radon** in any City of Vancouver fire station **from 1988 to the present.**

Ron Meyers & Associates PLLC will pay in advance upon receipt of invoice, or upon receipt of requested public records and invoice, the reasonable copying and mailing or delivery costs.

Wherever reasonably possible compliance with these requests should be by digital or

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

electronic reproduction in Adobe PDF or other PDF formats on CD or emailed to ron.m@rm-law.us in compressed email format.

II. Agency Decision Not To Comply With Public Disclosure Request

If the government agency refuses to timely and fully comply with this Public Record Act Request, the government agency is respectfully requested to provide the reason for withholding any such document and to identify each withheld document with enough specificity to allow judicial review of the government agency decision to withhold documents requested pursuant to the Public Record Act or Public Disclosure Act and other Washington law.

III. Authority Supporting Request

To fulfill its statutory purpose, courts are to liberally construe disclosure provisions of Public Disclosure Act (PDA), and narrowly construe its exemptions. It is the court, not the public agency seeking to avoid disclosure, which determines whether public record is exempt from disclosure under Public Disclosure Act.

In reviewing an agency's action with regard to a public disclosure request, a court must consider the public policy underlying the Public Disclosure Act: that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment.

Any person who prevails against a government agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that the maker of the request was denied the right to inspect or copy said public record.

See: RCW 42.56.001 et seq, Public Records Act; *O'Connor v. Washington State Dept. of Social and Health Services*, 143 Wn.2d 895, 25 P.3d 426 (2001); *Yousoufian v. Office of Ron Sims*,

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

114 Wn. App. 836, 60 P.3d 667 (2003); *Concerned Ratepayers Assoc v. Public Utility District No. 1 of Clark County*, 138 Wn. 2d 950, 983 P.2d 635 (1999); *Confederated Tribes of Chehalis Reservation v. Johnson*, 135 Wn. 2d 734, 958 P.2d 260 (1998); and *Amren v. The City of Kalama*, 131 Wash. 2d 25, 929 P.2d 389 (1997).

See also, RCW 51.32.185; WAC 296-305 Fire Fighting Safety Standards for the State of Washington; WAC 296-305-01001; WAC 296-305-01003, WAC 296-305-01509; WAC 296-305-01005; WAC 296-305-01501; WAC 296-305-01501; WAC 296-305-01505; WAC 296-305-01507; WAC 296-305-01513.

See also, Washington Industrial Safety and Heath Act (WISHA).

Dated this October 4, 2013 at Lacey, Washington.

RON MEYERS & ASSOCIATES PLLC

Ron Meyers

By: Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA 27976
Tim Friedman, WSBA No. 39058

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

Shana Pittman

From: Ron Meyers
Sent: Wednesday, October 09, 2013 11:01 AM
To: Shana Pittman
Subject: FW: Fire Station Records Request

fyi...

From: McJilton, Raelyn [mailto:Raelyn.McJilton@cityofvancouver.us]
Sent: Wednesday, October 09, 2013 10:26 AM
To: Amberle DuVal; Ron Meyers
Subject: Fire Station Records Request

Dear Mr. Meyers:

We are in receipt of your records request dated October 4, 2013, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.

4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.

5. All emails to or from any City of Vancouver employee containing the word "radon: or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

The City of Vancouver is in the process of gathering documentation related to your request. We anticipate being able to fulfill your request by November 1, 2013. If the materials are available sooner than anticipated or if we have an unforeseen delay, you will be notified promptly.

Sincerely

Raelyn McJilton
Records Officer
City of Vancouver
360.487.8711

Exhibit D

Shana Pittman

From: Ron Meyers
Sent: Monday, October 28, 2013 4:23 PM
To: Shana Pittman
Subject: MURRAY: 10/4/13 Public Records Request
Attachments: Meyers - Radon-Fire Station.pdf

Importance: High

fyi..

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Monday, October 28, 2013 2:41 PM
To: Ron Meyers
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: 10/4/13 Public Records Request
Importance: High

Dear Mr. Meyers:

On October 4, 2013, you submitted a request for public records, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.
4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.
5. All emails to or from any City of Vancouver employee containing the word "radon" or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

You requested that the records be made available by digital or electronic reproduction.

For category #5 (emails), the City searched its email vault using the terms "radon" and "fire station". As such, any email in the system containing both search terms sent and/or received on or before the date of your request (October 4, 2013) is produced. **If you desired different search terms, please advise promptly**. No exemptions are claimed, so there are no redactions and no email has been withheld. At your request, emails have been converted to PDF and are all text searchable. I am attaching all emails responsive to these parameters in a single *.pdf file, which has been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626."

What is not attached here, though, are the various attachments to the emails. The aggregate size of all attachments exceeds 6 MB, which often bounces back as undeliverable. This is also true of the records responsive to Categories 1-4, which are also now in *.pdf format, but exceed 6 MB. I will attempt to send these files in separate emails, but if they do not go through, you will need to pay for them to be burned to a CD-ROM for a fee of $5 ($10 if you want the disc mailed to you).

Exhibit 8

I point out, however, that a few emails reference "image" attachments. For example, please refer to page 000001 (referencing an attachment named "image001.jpg"). These files are either logos that appear in a user's signature block (such as the City of Vancouver logo), or are background themes to a user's Outlook account, so that the user can send emails with a colorful background (i.e., blue with clouds). If you want those *.jpg files, we will need to produce the emails in a format other than *.pdf. Given that you appear to be looking for the substance of emails rather than what type of background was used, and because you specifically requested that emails be produced in *.pdf format, we are assuming you do not want those "image" attachments here. **Please clarify if this assumption is incorrect.** If you do not notify us that you would like the emails produced in a different format, the City will assume that the method of production is acceptable.

As to the scope of the emails, I have asked the Information Technologies Department to ensure that there are no emails stored locally on any user's desktop or on any network drive. I have been advised that when the City converted to its current email system in 2008, all Personal Storage Table (*.pst) files that existed were absorbed into the system (i.e., vault), and the ability to create *.pst files was disabled. In other words, the attached results should encompass any and all emails in the custody and control of the City. The search for any remaining *.pst files may take a few days, but given that the City does not expect to find additional emails, and that the current results are ready, I am sending those now. However, if any are found, they will be disclosed and produced subject to any possible exemption.

If the emails containing the attachments are able to go through, it will conclude the City's response to your 10/4/13 request. If the emails do not go through, then production will occur upon receipt of your payment. Thank you and please contact me if you have any questions, concerns, or clarifications to your request as discussed above.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

Shana Pittman

From: Ron Meyers
Sent: Thursday, March 20, 2014 2:58 PM
To: Shana Pittman; Mindy Leach
Subject: FW: 10/4/13 Public Records Request
Attachments: Vancouver Fire 6 Radon canister test 06-10-13.pdf; 2006 VFD RADON REPORT.PDF

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Thursday, March 20, 2014 12:26 PM
To: Ron Meyers
Cc: McJilton, Raelyn; Norfleet, Dan
Subject: RE: 10/4/13 Public Records Request

Mr. Meyers:

This email responds to your office's letter dated March 19, 2014, which the City's Records Officer received yesterday by fax. There are only two records (aside from emails) that reference radon and Fire Station 6 (formerly known as Fire Station 85). One record was attached to the email below which I sent on October 28, 2013 (2006 VFD RADON REPORT.pdf) (refer to page 1 of the table that is on page 8 of the report). It is attached again for convenience.

A second search did confirm that one other record (two pages) did exist (Vancouver Fire 6 Radon canister test 06-10-13.pdf), which I attach to this email. Your paralegal did not provide an email address in her letter of yesterday's date, so we are sending this to your address. If this is incorrect, please advise. We are attempting to discern why the document was inadvertently omitted from the October 28 batch of production, but it was inadvertent. Nevertheless, we are sending this record now well in advance of the April 25, 2014, deadline established by your paralegal's letter of yesterday.

There is no charge for this production. I hope this alleviates any concerns you have had. If not, please do not hesitate to contact me.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:44 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: RE: 10/4/13 Public Records Request
Importance: High

Exhibit F

Mr. Meyers:

Attached are the files responsive to categories 1-4. Please confirm receipt of this and the other emails.

This completes the City's response to your request. Thank you.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:43 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: RE: 10/4/13 Public Records Request

Mr. Meyers:

Attached are the "attachments" to the emails that were sent in my previous emails.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:41 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: 10/4/13 Public Records Request
Importance: High

Dear Mr. Meyers:

On October 4, 2013, you submitted a request for public records, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.
4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.
5. All emails to or from any City of Vancouver employee containing the word "radon" or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

You requested that the records be made available by digital or electronic reproduction.

For category #5 (emails), the City searched its email vault using the terms "radon" and "fire station". As such, any email in the system containing both search terms sent and/or received on or before the date of your request (October 4, 2013) is produced. **If you desired different search terms, please advise promptly**. No exemptions are claimed, so there are no redactions and no email has been withheld. At your request, emails have been converted to PDF and are all text searchable. I am attaching all emails responsive to these parameters in a single *.pdf file, which has been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626."

What is not attached here, though, are the various attachments to the emails. The aggregate size of all attachments exceeds 6 MB, which often bounces back as undeliverable. This is also true of the records responsive to Categories 1-4, which are also now in *.pdf format, but exceed 6 MB. I will attempt to send these files in separate emails, but if they do not go through, you will need to pay for them to be burned to a CD-ROM for a fee of $5 ($10 if you want the disc mailed to you).

I point out, however, that a few emails reference "image" attachments. For example, please refer to page 000001 (referencing an attachment named "image001.jpg"). These files are either logos that appear in a user's signature block (such as the City of Vancouver logo), or are background themes to a user's Outlook account, so that the user can send emails with a colorful background (i.e., blue with clouds). If you want those *.jpg files, we will need to produce the emails in a format other than *.pdf. Given that you appear to be looking for the substance of emails rather than what type of background was used, and because you specifically requested that emails be produced in *.pdf format, we are assuming you do not want those "image" attachments here. **Please clarify if this assumption is incorrect**. If you do not notify us that you would like the emails produced in a different format, the City will assume that the method of production is acceptable.

As to the scope of the emails, I have asked the Information Technologies Department to ensure that there are no emails stored locally on any user's desktop or on any network drive. I have been advised that when the City converted to its current email system in 2008, all Personal Storage Table (*.pst) files that existed were absorbed into the system (i.e., vault), and the ability to create *.pst files was disabled. In other words, the attached results should encompass any and all emails in the custody and control of the City. The search for any remaining *.pst files may take a few days, but given that the City does not expect to find additional emails, and that the current results are ready, I am sending those now. However, if any are found, they will be disclosed and produced subject to any possible exemption.

If the emails containing the attachments are able to go through, it will conclude the City's response to your 10/4/13 request. If the emails do not go through, then production will occur upon receipt of your payment. Thank you and please contact me if you have any questions, concerns, or clarifications to your request as discussed above.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

PBS
ENVIRONMENTAL

17 September, 2001

Post-it® Fax Note 7671	Date	# of pages ▸ 2
To Graeme Nutt	From BC	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

Ernie Schraener
City of Vancouver
Vancouver, WA 98668
Ph: (360) 892-4323 ext. 4306
Fax: (360) 892-4801

RE: RADON SCREENING RESULTS FROM TWO CITY OF VANCOUVER FIRE DEPARTMENT BUILDINGS

Dear Mr. Schraener:

On September 13, 2001, PBS Environmental performed radon-screening tests at two City of Vancouver Fire Department Buildings located in Vancouver, Washington. A total of 6 radon test kits were deployed using Air Chek, Inc., Pro Chek devices for duration of approximately four days. Sample locations were determined at each site through building construction regarding areas of the buildings that may represent a worse-case scenario. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. Laboratory analysis reported elevated levels of radon gas in 3 of the 6 samples collected. The following is a summary of the radon sample locations and analysis results.

Building	Sample Location	Building Level	Sample No.	Analysis (pCi/l)
STA 1				
Station 82	Weight Room	Basement	2098266	11.2
	SE Corner – Compressor Rm.	1st Level	2098273	<0.3
	Westside – Bureau Annex	1st Level	2098268	2.7
STA 2				
Station 86	Crawlspace (Weight Room)	Basement	2098269	172.1
	Power Room	Basement	2098270	9.0
	TV Room	1st Level	2098276	3.8

Based upon review of EPA protocol, we recommend that further testing be conducted. If an initial test result reported between 4 and 10 pCi/L, you have the choice of testing again with a short-term device (Typically 2-7 days) or a long-term device (Typically 3-12 months). If the result was greater than 10 pCi/L, you should retest with another short-term measurement. PBS makes this recommendation based on the understanding that radon levels fluctuate naturally and that it is important to know if the initial tests were an accurate assessment of each building's average radon level or whether the high levels could have been caused by outside factors including drafts and humidity.

Exhibit G

Ernie Schraener
City of Vancouver
Re: Radon Screening Results From City of Vancouver Fire Department Buildings
17 September, 2001
Page 2

The Air Chek, Inc. 4-7 day sampling kit and the 90-day Alpha Track long-term test kit are primarily recommended for further testing. Additional testing areas should consist of the lowest occupied areas of each building that are used on a regular basis. Please feel free to call me at 503-417-7680, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Evelyn Cummings
Prime Inspector

REVIEWED BY: [illegible]

FAX

Date 10/23/01

Number of pages including cover sheet 1

TO: Ernie Schraner

Vancouver Fire Department

RE Fire Station 82

Phone 360 418-5402

Fax Phone 360 892-4801

FROM: Brian Schain

Encompass Mechanical Services, Portland

5711 SW Hood

Portland, OR 97201

Phone (503) 736-0522

Fax Phone (503) 736-0523

CC:

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

Ernie,

I just spoke with Doug Hancock with PBS Environmental regarding Fire Station 82 and 86. I understand 86 was retested and we achieved a level a success. I would like to get a copy of the most recent test for my records.

Regarding 82, the issue is to introduce outside air into the mechanical room and Doug is in agreement with that concept. I have visited the site with my concrete saw cutter and we are prepared to begin the work. As you know there is also the issue of negative pressure in the building. I believe we can solve this problem as well. The issues I see at this point involve introducing adequate outside air to cure the higher levels of Radon, alleviate the negative pressure and allow some sort of relief so we do not over pressurize the space. The design consists of cutting hole in the outside wall and ducting to the mechanical room. We will install a duct heater to temper the air. We will also cut an additional hole and install a barometric damper for pressure relief if no relief exists.

I understand the level of importance of this site and the need to begin the work immediately, but I want to make sure that we only cut the appropriate size holes once. With that in mind, I am reviewing the equipment list for size and capacity to determine the osa penetration and will review as-builts of the space.

Thanks for your patience,

Brian

Exhibit H

Document SerialID: 02XXXXX17671112029XX231627642

PBS ENVIRONMENTAL

27 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82 #1

Dear Mr. Schraner:

On November 8-12, and 19-21, 2001, PBS Environmental performed radon testing at the Fire Department Building located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two to four days for each testing cycle. November 8-12, 2001 sample locations were tested with the Basement Mechanical Room door and wall return grills sealed to determine if radon levels could be reduced by this effort. November 19-21, 2001 sample locations were tested after the two underground ducts had been permanently sealed to determine if these radon mitigation efforts have decreased building radon levels. This testing was part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in the all four of the November 8-12 samples collected, however, they were reduced compared to earlier tests. Laboratory analysis reported elevated levels of radon gas in all five of the November 19-21 samples collected, however, the Dorm, Dayroom, Weight Room and Mechanical Room results were reduced by as much as 50% compared to the original October 3-5, 2001 tests. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results. Table One summarizes test results from November 8-12, 2001. Table Two summarizes test results from November 19-21, 2001.

TABLE ONE

Building #1	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Right Return Duct, Mech. Room	Basement	2476377	11/08/01	37.2
	Tunnel Vent Duct, Mech. Room	Basement	2476385	11/08/01	26.1
	Mechanical Room	Basement	2476396	11/08/01	33.5
	Weight Room	Basement	2476387	11/08/01	25.1

TABLE TWO

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Tunnel Vent Duct, Mech. Room	Basement	2476376	11/19/01	32.3
	Weight Room	Basement	2476383	11/19/01	17.0
	Day Room	Basement	2476386	11/19/01	10.4
	Mechanical Room	Basement	2476394	11/19/01	31.8
	Dorm Room	2nd Floor	2476399	11/19/01	13.2

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

reviewed by: dh

Document SerialID: 02XXXXX17671112029XX231627642

PBS
ENVIRONMENTAL

12 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 3-5, 2001, PBS Environmental performed radon-screening tests at one Fire Department Building located in Vancouver, Washington. A total of four radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two days each testing cycle. Sample locations were selected to determine if there are elevated levels of radon in the return ductwork located beneath the building. This is part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in all four samples collected. Samples 2476380 and 2476382 were collected with the return ductwork uncovered and Samples 2476390 and 2476392 were collected with the return ductwork covered. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 82	S.E. Return Duct, Mech. Room	Basement	2476380	16.5
	W. Return Duct, Mech. Room	Basement	2476382	20.7
	S.E. Return Duct, Mech. Room	Basement	2476390	23.4
	W. Return Duct, Mech. Room	Basement	2476392	84.1

COVERE

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

REVIEWED BY:

Document SerialID: 02XXXXX17671112029XX231627642

November 9, 2001

** LABORATORY ANALYSIS REPORT **

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476390	23.4	70	11/05/01 @ 12 pm	11/08/01 @ 10 am	11/09/01		8.1%
2476392	84.1	69	11/05/01 @ 12 pm	11/08/01 @ 9 am	11/09/01		6.8%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

November 6, 2001 **** LABORATORY ANALYSIS REPORT ****

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit#	pCi/L	Hours	Started	Ended	Analyzed	NOTES	NST%
2476380	16.5	48	11/03/01 @ 1 pm	11/05/01 @ 1 pm	11/06/01		14.8%
2476382	20.7	48	11/03/01 @ 1 pm	11/05/01 @ 1 pm	11/06/01		11.3%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Document SerialID: 02XXXXX17671112029XX231627642

PBS ENVIRONMENTAL

RECEIVED NOV 28 2001

27 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

#1

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 8-12, and 19-21, 2001, PBS Environmental performed radon testing at the Fire Department Building located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two to four days for each testing cycle. November 8-12, 2001 sample locations were tested with the Basement Mechanical Room door and wall return grills sealed to determine if radon levels could be reduced by this effort. November 19-21, 2001 sample locations were tested after the two underground ducts had been permanently sealed to determine if these radon mitigation efforts have decreased building radon levels. This testing was part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in the all four of the November 8-12 samples collected, however, they were reduced compared to earlier tests. Laboratory analysis reported elevated levels of radon gas in all five of the November 19-21 samples collected, however, the Dorm, Dayroom, Weight Room and Mechanical Room results were reduced by as much as 50% compared to the original October 3-5, 2001 tests. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results. Table One summarizes test results from November 8-12, 2001. Table Two summarizes test results from November 19-21, 2001.

TABLE ONE

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Right Return Duct, Mech. Room	Basement	2476377	11/08/01	37.2
	Tunnel Vent Duct, Mech. Room	Basement	2476385	11/08/01	26.1
	Mechanical Room	Basement	2476396	11/08/01	33.5
	Weight Room	Basement	2476387	11/08/01	25.1

TABLE TWO

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Tunnel Vent Duct, Mech. Room	Basement	2476376	11/19/01	32.3
	Weight Room	Basement	2476383	11/19/01	17.0
	Day Room	Basement	2476386	11/19/01	10.4
	Mechanical Room	Basement	2476394	11/19/01	31.8
	Dorm Room	2nd Floor	2476399	11/19/01	13.2

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

reviewed by: dh

November 23, 2001

** LABORATORY ANALYSIS REPORT **

P2445 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MS%
2476376	32.3	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	TUNNEL JOINT	8.8%
2476383	17.0	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Lt. Room (30.9)	6.1%
2476386	10.4	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DAY Room (23.9)	6.8%
2476394	31.8	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	MECH Room	10.0%
2476399	13.2	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DORM (FROM 26.9)	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

4th testing Cycle

- ~~Tested w/ Mech Room door return & wall return covered~~
- To determine if levels can be reduced
- Tested w/ ductwork sealed (underground) No returns covered

November 23, 2001 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476376	32.3	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	TUNNEL Wall	8.8%
2476383	17.0	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Wt. Room (30.4)	6.1%
2476386	10.4	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DAY Room (24.8)	6.8%
2476394	31.8	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	MECH Room	10.0%
2476399	13.2	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Dorm (From 26.4)	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Schraner, Ernie

From: Connie Latour [connie_latour@pbsenv.com]
Sent: Monday, May 13, 2002 1:50 PM
To: 'ernie.schraner@ci.vancouver.wa.us'
Subject: FW: report.18122.pdf

report.18122.pdf
(3 KB)

Ernie,
Attached is the radon report. STA 1 2
Locations are as follows:
2491265 - Mechanical Room
2491282 - Dorm
2491290 - Cptns Office 1st floor
2491291 - workout room
2491292 - conference room
2491300 - reception
2491301 - kitchen
2491310 - dayroom

Report to follow.

Connie L.

May 13, 2002 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2491265	1.3	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	MECHANICAL	4.7%
2491282	0.5	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	DORM	4.2%
2491290	1.3	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	CAPTAINS OFFICE	4.0%
2491291	4.7	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	WORKOUT ROOM	4.0%
2491292	0.7	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Conference Room	4.0%
2491300	1.4	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Reception	4.0%
2491301	1.1	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Kitchen	4.8%
2491310	1.5	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	DAY ROOM	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Document SerialID: 02XXXXX17671112029XX231627642

PBS

PORTLAND
SEATTLE
VANCOUVER
EUGENE
BEND
TRI-CITIES

May 22, 2002

Mr. Ernie Schraner
Facilities/Maintenance Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Re: Radon Screening Results From Fire Department Building #82
PBS Project #15801.000

Dear Mr. Schraner:

On May 17, 2002, PBS Environmental performed radon testing at Fire Department Building #82 located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of one radon test kit was deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately three days for the test. The test was performed to determine the radon level in the workout room after recent mitigation efforts were completed. Laboratory analysis indicated there was not an elevated level of radon gas in the one sample collected. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Workout Room	Basement	2476470	5/17/02	0.9

Please feel free to call me at 503-417-7589, should you have any questions regarding this report.

Sincerely,

Connie LaTour
Prime Inspector

Rev:

4412 SW Corbett
Portland, OR 97201
503.248.1939 MAIN
503.248.0223 FAX
888.248.1939 TOLLFREE

ENGINEERING AND ENVIRONMENTAL
www.pbsenv.com

Document SerialID: 02XXXXX17671112029XX231627642

May 21, 2002

** LABORATORY ANALYSIS REPORT **

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476470	0.9	68	05/17/02 @ 12 pm	05/20/02 @ 8 am	05/21/02		7.4%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

PBS
ENVIRONMENTAL

19 October, 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPT. BUILDING 86

Dear Mr. Schraner:

On October 15, 2001, PBS Environmental performed radon-screening tests at one Fire Department Building located in Vancouver, Washington. A total of three radon test kits were deployed using Air Chek, Inc., Pro Chek devices for duration of approximately two days. Sample locations were selected to determine if recent mitigation efforts were successful. Laboratory analysis reported elevated levels of radon gas in one of the three samples collected. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 86	Crawlspace	Basement	2474973	5.1
	Weight Room	Basement	2474993	1.3
	Hose Tower	Basement	2474975	1.4

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour
Prime Inspector

REVIEWED BY: DH

ENGINEERING AND ENVIRONMENTAL SOLUTIONS

1220 SW Morrison Street, Suite 600 Portland, OR 97205 503/246-1939 Fax 503/240-0223

[redacted]erialID: 02XXXXX17671112029XX231627642

PBS
ENVIRONMENTAL

18 October, 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM 25 CITY OF VANCOUVER BUILDINGS

Dear Mr. Schraner:

On October 5, 2001, PBS Environmental performed an additional radon-screening test at Fire Station 81 located in Vancouver, Washington. One radon test kit was deployed using Air Chek, Inc., Pro Chek device for a duration of approximately two days. The sample location was selected per Fire Department personnel's request. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 81	Equipment Services	1st Floor	2174998	0.6

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour
Prime Inspector

REVIEWED BY: DH

Document SerialID: 02XXXXX17671112029XX231627642

BUREAU VERITAS

February 21, 2006

Mr. Ernest Schraner, Jr.
Facilities / Maintenance Coordinator
CITY OF VANCOUVER FIRE DEPARTMENT
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Project No. 65-06052.00

Subject: Radon Testing at 10 Fire Stations

Dear Ernie:

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, is pleased to present the radon testing survey of the 10 fire stations specified by you located throughout the Vancouver, Washington area.

Please find the enclosed original and copy of the report.

Thank you for the opportunity to work with you on this project. We look forward to assisting you in future environmental and industrial hygiene projects.

Sincerely,

Ed Gay
Senior Project Manager
Occupational Health and Safety

EG/eg

Tim,
THIS IS THE CURRENT RADON REPORT FOR THE VFD STATIONS WITH THE EXCEPTION OF 82 AM LOOK GOOD. NEW TEST KITS HAVE BEEN INSTALLED AND THE FAN IS ON.

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street, Suite 440
Portland, OR 97232

Main: (971) 244-1200
Fax: (971) 244-1209
www.us.bureauveritas.com

Exhibit I

Document SerialID: 02XXXXX17671112029XX231627642

Radon Testing in Ten Fire Stations

February 21, 2006

Clayton Project Number 65-06052.00

Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street
Suite 440
Portland, Oregon 97232
971.244.1200
www.us.bureauveritas.com

BUREAU VERITAS

Section | Page

1.0 INTRODUCTION 1

2.0 BACKGROUND 1

3.0 METHODS 1

4.0 RESULTS AND DISCUSSION 2

4.1 INITIAL RESULTS BELOW 4.0 PCI/L 2

4.2 STATION 82 2

5.0 RECOMMENDATIONS 3

6.0 LIMITATIONS 4

Table

Results of Radon Testing

Appendices

Laboratory Sample Results

1.0 INTRODUCTION

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, was retained by Mr. Ernest Schraner, Jr., Facilities Coordinator for the City of Vancouver Fire Department, to conduct radon testing at ten fire station buildings within Vancouver, Washington.

Clayton's scope of services is described in the proposal letter to Mr. Schraner, which also included the terms and conditions under which the work was performed (Clayton Proposal Number PR-65OH06.076) dated October 18, 2005.

Mr. Ed Gay, Senior Project Manager with Clayton, performed the three month long term testing between the initial placement date of November 7, 2005 and the final pick up date of February 13, 2006. Mr. Schraner provided background information and accompanied Mr. Gay to provide access for the placement of the AirChek Radon samplers for the current monitoring session.

2.0 BACKGROUND

Radon is a colorless and odorless gas produced by the radioactive decay of the element radium, which results from the natural radioactive breakdown of uranium in soil, rock, and water. Radon is naturally found in the outdoor and indoor air, soil air, and in ground water. Radon typically moves up through soil pore spaces and rock fractures near the surface of the earth and escapes into the atmosphere. Soil air often flows toward building foundations where radon can seep through cracks and other holes in the foundation. Once inside, the radon can become trapped and concentrated. Openings which commonly allow easy inflow of the gas include: cracks in floors and walls, gaps in suspended floors, openings around sump pumps and drains, cavities in wall, joints in construction materials, gaps around utility penetrations (pipes and wires), and crawl spaces that open directly into the building.

The US Environmental Protection Agency (EPA) ranks indoor radon among the most serious environmental health problems. It is the second leading cause of lung cancer in the United States.

PBS Environmental conducted baseline radon testing within the ten fire stations in October 2001. Clayton followed up with sampling exercises in April and May of 2003.

3.0 METHODS

Clayton performed long term radon testing (three months) by deploying AirChek Alpha Track Radon Devices. Alpha Track detectors are passive devices that allow continual adsorption and desorption of radon. The radon testing was conducted, to the extent reasonable, under normal operating building conditions. The testing was performed using EPA approved sampling methodology. Thirty-three long term radon detectors were placed in locations designated by Mr. Schraner and Mr. Gay within the ten fire stations during this three month radon testing session.

BUREAU VERITAS

4.0 RESULTS AND DISCUSSION

The average indoor radon level, according to the EPA, is estimated to be about 1.3 picoCuries per liter (pCi/L). If radon test results are at or above the action level of 4.0 pCi/L, the EPA recommends that follow-up long-term testing be performed.

Analytical results indicated only Fire Stations 82 had radon concentrations at or above the EPA recommended action level. The remaining nine (9) fire stations had radon concentrations below the EPA action level.

The results for the radon testing and sampling information are provided in the attached Table. Brief descriptions of the buildings are also included in the table, such as the buildings being built over basements, or slabs on grade, and how many floors. For example, Station 82 has all three descriptions, basement, some slab portions and a second floor. Also stated are the perceived activity levels in the stations. Most stations are active with personnel coming and going. Two stations, 810 and 87, are unmanned and used primarily for storage. Cracks in slabs, basement floors, and walls, or unsealed foundations, provide entry for the radon gas

Laboratory analytical results are provided in the Appendix.

4.1 INITIAL RESULTS BELOW 4.0 PCI/L

Analytical laboratory results indicated nine (9) fire stations had radon concentrations below the EPA recommended action level. No additional action or retesting is required at this time. The City of Vancouver Fire Department should retest for radon when occupancy patterns change.

Refer to the attached Table for test details including location and results.

4.2 STATION 82

Clayton conducted long-term (3 months) radon testing in seven locations within Station 82 from November 7, 2005 through February 13, 2006. Five (5) radon results were above the EPA action level. One test canister could not be located and is presumed missing in Station 82 from the Day Room. (Two other canisters are also missing, one in Station 84, the exercise room and one in Station 81, the chief's office.)

The heating, ventilation, and air conditioning (HVAC) system in Station 82 services all areas within the two-story building and basement except the Fire Prevention Office, which is served by a local air-handling unit. Of prime importance would be incoming fresh air and continuous operation.

In a prior short-term sampling episode (April 22 through 25, 2003) some results were above the EPA action level for radon particularly in the Fire Prevention Office.

This is a very active station with a large group of rotating personnel but there are definite results which illustrate that the HVAC in the building needs an investigation.

BUREAU VERITAS

5.0 RECOMMENDATIONS

Based on the sampling results and observations made during the survey, Clayton offers the following recommendations:

- A full investigation of the air handling equipment in Station 82 should be undertaken to determine adequate air flow. Perhaps a study performed by a qualified engineer in the radon/HVAC field.
- Unauthorized personnel should not attempt to adjust the ventilation parameters, because in the past some electric breakers were found to be in the "off" position and fresh air vents have been closed. The City of Vancouver Fire Department Facilities Department should establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.
- After some reforms are instituted the Vancouver Fire Department should perform short-term radon testing as soon as possible in Station 82 to determine if the air handling system has been improved.
- Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year.

6.0 LIMITATIONS

Clayton prepared this report to aid the City of Vancouver Fire Department in evaluating ten fire stations for indoor radon concentrations. This report is for the exclusive use of the client, applies only to the specific subject property detailed above, and shall not be relied upon by any other party without the prior consent of the undersigned.

Within the limitations of scope, schedule, and budget, our services have been executed in accordance with generally accepted practices in this area at the time this letter was prepared. No other hazardous materials/wastes were investigated. No other conditions, expressed or implied, should be understood.

Thank you for the opportunity to continue providing our services to the City of Vancouver Fire Department.

Report prepared by:

Ed Gay
Senior Project Manager
Portland Regional Office

Report reviewed by:

Scott Turkle, CIH
Senior Consultant
Portland Regional Office

February 21, 2006

Document SerialID: 02XXXXX17671112029XX231627642

BUREAU VERITAS

TABLE

BUREAU VERITAS

Table
Results of Long Term Radon Testing
at various
City of Vancouver Fire Stations
Vancouver, Washington
Clayton Project No. 65-06052.00
Sampling Date: November 7, 2005 through February 13, 2006

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
89	1st	Community Room on a slab – active building	169643	2.2
89	1st	Day Room on a slab – active building	169651	2.2
810	1st	Kitchen on a slab – inactive building	169642	0.6
810	1st	Storage room on a slab – inactive building	169641	0.5
88	1st	Day Room on a slab – active building	169650	1.1
88	1st	Capitan's office on a slab – active building	169645	1.4
88	1st	Community Room on a slab – active building	169644	1.0
87	1st	Kitchen on a slab – inactive building	169646	0.5
86	1st	Dorm Room – basement building – active building	169662	0.8
86	1st	Day Room – basement building – active building	169664	0.8
86	1st	Kitchen basement building active building	169663	0.8
86	Basement	Machine Room – active building	169661	2.7
85	1st	Exercise room on a slab – active building	169648	1.6
85	1st	Captain's office on a slab – active building	169647	1.5
85	1st	Day Room – on a slab – active building	169649	1.7
84	1st	Day Room – basement building – active building	169654	1.7

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
84	1st	Captain's office – basement building – active building	169658	1.5
84	1st	Dormitory – basement building – active building	169660	1.8
84	1st	Exercise room	**MISSING CANISTER**	
83	1st	Dormitory – on a slab – active building	169652	1.3
83	1st	Day Room – on a slab - active building	169659	1.2
82	Basement	Machine room – active building	169672	**7.6**
82	Basement	Exercise room – active building	169671	**6.1**
82	1st	File room on a slab – active building	169670	0.8
82	1st	Front office – on a slab – active building	169667	**4.8**
82	1st	Day room office – over basement – active building	169669	**7.5**
82	2nd	Dormitory – active building	169673	**7.5**
82	1st	Day Room	**MISSING CANISTER**	
81	1st	Administration office – on a slab – active building	**81-X1** Original number 169653	0.4
81	1st	Dormitory – on a slab- active building	169666	0.4
81	1st	Conference room – on a slab – active building	169665	0.3
81	1st	Service Shop office – on a slab – active building	169657	0.4
81	1st	Chief's office	**MISSING CANISTER**	
EPA Recommended Indoor Radon Concentration Action Level				4.0

Notes:
pCi/L: picoCuries per Liter
EPA: United States Environmental Protection Agency
Bold: radon levels above the EPA Action Level

Document SerialID: 02XXXXX17671112029XX231627642

APPENDIX

LABORATORY ANALYTICAL RESULTS

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

February 16, 2006

CLAYTON GROUP SERVICES
ATTN: ED GAY
1500 NE IRVING STREET
SUITE 440
PORTLAND, OR 97232

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
169641	0.5	STATION 810-STORAGE ROOM	11/07/05	02/13/06	
169642	0.6	STATION 810-KITCHEN	11/07/05	02/13/06	
169643	2.2	STATION 89-COMMUNITY ROOM	11/07/05	02/13/06	
169644	1.0	STATION 88-COMMUNITY ROOM	11/07/05	02/13/06	
169645	1.4	STATION 88-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169646	0.5	STATION 87-KITCHEN	11/07/05	02/13/06	
169647	1.5	STATION 85-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169648	1.6	STATION 85-EXERCISE ROOM	11/07/05	02/13/06	
169649	1.7	STATION 85-DAY ROOM	11/07/05	02/13/06	
169650	1.1	STATION 88-DAY ROOM	11/07/05	02/13/06	
169651	2.2	STATION 89-DAY ROOM	11/07/05	02/13/06	
169652	1.3	STATION 83-DORM	11/07/05	02/13/06	
169653	0.4	STATION 81-ADMIN OFFICE	11/07/05	02/13/06	
169654	1.7	STATION 84-DAY ROOM	11/07/05	02/13/06	
169657	0.4	STATION 81-SERVICE SHOP OFFICE	11/07/05	02/13/06	
169658	1.5	STATION 84-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169659	1.2	STATION 83-DAY ROOM	11/07/05	02/13/06	
169660	1.8	STATION 84-DORM	11/07/05	02/13/06	

Continued

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
169661	2.7	STATION 86-MACHINE ROOM	11/07/05	02/13/06	
169662	0.8	STATION 86-DORM	11/07/05	02/13/06	
169663	0.8	STATION 86-KITCHEN	11/07/05	02/13/06	
169664	0.8	STATION 86-DAY ROOM	11/07/05	02/13/06	
169665	0.3	STATION 81-CONFERENCE ROOM	11/07/05	02/13/06	
169666	0.4	STATION 81-DORM	11/07/05	02/13/06	
169667	4.8	STAION 82-OFFICE FRONT	11/07/05	02/13/06	
169669	7.5	STATION 82-OFFICE BY DAY ROOM	11/07/05	02/13/06	
169670	0.8	STATION 82-FILE ROOM	11/07/05	02/13/06	
169671	6.1	STATION 82-EXERCISE ROOM	11/07/05	02/13/06	
169672	7.6	STATION 82-MACHINE ROOM	11/07/05	02/13/06	
169673	7.5	STATION 82-DORMITORY	11/07/05	02/13/06	

Document SerialID: 02XXXXX17671112029XX231627642

Long Term Radon Testing
Fire Station 82

COPY

July 18, 2006

Clayton Project Number 34006-006130.00

Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street
Suite 440
Portland, Oregon 97232
971.244.1200
www.us.bureauveritas.com

Exhibit J

Section Page

1.0 INTRODUCTION 1

2.0 BACKGROUND 1

3.0 METHODS 1

4.0 RESULTS AND DISCUSSION 2

4.1 INITIAL RESULTS BELOW 4.0 PCI/L 2

4.2 STATION 82 HISTORY 2

5.0 RECOMMENDATIONS 2

LIMITATIONS 3

Table

Results of Radon Testing

Appendices

Laboratory Sample Results

1.0 INTRODUCTION

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, was retained by Mr. Ernest Schraner, Jr., Facilities Coordinator for the City of Vancouver Fire Department, to conduct follow-up long term radon testing at Station 82 in Vancouver, Washington.

Clayton's scope of services is described in the proposal letter to Mr. Schraner via Mr. Tim Haldeman with the City of Vancouver, which also included the terms and conditions under which the work was performed (Clayton Proposal Number PR-65OH06.20-7) dated March 31, 2006.

Mr. Ed Gay, Senior Project Manager with Clayton, performed this episode of follow-up testing at Station 82 (between April 3, 2006 and July 10, 2006) based on the prior three month long term testing between November 7, 2005 and February 13, 2006. Mr. Schraner provided background information and accompanied Mr. Gay to provide access for the placement of the AirChek Radon samplers for the current monitoring session.

2.0 BACKGROUND

Radon is a colorless and odorless gas produced by the radioactive decay of the element radium, which results from the natural radioactive breakdown of uranium in soil, rock, and water. Radon is naturally found in the outdoor and indoor air, soil air, and in ground water. Radon typically moves up through soil pore spaces and rock fractures near the surface of the earth and escapes into the atmosphere. Soil air often flows toward building foundations where radon can seep through cracks and other holes in the foundation. Once inside, the radon can become trapped and concentrated. Openings which commonly allow easy inflow of the gas include: cracks in floors and walls, gaps in suspended floors, openings around sump pumps and drains, cavities in wall, joints in construction materials, gaps around utility penetrations (pipes and wires), and crawl spaces that open directly into the building.

The US Environmental Protection Agency (EPA) ranks indoor radon among the most serious environmental health problems. It is the second leading cause of lung cancer in the United States.

PBS Environmental conducted baseline radon testing within the ten fire stations in October 2001. Clayton followed up with sampling exercises in April and May of 2003.

3.0 METHODS

Clayton performed long term radon testing (three months) by deploying AirChek Alpha Track Radon Devices. Alpha Track detectors are passive devices that allow continual adsorption and desorption of radon. The radon testing was conducted, to the extent reasonable, under normal operating building conditions. The testing was performed using EPA approved sampling methodology. Ten (10) long term radon detectors were placed in locations designated by Mr. Schraner and Mr. Gay within Station 82 during this three month radon testing session, lasting from April 3, 2006 until July 10, 2006.

4.0 RESULTS AND DISCUSSION

The average indoor radon level, according to the EPA, is estimated to be about 1.3 picoCuries per liter (pCi/L). If radon test results are at or above the action level of 4.0 pCi/L, the EPA recommends that follow-up long-term testing be performed.

Current analytical results indicated that Fire Stations 82 had radon concentrations well below the EPA recommended action level.

The results for the radon testing and sampling information are provided in the attached Table. Brief descriptions of the building are also included in the table, such as the building being built over basements, or slabs on grade, and how many floors. For example, Station 82 has all three descriptions, basement, some slab portions and a second floor. Also stated are the perceived activity levels in the stations. Station 82 is a very active station with crews and office personnel coming and going. Cracks in slabs, basement floors, and walls, or unsealed foundations, provide entry for the radon gas

Laboratory analytical results are provided in the Appendix.

4.1 INITIAL RESULTS BELOW 4.0 PCI/L

Analytical laboratory results indicated that in Station 82 had radon concentrations below the EPA recommended action level. No additional action or retesting is required at this time. The City of Vancouver Fire Department should retest for radon when occupancy patterns change.

Refer to the attached Table for test details including location and results.

4.2 STATION 82 HISTORY

Clayton conducted **prior** long-term (3 months) radon testing in seven locations within Station 82 from November 7, 2005 through February 13, 2006. Five (5) radon results, **at that time,** were above the EPA action level.

Mr. Schraner commented to Mr. Gay that there have been upgrades and added efficiencies to the HVAC system. These improvements in the air handling system are corroborated by the current very low level radon readings

5.0 RECOMMENDATIONS

Based on the sampling results and observations made during the survey, Clayton offers the following recommendations:

- Periodic radon sampling should be undertaken at Station 82 to insure the proper utilization of the air handling system.
- Unauthorized personnel should not attempt to adjust the ventilation parameters, because in the past some electric breakers were found to be in the "off" position and fresh air vents have been closed. The City of Vancouver Fire Department Facilities Department should

establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.

- Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year.

LIMITATIONS

Clayton prepared this report to aid the City of Vancouver Fire Department in evaluating Fire Station 82 for indoor radon concentrations. This report is for the exclusive use of the client, applies only to the specific subject property detailed above, and shall not be relied upon by any other party without the prior consent of the undersigned.

Within the limitations of scope, schedule, and budget, our services have been executed in accordance with generally accepted practices in this area at the time this letter was prepared. No other hazardous materials/wastes were investigated. No other conditions, expressed or implied, should be understood.

Thank you for the opportunity to continue providing our services to the City of Vancouver Fire Department.

Report prepared by: Ed Gay

Ed Gay
Senior Project Manager
Portland Regional Office

Report reviewed by: Scott Turkle

Scott Turkle, CIH
Senior Consultant
Portland Regional Office

July 18, 2006

BUREAU VERITAS

TABLE

BUREAU VERITAS

Table
Results of Long Term Radon Testing
at Station 82
City of Vancouver Fire Station
Vancouver, Washington
Clayton Project No. 34006-006130.00
Sampling Date: April 3, 2006 through July 10, 2006

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
82	Basement	Exercise Room – active room-personnel	174241	1.4
82	Basement	Machine Room- inactive room-	174242	1.6
82	Main floor	File/Conference Room – active room - personnel	174243	1.3
82	Main floor	Fire Prevention Office – active room - personnel	174244	0.4
82	2nd floor	Large classroom – active room-personnel	174245	1.9
82	2nd floor	Dormitory – back partition – active room - personnel	174246	1.6
82	2nd floor	Dormitory – bookcase – active room - personnel	174247	1.4
82	Main floor	Day Room by TV – active room – personnel	174248	1.6
82	Main floor	Day Room Office – active room-personnel	174249	1.6
82	Main floor	Front office by reception – active area – personnel and citizens	174250	1.9
EPA Recommended Indoor Radon Concentration Action Level				4.0

Notes:
pCi/L: picoCuries per Liter
EPA: United States Environmental Protection Agency
Bold: radon levels above the EPA Action Level

Document SerialID: 02XXXXX17671112029XX231627642

BUREAU VERITAS

APPENDIX

LABORATORY ANALYTICAL RESULTS

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

July 14, 2006

CLAYTON GROUP SERVICES
ATTN: ED GAY
1500 NE IRVING STREET
SUITE 440
PORTLAND, OR 97232

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
174241	1.4	STATION 82, EVERGREEN BLVD,EXERCISE ROOM	04/03/06	07/10/06	
174242	1.6	STATION 82, EVERGREEN BLVD,MACHINE ROOM	04/03/06	07/10/06	
174243	1.3	STATION 82, EVERGREEN BLVD, FILE ROOM	04/03/06	07/10/06	
174244	0.4	STATION 82,EVERGREEN BLVD,FIRE PREVENT	04/03/06	07/10/06	
174245	1.9	STATION 82, EVERGREEN BLVD,CLASSROOM	04/03/06	07/10/06	
174246	1.6	STATION 82,EVERGREEN BLVD,DORM BACK	04/03/06	07/10/06	
174247	1.4	STATION 82,EVERGREEN BLVD, DORM BOOK	04/03/06	07/10/06	
174248	1.6	STATION 82,EVERGREEN BLVD,DAYROOM	04/03/06	07/10/06	
174249	1.6	STATION 82,EVERGREEN BLVD,DAY RM OFFICE	04/03/06	07/10/06	
174250	1.9	STATION 82,EVERGREEN BLVD, MAIN OFFICE	04/03/06	07/10/06	

WHAT YOUR TEST RESULTS MEAN

The average indoor radon level in homes is estimated by the US EPA to be below 2 pCi/l. About 0.4 pCi/l is normally found in outside air. Congress has set a long-term goal that indoor radon levels be no more than outdoor levels. While this goal is not yet technologically achievable in all cases, the radon concentration in most homes with elevated concentrations *can* be reduced to below 2 pCi/l. However, US EPA believes that any radon exposure carries some risk. No level of radon is safe and you can reduce your risk of lung cancer by lowering your radon exposure. If your living patterns change and you begin occupying a level of your home lower than the level on which you have tested, you should retest your home on that lower level. Also, radon concentrations fluctuate daily, seasonally, and with weather conditions. This alpha track monitor provides the best averaging for these fluctuations. Therefore, you may wish to test again for a full year to average seasonal fluctuations or if exposure was for less than 90 days.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA BASEMENT PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 3tajy160

EXPOSURE START DATE/TIME	3/ 9/2011	12:18	
END	3/11/2011	12:17	EXPOSURE HOURS = 48.0
ANALYSIS	3/18/2011	13:44	DECAY HOURS = 169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN685L
WATER GAIN = 3.4 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 5.4

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Exhibit K

Document SerialID: 02XXXXX17671112029XX231627642

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FLOOR TV
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 1tajy155

EXPOSURE START DATE/TIME	3/ 9/2011	12:22		
END	3/11/2011	12: 6	EXPOSURE HOURS =	47.7
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN847L
WATER GAIN = 3.2 grams

****
RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.6
****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.
****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FLOOR CAPT
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tajy156

EXPOSURE START DATE/TIME	3/ 9/2011	12:20	
END	3/11/2011	12: 7	EXPOSURE HOURS = 47.8
ANALYSIS	3/18/2011	13:33	DECAY HOURS = 169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN206L
WATER GAIN = 3.1 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.4

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FL N LOBBY
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 3tajy157

EXPOSURE START DATE/TIME	3/ 9/2011	12:33		
END	3/11/2011	12:10	EXPOSURE HOURS =	47.6
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN377B
WATER GAIN = 3.5 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.9

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FLOOR DORM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 1tajy158

EXPOSURE START DATE/TIME	3/ 9/2011	12:25		
END	3/11/2011	12:13	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.5

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN232B
WATER GAIN = 3.7 grams

****
RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.2
****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.
****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASSROOM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tajy159

EXPOSURE START DATE/TIME	3/ 9/2011	12:26		
END	3/11/2011	12:14	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.5

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN705G
WATER GAIN = 3.2 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 4.3

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOUTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASS RM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tali053

EXPOSURE START DATE/TIME	1/23/2013	11:18	
END	1/25/2013	12:41	EXPOSURE HOURS = 49.4
ANALYSIS	2/ 4/2013	14:17	DECAY HOURS = 241.6

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: DB428I
WATER GAIN = 1.6 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 11.8

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Exhibit L

McCann Engineering LLC
1335 NW 23rd Ave., Suite 100
Portland, OR 97210-2687
PH. (503)243-2242 FAX (503)243-2448
Email: engineer@mellc.pro

27 February 2013

Mr. Daniel E. Norfleet
Superintendent Facilities
Facilities - General Services
4711 E. Fourth Plain Blvd.
Vancouver, WA 98668-1005

RE: City of Vancouver; Fire Station #1
Subject: Radon Investigation

Dear Dan,

On 4 February 2013 we met at Fire Station #1 on 900 W. Evergreen Blvd. We observed the site, reviewed recent radon test data, and met with maintenance technician and fire department staff. Radon readings that had previously been marginally high had recently become very high.

The Basement Weight Room consistently has the highest readings and it was a bit of a surprise to find high readings in the second floor classroom. Since radon emanates from the soil, I would expect lower level rooms to have higher concentrations. And the Basement does in fact have the highest readings. The Basement walls and floor are concrete in contact with soil.

The Basement Mechanical Room (BMR) also has walls and floor in contact with soil. Outside air is pulled into the BMR by the supply air fan for the main heating and cooling system. The outside air ducts open to the BMR and the supply air fan exerts negative pressure on the room to pull air through the BMR to the inlet of the main HVAC system. The rate of radon coming through the walls and floors is accelerated by this negative pressure exerted on the room by the supply air fan. And this air is circulated throughout most of the building where this main HVAC system distributes its airflow.

The reason for the outside air drawn into the BMR in the manner described above is apparently to cool the electrical switchgear in the room. Having the system open to the mechanical and electrical room like this is likely the reason for the fire damper discussed below.

We discussed the lack of airflow we noted in all but the sleeping room served by the rooftop unit. I recommended that we look for a fire damper that might be closed since that is the most common reason for sudden loss of airflow. The maintenance

Exhibit M

technician, Dave Adkins, did not think there were fire dampers in this system but later found one and opened it. Following is his report:

- After examining the mechanical systems at Fire Station #1 we found that a fire/smoke damper installed in the main return air duct had failed, closing off all return air movement in the building. This damper appears to have been installed during a relatively recent redesign of the return air duct system. During the redesign, return air was eliminated from the basement limiting the ability to exchange air in that area of the building. I have added some return air to the basement and corrected the faulty damper position. I placed two radon test canisters to verify if this will correct the high Radon levels recently seen in the building. The samples will be collected and sent to the testing lab on 2/8/13. We should have results within 10 days of that.

With the air damper opened, the readings reverted back to the previous moderately high range. The latest 48-hour reading was 5.7 pCi/L. It is likely that the reason for the louvers in the doors to the Basement Mechanical Room (BMR) being sealed shut was to cause more outside air to be drawn into the BMR through the 2 ducts connecting outside openings to the BMR. By opening the BMR to the Basement, the amount of outside air intake was reduced and more radon laden air was recirculated throughout the building.

The Vancouver area is noted for Radon issues with readings in basements ranging from 1 to 20 pCi/L common.

The following is provided to educate the readers of this report as to the significance of these readings. This table was produced by the EPA, 2002; as a risk assessment for smokers and non-smokers.

The following is an updated chart of the lifetime risk of lung cancer death per person from radon exposure in homes (excerpted from the updated radon risk assessment).

Radon Level [a]	*Lifetime Risk of Lung Cancer Death (per person) from Radon Exposure in Homes [b]*		
pCi/L	*Never Smokers*	*Current Smokers [c]*	*General Population*
20	*36 out of 1,000*	*260 out of 1,000*	*110 out of 1,000*
10	*18 out of 1,000*	*150 out of 1,000*	*56 out of 1,000*
8	*15 out of 1,000*	*120 out of 1,000*	*45 out of 1,000*
4	*7.3 out of 1000*	*62 out of 1,000*	*23 out of 1,000*
2	*3.7 out of 1000*	*32 out of 1,000*	*12 out of 1,000*
1.25	*2.3 out of 1000*	*20 out of 1,000*	*7.3 out of 1,000*
0.4	*0.73 out of 1000*	*6.4 out of 1000*	*2.3 out of 1,000*

a Assumes constant lifetime exposure in homes at these levels.
b Estimates are subject to uncertainties as discussed in Chapter VIII of

the risk assessment.

Recommendations

(Note that the following recommendations are subject to verification of site layout, space availability, and various systems functions and parameters.)

1. A three-fold strategy is recommended:
    a. Seal floors and walls in contact with soil.
    b. Provide positive pressurization in all areas where radon could be introduced through walls or floors.
    c. Seal the HVAC system against radon intrusion.
2. Provide a cabinet fan to draw outside air through existing ducts rather than using the existing supply air fan to draw air through the ducts by negatively pressurizing the Basement Mechanical Room (BMR).

    a. Modular Section Cabinet Fan with a backward inclined fan – Greenheck MSCF-BI
        i. Inlet plenum will connect to 2 round ducts embedded in concrete ceiling. If one is a return and the other OSA, they need to be individually dampered.
        ii. Outlet to be ducted into return air side of main air handler.
        iii. MSCF factory equipped with insulated cabinet.
        iv. All ductwork to be insulated per code.
        v. OSA ducts drawing from below grade locations need to be ducted to min 3' above grade and goose-necked or louvered to preclude water penetration.
3. Provide opening in supply air duct in BMR and provide 200 cfm to positively pressurize BMR. Adjust airflow as necessary to cool electrical switchgear.
4. Close and seal the opening recently made by maintenance technician from Basement to BMR except as required for cooling electrical switchgear.
    a. An alternative would be to alternately discharge outside air directly into the BMR when building is in heating mode and mechanically cooled air when building is in cooling mode. This would be preferred as lower airflow and less energy would be required most of the year when the building is in heating mode.
5. Do not return air from Basement to the building HVAC system. Provide sidewall exhaust fan in Basement wall to negatively pressurize Basement.
    a. Greenheck CW fan.
6. Thoroughly seal all negatively pressurized ductwork in BMR -- nickel-thick duct mastic on all seams and joints.

7. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to all concrete floors and walls that are in contact with ground.

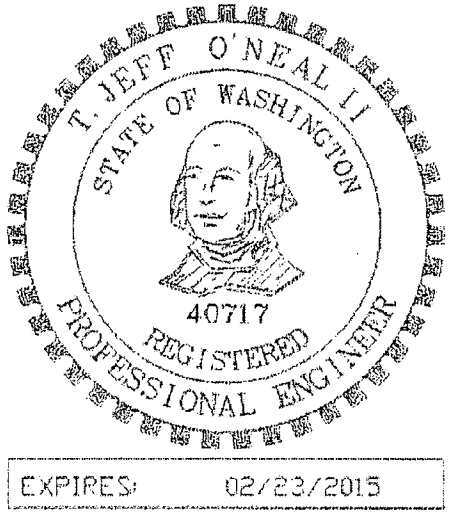
8. Retest all areas previously tested for radon two weeks after completion of above work.

Sincerely,

T. Jeff O'Neal II

T. Jeff O'Neal II, P.E.

10339



McCann Engineering LLC
1335 NW 23rd Ave., Suite 100
Portland, OR 97210-2687
PH. (503)243-2242 FAX (503)243-2448
Email: engineer@mellc.pro

23 April 2013

Mr. Daniel E. Norfleet
Superintendent Facilities
Facilities - General Services
4711 E. Fourth Plain Blvd.
Vancouver, WA 98668-1005

RE: City of Vancouver; Fire Stations #3,8,9 & 4
Subject: Radon Investigation

Dear Dan,

On 25 April 2013 Chief Knable and I met with you at your office and traveled to fire stations 3, 8, 9, and 4, respectively. We observed the conditions at each site and assessed each building relative to elevated radon levels. Following are my observations and recommendations:

Lab results from canisters placed between 26 and 28 February 2013 are as follows:

LOCATION	BSMT /	1ST /	2ND	RESULT	CANISTER# (DB)
#3 DORM		X		3.2	304I
" WORKOUT		X		1.6	392I
" TV		X		3.4	412I
#4 DORM		X		3.0	783C
" TV		X		2.0	006B
#5 TV			X	1.0*	903F
" DORM		X		1.0*	310B
" INSPECTOR		X		1.0*	390I
" ADMIN		X		1.0*	293I
#8 DORM		X		3.2	660F
" TV		X		2.8	333I

* minimum detectable value

The Vancouver area is noted for Radon issues with readings in basements ranging from 1 to 20 pCi/L common.

Exhibit N

The following is provided to educate the readers of this report as to the significance of these readings. This table was produced by the EPA, 2002; as a risk assessment for smokers and non-smokers.

The following is an updated chart of the lifetime risk of lung cancer death per person from radon exposure in homes (excerpted from the updated radon risk assessment).

Radon Level [a]	*Lifetime Risk of Lung Cancer Death (per person) from Radon Exposure in Homes [b]*		
pCi/L	*Never Smokers*	*Current Smokers [c]*	*General Population*
20	*36 out of 1,000*	*260 out of 1,000*	*110 out of 1,000*
10	*18 out of 1,000*	*150 out of 1,000*	*56 out of 1,000*
8	*15 out of 1,000*	*120 out of 1,000*	*45 out of 1,000*
4	*7.3 out of 1000*	*62 out of 1,000*	*23 out of 1,000*
2	*3.7 out of 1000*	*32 out of 1,000*	*12 out of 1,000*
1.25	*2.3 out of 1000*	*20 out of 1,000*	*7.3 out of 1,000*
0.4	*0.73 out of 1000*	*6.4 out of 1000*	*2.3 out of 1,000*

a Assumes constant lifetime exposure in homes at these levels.
b Estimates are subject to uncertainties as discussed in Chapter VIII of the risk assessment.

From the EPA's "A Citizen's Guide to Radon"(2004)
and "Home Buyer's and Seller's Guide" (2005).

Your short term radon test result is	**What to do after the first test**	**What to do after second test or 2 cans at same time & place**
Greater than 20 pCi/L	Perform short term follow-up test immediately	Fix your home*
10 pCi/L to 20 pCi/L	Perform short term follow-up test immediately	Fix your home*
4 pCi/L to about 10 pCi/L	Perform follow-up test short or long term	Fix your home*
Less than 4 pCi/L	Perform follow-up test if bedroom or living area is in the basement	Consider fixing if between 2 and 4 pCi/L.

EPA AND TCS RECOMMEND YOU TAKE FOLLOW-UP MEASUREMENTS BEFORE YOU UNDERTAKE MAJOR EFFORTS TO CORRECT THE PROBLEM.

If your first or second test was a long term test: Fix your home if the result is 4 pCi/L or more.

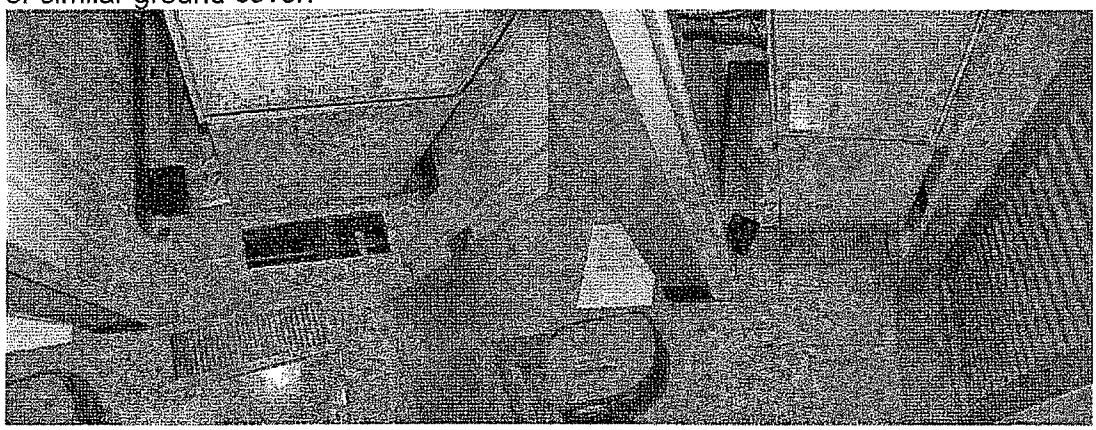
If you used a second short term test: Consider fixing your home is the average of the first and second tests is 4 pCi/L or higher.

Even radon levels below 4 pCi/L pose some risk, and you can reduce your risk of lung cancer by lowering your radon level. Most homes today can be reduced to 2 pCi/L or below.

If you smoke and your home has high radon levels, your risk of lung cancer is especially high.

Fire Station 3:

There was a digital radon meter in the Day/TV Room indicating a level of 4.2 pCi/L. This is higher than the recent lab analyzed canister test result of 3.2 in the TV Room and 3.4 in the Dorm Room. The furnace serving the building was located in the same room. There was a floor grille located in the furnace enclosure. I removed this grille to find it opened directly to the crawl space and the crawl space had poor or no visqueen or similar ground cover.



The crawl space conditions are the likely reason for the elevated radon levels and this opening to the crawl space in the furnace enclosure is a key cause of the elevated radon levels. The furnace draws air from this enclosure, through the louvered door and floor grille, and distributes it throughout the building. There is a moderately large sidewall exhaust fan in the sleeping room and ceiling exhaust in the bathroom that provide ventilation by drawing air from outside through various cracks and crevices in the ceilings, walls, and floors.

The programmable thermostat that controls the furnace was set to circulate air continuously – the fan was in the "On" rather than the "Auto" position. This is the correct setting – we want the fan to continuously circulate air.

There was a piece of plywood stashed in the furnace enclosure, so I laid it over the floor opening to substantially reduce the air transfer from the crawl space in this location.

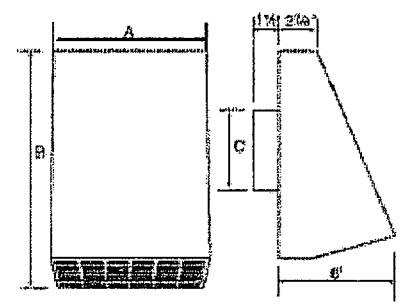
The Exercise Room was on the other side of the Truck Bay, its foundation is slab on grade, and it has a separate through-the-wall, PTAC unit for heating and cooling. Its reading in the recent lab test was 1.6 pCi/L. No work required.

Recommendations

(Note that all recommendations are subject to verification of site layout, space availability, and various systems functions and parameters.)

1. Make sure all thermostats remain in the Fan-On setting at all times.
2. A four-fold strategy is recommended:
    a. Seal the floor penetration in the furnace enclosure and any other floor penetrations to the crawl space.
    b. Provide positive pressurization to the occupied space by bringing outside air into the furnace enclosure by running a 10-inch duct from a screened gooseneck air inlet above the roof to a point inside the furnace enclosure.
    c. Cover the ground in the crawl space with soil-gas retarder membrane. Minimum 6-mil polyethylene or similar sheeting, continuously applied, 12-inch lap at joints, and any rips, punctures, or tears covered by additional sheets.
    d. Provide negative pressurization to the crawl space by closing and sealing all but two foundation/crawl space vents at one end of the building and

DIMENSIONAL DATA



MODEL	A	B	C	SHIP WT.
XMV-A4	10¼"	13"	4"	9 lbs.
XMV-A4HP	10¼"	13"	4"	10
XMV-A6	10¼"	13"	6"	11
XMV-A6HP	14¼"	17"	6"	14
XMV-A8HP	14¼"	17"	8"	16

ORDERING INFORMATION

P/N	MODEL
99 070	XMV - A4
99 071	XMV - A4HP
99 072	XMV - A6
99 073	XMV - A6HP
99 074	XMV - A8HP

		AIRFLOW			FLEXIBLE DUCT LENGHTS	
FAN	PACKAGE	TOTAL CFM	GRILLE CFM	DUCT DIAM.	A	B
XMV - A4	Single	60	60	4"	40'	—
XMV - A4HP	Single	60	60	4"	100'	—
XMV - A4HP	Dual	120	60	4"	60'	10'
XMV - A6	Dual	200	100	6"	20'	10'
XMV - A6HP*	Dual	300	150	6"	100'	50'
*Speed control recommended for shorter duct lengths						
XMV - A8HP	Triple	300	100	8"/6"	50'	20'

installing a fan in a vent in the other end of the building. American Aldes XMV-A4HP; 120 cfm. Johnson Air in Portland is the local American Aldes rep.

Fire Station 8:

There was a digital radon meter in the TV Room. It was reading 2.9 pCi/L The latest lab canister analysis results are 2.8 for the TV Room and 3.2 for the Dorm Room.

Rooftop HVAC units heat and cool these areas. Separate units serve the TV Room and Dorm Room. The Dorm Room had its thermostat set to continuously circulate air, which is the proper setting. The floors are slab on grade and the Dorm Room has under-floor ductwork in the slab.

The TV Room thermostat was set to only operate the fan when heating or cooling was required. This is not the proper setting for a continuously occupied space.

Recommendations

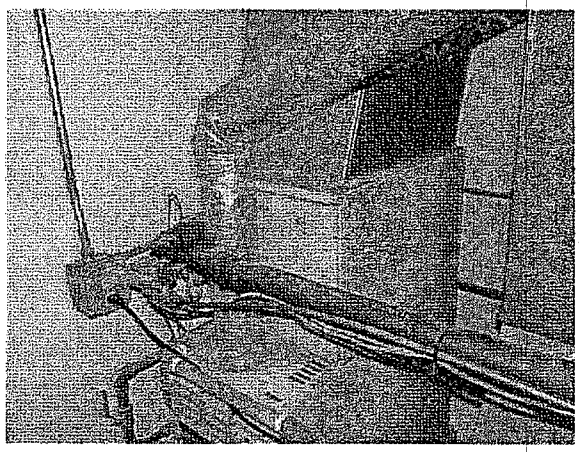
1. Make sure all thermostats remain in the Fan-On setting at all times.
2. Verify that outside air dampers are open in the rooftop HVAC units and about 10% of the airflow is outside air.
3. Place a digital radon meter in the Dormitory.
4. For the Dormitory HVAC system, increase the outside air intake and test to determine how much this improves the radon levels.
5. If increasing outside air to the Dormitory Room up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Apply epoxy lining to the ductwork embedded in the floor slab.
    c. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Fire Station 9:

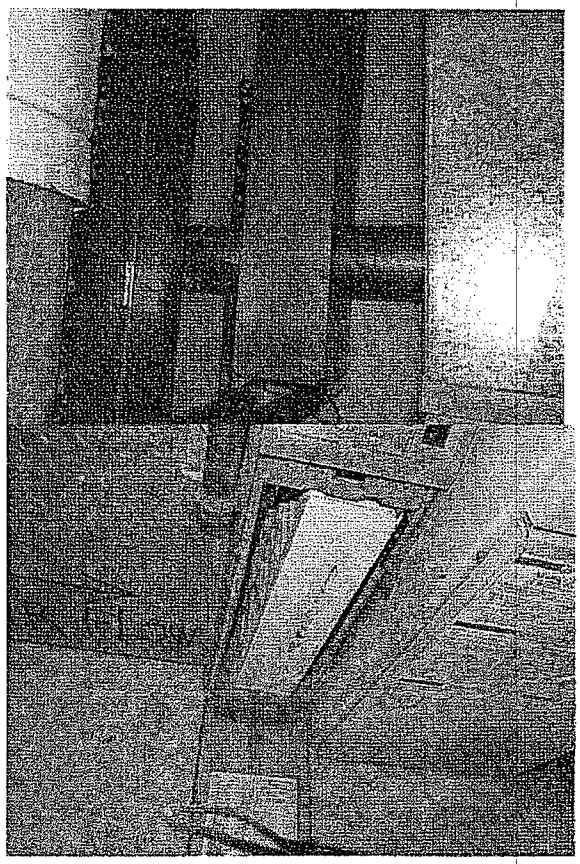
There was a digital radon meter in the Kitchen. It was reading 2.5 pCi/L. Note that instructions with the meters indicate the Kitchen is not the appropriate place to place the meter. The latest lab canister analysis results are 2.9 for the TV Room and 2.4 for the Dorm Room.

There are three HVAC systems at Station 9, Main areas to include TV Room, Dorm Room, and Classroom. The Classroom and Main/TV Room thermostats were in the Fan-Auto setting rather than Fan-On as they should have been.

The furnaces for the TV Room and Dorm Room were collocated in a mechanical room next to the Kitchen and TV Room. Several issues were noted with this installation:



- The most immediate concern is that the Armaflex foam rubber insulation on the refrigeration lineset is too close to the flue for Furnace #1. The flue appears to be a single-wall B-vent type flue and a 1-inch separation from combustible materials is required. ***This is a fire hazard and needs to be verified and corrections made as soon as possible.***



- Second, the outside air (OSA) ductwork for the furnaces appeared to be dampered off. The OSA ductwork is uninsulated and it may have been dampered off because it had condensation forming on it and dripping onto the floor and getting the ceiling wet where it penetrates the drywall. I turned the handles to what appeared to be the fully open position as seen in the photo at right. The damper position needs to be verified.

- There are electrostatic filter housings for the furnaces that have been converted to standard pleated filters. However, undersized filters are being used. 4-inch filters that are not tall enough to fully engage the filter frame are being used rather than the proper 5-inch, full-height filters. They are allowing significant amounts of unfiltered air to bypass the filters.

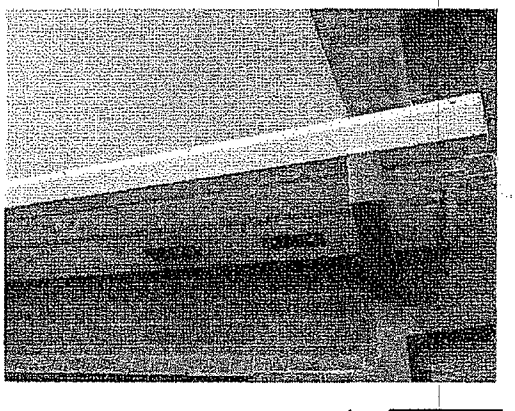
The Classroom HVAC unit is apparently on the roof. Radon readings should be taken in the Classroom to see if mitigation in this area is necessary.

For the Dorm Room and Main areas, both supply and return air grilles are located in the ceilings. Heating occurs most of the year and warm buoyant air in heating mode tends to stay along the ceiling and short circuit between supply and return grilles unless steps are taken to intentionally prevent this. This is critical for both thermal comfort and for proper ventilation to mitigate radon especially but other contaminants as well.

Recommendations

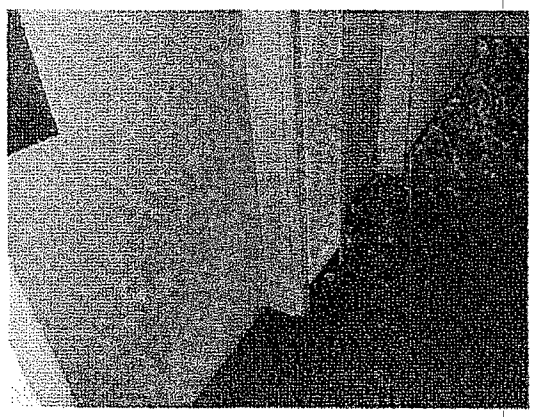
1. Verify/Provide adequate clearance between furnace flues and all combustibles.
2. Provide properly sized pleated replacement filters for furnace filter units.
3. Make sure all thermostats remain in the Fan-On setting at all times.
4. Verify that outside air dampers are open in the rooftop HVAC units and at least 10% of the airflow is outside air. Increase percentage of outside air as necessary (an as possible) to decrease radon levels.
5. Place a digital radon meter in the Dormitory.
6. Move the existing radon meter out of the Kitchen and into the TV Room.
7. If canisters in the Classroom record elevated radon levels, place digital radon meter in Classroom to monitor mitigation results.
8. For the HVAC systems, increase the outside air intake and test to determine how much this improved the radon levels. Additional and/or larger ductwork may be required for the Dorm and TV Room furnaces.
9. If increasing outside air up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Fire Station 4:

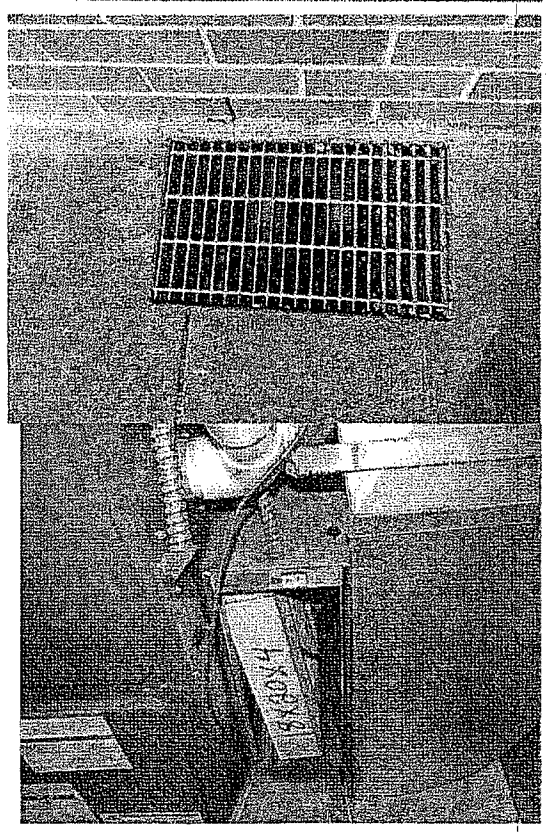


There was a digital radon meter in the TV Room. It was reading 5.7 pCi/L. The latest lab canister analysis results are 2.0 for the TV Room and 3.0 for the Dorm Room.

The HVAC system appears not to have outside air provided directly to it. There are not roof penetrations for OSA, but there is a possibility



OSA ducts extend from vents in the soffit soffit to return air ducts in the attic. Note that the attic is conditioned (the insulation is in the roof assembly, above the attic), so there is no reason to vent the soffit, other than moisture protection for the soffit, alone. Unless there is a good air-seal at the bird-blocking between rafters and joists at the wall top plates, there will be air leakage into the conditioned attic and significant heat loss (wasted energy) will result.



There are exhaust fans in the bathroom that could potentially mitigate the elevated radon levels. However, there is very little undercut under the bathroom doors. So very little exhaust is drawn from other spaces outside the bathrooms.

There are two Jenn-Air cook-tops in the Kitchen. They have downdraft exhaust systems that convey air through under-slab ducts to a well outside the building. This is a potential source of entry of radon into the space. We turned on one of the cook-top fans onto low speed and asked the firefighters to leave it on continuously to provide more fresh air and see if this helped lower the radon level measured by the meter nearby.

Furnace filters have the same issue described above for FS#9:

Thermostats for the Dorm Room and Classroom were set to Fan-Auto and the TV Room thermostat was set to Fan-On. We changed the Dorm and Classroom stats to Fan-On and they should stay that way.

Recommendations

1. Provide properly sized pleated replacement filters for furnace filter units.
2. Make sure all thermostats remain in the Fan-On setting at all times.
3. Run both Jenn-Air fans on low until other measures are taken to insure radon is not entering through their ductwork.

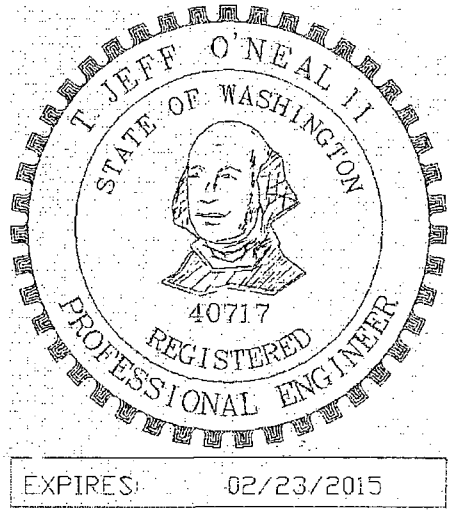
4. Provide Ruskin CDRS-25 round control dampers with blade seals in the Jenn_air exhaust ducts. Provide normally closed Belimo damper controller, connected to the damper for each range exhaust that opens when the fan turns on.
5. Verify that there is outside air to furnaces outside air dampers are open such that at least 10% of the airflow is outside air. Increase percentage of outside air as necessary (an as possible) to decrease radon levels.
6. Provide 22" x 14" Price STG, steel transfer door grilles with completely sight-proof core in each bathroom door.
7. Verify exhaust ductwork serving the Jenn-Air cook-tops is completely sealed with approved "nickel-thick" mastic, particularly between the floor and the new dampers.
8. Verify all floor penetrations for ductwork and other purposes are completely sealed.
9. Place a digital radon meter in the Dormitory.
10. For the HVAC systems, verify outside air is supplied to the furnaces, increase the outside air intake and test to determine how much this improved the radon levels. Additional and/or larger ductwork may be required for the Dorm and TV Room furnaces.
11. If increasing outside air up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Sincerely,

T. Jeff O'Neal II

T. Jeff O'Neal II, P.E.

10339



6/12/2013

TO: **The City of Vancouver**
ATTN: **Mike Shrum**
Facilities Contract Services Supervisor

Proposal for Architectural Services
Fire Station 1
Radon Mitigation / HVAC Upgrade Review

Dear Mike:

This proposal for work is prepared by Wilson Associates Architects and Planners (Architecture and Engineering), for the use of The City of Vancouver (Client). Unless otherwise noted, the fees proposed in the work order are firm. This proposal is valid for 90 days after the posted date.

The project consists of reviewing original construction documents and recent mechanical drawings for an upgrade of the HVAC system at the existing City of Vancouver Fire Station 1 located at 990 West Evergreen Boulevard. The purpose of the review is to determine existing fire separation locations and assist with resolving code questions with respect to fire damper requirements. Wilson Associates will also investigate possible inadequacies related to existing fire separations and associated opening protection.

Project Understanding
Wilson Associates will visit the existing Fire Station 1 and review Client-provided construction documents to determine probable fire separation locations. Following the site visit and existing construction document review, Wilson Associates will generate a report outlining the existing conditions and probable fire separation upgrade requirements. Wilson Associates will also review their findings, and probable solution(s) with the City of Vancouver Building Department. Following final resolution of the fire separation issues, Wilson Associates will provide the Mechanical Engineer-of-Record, McCann Engineering LLC, with information necessary for them to revise their system design for compliance with IBC requirements.

Work Proposed:

• Review of Existing Conditions	**$ 440.00**
• Architectural Code Research / Coordinate with Building Official(s)	**$ 460.00**
• Generate / Issue Report	**$ 200.00**
TOTAL:	**$ 1,100.00**

Exhibit 0

REIMBURSABLE EXPENSES
Reimbursable expenses shall be charged according to the attached rate sheet. For this project, we can provide a Not-To-Exceed reimbursable allowance of $50.

TOTAL (NOT-TO-EXCEED) **$ 1,150.00**

BILLING:
Billing shall be monthly based on a percentage of work completed.

Respectfully,

Andy Jacobson

Signed: _____

Dated: _____

Risk Management
415 W. 6th Street, 3rd Floor, P.O. Box 1995, Vancouver, WA 98668-1995
Phone: 360-487-8494 Fax: 360-487-8496

CLAIM FOR DAMAGES FORM

IMPORTANT: Please complete this form as completely as possible. Attach separate sheets if necessary.

PERSONAL INFORMATION

Name Wendy Ann Murray as Personal Representative of the Estate of Carl Murray Date of Birth 3/20/1962 Social Security No. _____ (Optional)
Current Address 13832 NW 10th Ct - Unit C City Vancouveer State WA Zip code 98685
Home phone no. 360-909-9271 Work phone no. _____ Mobile phone no. _____
Employer _____ If minor, name of parent or guardian: _____
Address at time claim arose (if different than above): 910 NW 92nd St, Vancouver, WA 98665

INCIDENT (TIME AND PLACE INJURY OR DAMAGE OCCURRED)

Date of Incident 1993 through 2013 Time of Incident When on duty during those years. ☐ a.m. ☐ p.m.

Exact location of occurrence: Fire stations 1, 2, 6 , and other City of Vancouver Fire Stations

Describe nature of incident (i.e., the conduct and circumstances that brought about the injury or damage)
(Be as detailed as possible)

See attached.

INJURY/DAMAGES

Describe the injury or property damage.

Wrongful death, survival, economic and non-economic damages from occupation radon exposures in City of Vancouver fire stations causing injury and death.

Medical treatment received? ☒ Yes ☐ No Name of doctor See attached.
Hospital treatment received? ☒ Yes ☐ No Name of hospital See attached.

Exhibit P

Are you covered by insurance? Please list your agent or carrier and policy #:
This is a firefighter line of duty tort claim against the City of Vancouver. The City of Vancouver is insured for liability claims.
This is not required by statute.

What is the amount of damages claimed? (Please include copies of receipts or estimates)
For tortious conduct of the City of Vancouver including outrage, gross negligence, negligence, survival and wrongful death.

Have you filed a claim with anybody else? If so, with whom?
This is a firefighter line of duty tort claim against the City of Vancouver. This is not required by the statute.

AUTOMOBILE CLAIMS ONLY

Name, address and telephone number of the owner of the vehicle involved, if different from operator:

WITNESSES (if any)

Please list the names of all persons involved and contact information, if known.
(Attach separate sheets if necessary)

Name See attached.
Address
Phone No.

Name See attached.
Address
Phone No.

OTHER HELPFUL INFORMATION

It is helpful for us to know as much as possible about the incident and what we might be able to do to help. Please include: who you talked to at the City and why you believe the City may be responsible.

The City of Vancouver has admitted that Carl Murray's death was caused by his line of duty exposures to smoke, fumes and toxic substances.
Carl Murray's death was caused by career exposure to radon in City of Vancouver fire stations resulting in terminal cancer.
See attached.

VERIFICATION

This claim form must be signed either by: (a) the claimant, verifying the claim, (b) pursuant to a written power of attorney, by the attorney in fact for the claimant, (c) by an attorney admitted to practice in Washington state on the claimant's behalf; or (d) by a court-approved guardian or guardian ad litem on behalf of the claimant.

(COMPLETE ONLY ONE SECTION)

CLAIMANT

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct..

Date _____ **Place signed:** _____ **Signature** _____

ATTORNEY IN FACT

I declare under penalty of perjury under the laws of the State of Washington that I am an attorney in fact for the claimant and that I am authorized to present this claim on his/her behalf. (Attach copy of documentation supporting attorney in fact relationship).

Date _____ **Place signed:** _____

Print Name _____ **Signature** _____

ATTORNEY AT LAW

I declare under penalty of perjury under the laws of the State of Washington that I am an attorney admitted to practice in the State of Washington, am in good standing, and am authorized by the claimant, who is my client, to file this claim on his/her behalf.

Date FEB 4, 15 **Place signed:** Olympia, Washington **Signature** Ron Meyers

Print Name Ronald G. Meyers ; **WSBA No.** 13169

COURT APPROVED GUARDIAN OR GUARDIAN AD LITEM

I declare under penalty of perjury under the laws of the State of Washington that I am a court-approved guardian or guardian ad litem for the claimant and am authorized to present this claim on his/her behalf. (Attach court documentation showing court approval of guardian/guardian ad litem appointment).

Date _____ **Place signed:** _____

Print Name _____ **Signature** _____

HOW TO SUBMIT THIS FORM

This form must be submitted to the City Risk Manager, Tim Haldeman. It may be mailed to Tim Haldeman, City of Vancouver Risk Manager, P.O. Box 1995, Vancouver, WA 98668-1995. The form may also be delivered to the City Risk Manager, 415 W. 6th Street, Vancouver, WA 98660; business hours are Monday through Friday 8:00 a.m. to 5:00 p.m. If the Risk Manager is not present, the following people are authorized to accept the claim in his absence: Liability Administrator (Susan Lindahl) or Risk Analyst (Jackie McGee).

This Tort Notice conforms with RCW 4.96.020

Wendy Ann Murray as Personal Representative of the Estate of Carl Murray
Claim for Tort Damages - City of Vancouver
Attachment to Notice of Tort Claim

Nature of Incident:

The City of Vancouver has known of the excessive radon levels in its fire stations at least since conducting radon testing at ten City of Vancouver fire stations in October of 2001. Carl Murray, a career firefighter and Fire Caption for the City of Vancouver, died on July 30, 2013 from lung cancer caused by radon gas poisoning after 19 years in various City of Vancouver fire stations. The City of Vancouver is liable for damages from its tortious conduct up to and including the death of firefigher Murray. *RCW 41.26.281.*

The City of Vancouver knew that radon level in the basements and other locations of its fire stations was above the permissible level. In buildings radon levels are usually highest in the basement. The City of Vancouver had its fitness equipment in the basements of fire stations where radon levels were beyond the permissible limit.

Radon gas in the air breaks down to other radioactive elements (radon progeny). Radon progeny are tiny radioactive particles that can lodge in the lining of the lungs, where they continue to break down into other radioactive elements by releasing radiation. The radiation released in this "radioactive decay" process can damage lung cells and eventually lead to lung cancer.

Because radon and its progeny are absorbed mainly by inhaling, and because the alpha particles they give off travel only a short distance, damage is concentrated in the lungs.

The evidence that radon causes lung cancer comes from studies in people and studies done in the lab.

The International Agency for Research on Cancer (IARC) is part of the World Health Organization (WHO). Its major goal is to identify causes of cancer. Based on the data available, IARC classifies radon and its progeny as "carcinogenic to humans."

The National Toxicology Program (NTP) is formed from parts of several different US government agencies, including the National Institutes of Health (NIH), the Centers for Disease Control and Prevention (CDC), and the Food and Drug Administration (FDA). The NTP has classified radon as "known to be a human carcinogen."

The US Environmental Protection Agency (EPA) monitors the human health effects from exposure to various substances in the environment. The EPA lists radon as the second leading cause of lung cancer and the number one cause of lung cancer among non-smokers.

The City of Vancouver failed in its duties to protect its firefighters from Radon gas poisoning. The failure in its duties occurred at times when the City of Vancouver knew of excessive levels of radon gas in its fire stations, failed to warn firefighters of the toxic levels of radon, and failed to property mitigate high-levels of radon gas in the City's fire stations, all of which led to the early, tragic, and unnecessary death of firefighter Carl Murray. *WAC 296-305.*

The City of Vancouver had a non-delegable duty to provide a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to its employees.

RCW 49.17.060 Employer — General safety standard — Compliance.
Each employer:
(1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees: PROVIDED, That no citation or order assessing a penalty shall be issued to any employer solely under the authority of this subsection except where no applicable rule or regulation has been adopted by the department covering the unsafe or unhealthful condition of employment at the workplace; and
(2) Shall comply with the rules, regulations, and orders promulgated under this chapter.

At all time material to Plaintiff's claims it was law that WAC 296-305 "shall" be considered as the firefighter safety standards for the state of Washington. *WAC 296-305-01003(3).*

City of Vancouver had a duty to provide a safe work place and to comply with the safety and health standards to achieve the safest workplace reasonably attainable under the conditions to which firefighters will be exposed. *WAC 296-305-01001.*

WAC 296-305-01509 Management's responsibility.
(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:
(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.

City of Vancouver was required to furnish and require the use of appropriate safety devices and safeguards. All work methods, and operations are required to be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the safety and health of employees. *WAC 296-305-01513.*

City of Vancouver duty to comply with the safety and health standards to achieve the safest workplace reasonably attainable under the conditions to which firefighters will be exposed applied to "any and all activities, operations and equipment." *WAC 296-305-01003.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver knew that radon gases in the basements of fire stations created a "hazardous atmosphere" for firefighters such as Carl Murray, deceased, by being in the basements, by working out strenuously in the basements, by direct contact, by inhalation and by ingestion. *WAC 296-305-01005.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver knew that radon gases in the basements of fire stations were being transferred to firefighters such as Carl Murray by being in the basements, by working out strenuously in the basements, by direct contact, by inhalation and by ingestion. *WAC 296-305-01005.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material and had a duty to report any injury or illness that firefighters such as Carl Murray experienced within eight hours of an incident related hospitalization or fatality. *WAC 296-305-01501.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material and had a duty to identify the hazardous gases, chemicals or materials involved. *WAC 296-305-01505.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal levels of radon gases and had a duty to provide good record keeping and safety training to identify and correct safety and health hazards including radon gas exposures in the basements of City of Vancouver fire stations. *WAC 296-305-01507.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver failed to comply with it mandated Hazard Communication Program – a procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees, including exposures that cause cancer. *WAC 296-305-01005; WAC 296-800-170.*

City of Vancouver failed to provide a safe work place. City of Vancouver failed to properly train command personnel. City of Vancouver failed to comply with the Washington Industrial Safety and Health Act, including but not limited to RCW 49.17.060.

City of Vancouver failed to comply with the Washington Administrative Code, including but not limited to Chapter 296-305 Safety Standards for Fire Fighters, thereby causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver failed to comply with its own regulations and policies, thereby causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care to Carl Murray, now deceased, thereby causing his radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care by acting negligently, recklessly and outrageously, thereby causing his radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care by causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death caused economic and non-economic damages including loss of consortium damages of Wendy Ann Murray his spouse at the time of his death and damages to other statutory beneficiaries.

Carl Murray's name has been engraved on the Fallen Fire Fighter Memorial in Colorado along with his IAFF Local #452 and July 30, 2013 date of death. His memory was honored at the Washington State Fallen Firefighters Memorial Service on June 1, 2014. The City of Vancouver has admitted that his lung cancer death occurred in the line of duty.

Medical and Hospital Providers:

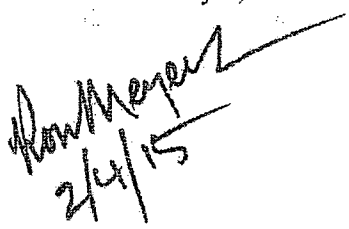
1. Urgent Care on Hwy 99 in Hazel Dell, Vancouver
2. Dr. Levine-Wellness doctor for the VFD
3. Vancouver Clinic-Salmon Creek
4. Shawn He-Salmon Creek Medical Center Oncologist.
5. Dr. Alan Sandler-OHSU
6. Dr. Lopez Chavez-OHSU
7. Dr. Paul Schipper-OHSU Surgeon
8. Dr. Charles Thomas-Radiation Oncology
9. Dr. John Holland-Radiation Oncology-OHSU
10. Dr. Martin Fuss-Radiation Oncology-OHSU
11. Emergency Room-OHSU
12. Knight Cancer Center for Chemotherapy
13. Dr. Hank Kaplan-Swedish Hospital Seattle
14. Dr. Naou Kim-Surgeon Swedish
15. Chemotherapy
16. Seattle Radiology
17. Dr. Kaplan had an infectious disease specialist work with Carl for quite some time.
18. Dr Louise Tolzmann- Primary care physician
19. Dr. Dwight McKee.
20. Dr. Grunburg- Final Oncologist Compass Oncology over in Portland at Peterkort Location
21. Hospice prescribed by Dr. Grunburg
22. Legacy Salmon Creek Hospital
23. District Six Fire Department
24. American Medical Response
25. The Weisenthal Clinic in California

Witnesses:

Wendy Ann Murray
Madeleine Bloom
Olivia Bloom
Sophie Murray
Seth Minor
City of Vancouver Employees
City of Vancouver Fire Department Personnel, current and former
City of Vancouver Independent Contractors and Agents
Expert witnesses for liability and damages

Spoliation:

See letter dated February 4, 2015.



Wednesday, June 07, 2017
Time: 14:22:53 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

I, Scott Weber Clark County Clerk **and ex-officio clerk of the** Clark County Superior Court **in the State of Washington, certify that the document** SerialID: 02XXXXX17671112029XX231627642 **containing** 99 **pages that was transmitted is a true and correct copy of the original that is of record in my office and that this image of the original has been transmitted pursuant to statutory authority under RCW 5.52.050. In Testimony whereof, I have electronically certified and attached the Seal of said Court on this date.**

Scott Weber
County Clerk

Kathy Croft

Kathy Croft

Date: Wednesday, June 07, 2017

Instructions to recipient:
If you wish to verify the authenticity of the certified document that was transmitted electronically by the Court, Sign on to www.ClerkePass.com, and Login As "User" & enter SerialID: 02XXXXX17671112029XX231627642 **. If you want to present this document to others, please ask them to Register & Login as "Viewer". The copy associated with this number will be displayed by the Court.**

APPENDIX B

Document SerialID: 02XXXXX17671112014XX231627636
Wednesday, June 07, 2017
Time: 14:24:36 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

JUDGE'S COPY

FILED
MAY 16 2016
Scott G. Weber, Clerk, Clark Co.
204p

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries, Plaintiff, v. CITY OF VANCOUVER, a municipal subdivision of the State of Washington, Defendant.	Cause No.: 15-2-04119-7 DECLARATION OF WENDY MURRAY IN OPPOSITION TO DEFENDANT'S CR 56 MOTION FOR PARTIAL SUMMARY JUDGMENT

PURSUANT TO RCW 9A.72.085, Plaintiff Wendy Murray declares as follows:

1. I am over the age of 18 years and am competent to testify. I am the Plaintiff Personal Representative for the Estate of my deceased husband, Carl Murray. I have read the Notices of Tort Claims. I have read the Complaints and the City of Vancouver's Answers. I have now read much of the discovery and the Defendant's answers and responses thereto regarding radon. This was not made available to Carl or I before his death.

2. As of March 15, 2016, although the City of Vancouver admits that Carl's lung cancer was occupational, it denies every allegation that radon was responsible for Carl's lung cancer and his death from metastatic lung cancer. This is consistent with what the City of Vancouver told Carl and me. It is why Carl's obituary in the Columbian says his lung cancer was "caused by countless exposures to toxic materials related to fire fighting." *See attached exhibit A.*

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

PMC

3. After reviewing the Public Record Act responses from the City of Vancouver and some of the discovery responses related to radon, it is clear that the City of Vancouver failed to inform Carl, during his over twenty year career as a firefighter, that he was being exposed to high levels of radon in City of Vancouver Fire Stations or that the levels were far above the 4 pCi/L (picoCurie per liter of air) limit I have now come to know require mitigation and ongoing monitoring and ongoing mitigation.

4. I have read the City of Vancouver's briefing and reviewed the declarations and exhibits in its motion for partial summary judgment. It is accurate that Carl and I knew that he had lung cancer. It is accurate that the City of Vancouver allowed the claim as a presumptive occupational disease claim. It is not accurate that Carl or I were ever told that his lung cancer was caused by radon exposure in the City of Vancouver Fire Stations. We were told by City of Vancouver employees that the cancer was the result of his career exposures in fire suppression and hazardous material responses. The City of Vancouver never said that Carl's cancer was associated with decades of radon exposure in the City's Fire Stations. The City of Vancouver employees never mentioned that radon had contaminated many of the Fire Stations for decades. The City of Vancouver employees never told us about the high levels of radon that had been present in its Fire Stations during Carl's entire career.

5. When Carl first received his diagnosis of lung cancer, our first questions to the doctors were about why and how this happened. Our understanding was that Carl's cancer was a result of his professional exposure as a firefighter. Carl filed a worker's compensation claim and provided a recorded statement.

6. We met with an investigator from Labor and Industries. The investigator spent several hours in our home asking about family history, whether or not Carl was ever a smoker, and about Carl's extracurricular activities. There was no mention of radon in City of Vancouver fire stations as a potential cause of Carl's lung cancer. In fact, the word radon was never mentioned by any of us. Again, the City of Vancouver never said that Carl's cancer was associated with decades of radon exposure in the City's Fire Stations. The City of Vancouver employees never mentioned that radon had contaminated many of the Fire Stations for decades. The City of Vancouver employees never told us

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

about the high levels of radon that had been present in its Fire Stations during Carl's entire career.

7. We also met with Dr. Alan Sandler at OHSU and the rest of the medical team, including surgeons and pathologists, we discussed possible causes of Carl's cancer. Radon was never discussed as a potential cause. Carl would explain that he was a firefighter and again the presumption was that the City of Vancouver had determined that his diagnosis was work related. Again, the City of Vancouver never said that Carl's cancer was associated with decades of radon exposure in the City's Fire Stations. The City of Vancouver employees never mentioned that radon had contaminated many of the Fire Stations for decades. The City of Vancouver employees never told us about the high levels of radon that had been present in its Fire Stations during Carl's entire career.

8. We also met with Dr. Henry Kaplan at Swedish Medical Center in Seattle and several of the medical team, including surgeons, to discuss the possible causes of Carl's cancer. Once again, radon was never discussed as a potential cause. Carl would explain that he was a firefighter and again the presumption was that the City of Vancouver had determined that his diagnosis was work related. Again, the City of Vancouver never said that Carl's cancer was associated with decades of radon exposure in the City's Fire Stations. The City of Vancouver employees never mentioned that radon had contaminated many of the Fire Stations for decades. The City of Vancouver employees never told us about the high levels of radon that had been present in its Fire Stations during Carl's entire career.

9. We also met with Dr. Louise Tolzman, Carl's naturopath. We discussed possible causes of Carl's cancer with her. Once again, radon was never discussed as a potential cause. Carl would explain that he was a firefighter and again the presumption was that the City of Vancouver had determined that his diagnosis was work related. Other than Carl's treatment and curing cancer we talked about what Carl could do to mitigate his exposure to smoke when he returned to work. We purchased an infrared sauna to help Carl's body cleanse the toxins that Carl was exposed to in his fire responses. Again, the City of Vancouver never said that Carl's cancer was associated with decades of radon exposure in the City's Fire Stations. The City of Vancouver employees never mentioned that radon had contaminated many of the Fire Stations for decades. The City of Vancouver employees never

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

told us about the high levels of radon that had been present in its Fire Stations during Carl's entire career.

10. I gave that sauna to Randy Marler, a friend and co-worker of Carl's, after Carl's death. I wanted to help him reduce toxic exposure from fighting fires.

11. We believed that Carl was going to beat his cancer. We were convinced that his cancer came from his career exposures as a professional firefighter. Carl discussed the possibility of Dr. Tolzman delivering a training session to the other firefighters about the importance of changing out their turnouts after a fire, in addition to other measures including diet, and supplements they could use to help limit their exposure to toxins during fires and overhaul. She did make that presentation. Carl became a serious advocate for firefighters doing everything they could to minimize their smoke toxin exposure. None of this was directed at the radon in the City of Vancouver fire stations.

12. We retained an employment attorney, Greg Ferguson, to help us when it appeared that the City of Vancouver was going to fire him. In our meetings with Greg there was never any mention that a possible cause of Carl's cancer was from radon. We had a meeting with several City of Vancouver employees about Carl's cancer. There was no discussion of radon. There was not even a mention of radon.

13. When it finally became clear to Carl that he wasn't going to beat the cancer, Carl was placed on hospice in our home. Here at home he met with City of Vancouver firefighters Mark Johnston, Dennis Walker, and I believe Rick Steele. He wanted them to give a message to his fellow firefighters. Carl's message he wanted told was for firefighers to take care of themselves and to change their turnouts. Radon was never mentioned in his final message to his fellow firefighters.

14. Carl passed away on July 30, 2013. Carl's Death Certificate lists "metastatic lung cancer" as his cause of death. The cause of Carl's lung cancer is not listed. His cause of death is listed as "natural."

15. The initial Public Records Act disclosures provided by the City of Vancouver on October 28, 2013 was when I became aware of the high levels of radon in City of Vancouver Fire Stations. The

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

more recent disclosures about the City's failures to address the level of radon above the 4 pCi/L of radon that require mitigation are appalling. Carl did not have to die.

16. Up until the time of his death, no cause other than his exposures responding to calls was even been mentioned by any of Carl's doctors as the cause of his lung cancer. None of them ever even mentioned radon.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 12th day of May, 2016 at Vancouver, Washington.

Wendy Murray

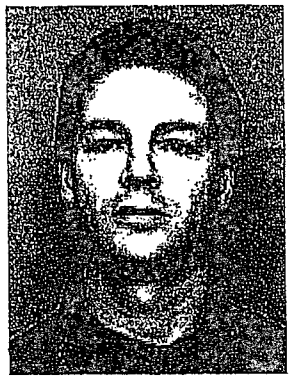
WENDY MURRAY

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

EXHIBIT A

Document SerialID: 02XXXXX1767111201 4XX231627636
POOR QUALITY ORIGINAL

Carl Murray



CARL MURRAY
March 20, 1962 ~ July 30, 2013
" *Fire Captain, Husband and Father,*
Carl Murray, died in the line of duty helping others."

Vancouver Fire Captain, Carl "The Nit Brit" Murray, 51, was pulled away from his family, friends and the community that he served for over 21 years late Tues. evening, July 30, 2013. His departure comes after an exhausting and heroic battle with cancer caused by countless exposures to toxic materials related to fire fighting. Carl was at home in Vancouver, WA, surrounded by family and friends when he slipped away to find comfort, relief and ultimate peace. His passing will leave an enormous void in the hearts of everyone who ever had the honor and pleasure of knowing him. Memories of his wit, charm and childish humor will surely help to bridge that void when time allows.

Carl was born in Manchester, England on March 20, 1962, where he grew up developing a tremendous love of soccer. As a young man, he joined the Royal Navy and traveled around the world playing soccer for the Navy.

Carl later moved to the United States, earned his U.S. citizenship and in 1992 he relocated to Washington state.

On May 26, 1992, Carl was hired by The City Of Vancouver as a firefighter. Firefighter Murray was a standout and an immediate favorite amongst his rookie peers. With his thick, British accent, wild sense of humor, boundless energy and exemplary work ethic, he became fast friends with everyone in the department and on Aug. 12, 2003, Carl was promoted to the position of Fire Captain. Captain Murray's dedication and commitment to his career and those he would serve was evident from the moment he first put on that dark blue Fire Dept. uniform and his enthusiasm for the job he loved never dimmed. In his final days, he continued to provide impeccable service, strong, thoughtful leadership, genuine inspiration and uncontainable laughter to everyone around him.

Captain Murray also served on the Executive Board of The International Association of Firefighters, Local 452 for several years where he brought a unique and considerate perspective, as well as a great deal of comedy, to a myriad of serious topical debates. His thoughtful, sometimes politically incorrect, and often hilarious views and opinions will be remembered for years and missed forever.

As a husband and a father, Carl will be remembered as simply amazing. From coaching to cooking, potty training to home remodeling, Carl was a true man's man as well as a true family man. From the children whose lives he helped to shape, to the wife he admired and adored, the evidence of his devotion and commitment to family is heaped in every corner of their lives.

His energy, love and humor spilled over
into everything he did with his wife Wendy
and their combined family of seven children.

Throughout their lives, Carl was immersed in youth sports, both coaching and supporting, participating in many other children's programs and school related activities.

Carl continued to play soccer throughout his life, playing for the Madison 56ers in Wisconsin, and as an original and founding member Portland, Kels FC. Even while battling his illness, he continued to play as a member of Fat Tuesday's soccer team of Vancouver, WA. A former player recently stated; *"As a player, I gotta say, he scared the crap out of me, and that was when I was playing WITH him. I seriously feared for the other team's well being. Over the past 15 to 20 years of coaching, the image of Carl and his powerful voice, volume, tone and accent combined with the way he carried himself on the field, so LOUD and confident, when playing the center back position continues to come to mind when I talk with players and coaches about the importance of being tough. It was not a chest thumping tough or a trash talking kind of tough. Just really, REALLY tough. I look at pro athletes today and wish more could be like him."*

In addition to soccer, Carl also enjoyed a wide variety of other outdoor activities including, kayaking, tennis, running, cycling and swimming, and completing the Portland marathon and several triathlon's.

Carl was an immeasurable asset
to his community whether on duty or off
and a generous friend to all who knew him.

He was always there with a truck or the tools or just another strong back when there was work to be done. His perpetual grin

and infectious sense of humor made even the most boring or menial tasks worth participating in.
Carl has left behind an enormous group of fantastic friends as well as a large and amazing family including his wife; Wendy Murray of Vancouver, WA; children, Hailey Coxon of the Isle of Man, UK and Olivia Murray, Quinn Murray and Sophie Murray, all of Vancouver, WA; step-daughters, Madeleine Bloom of Seattle, WA and Olivia Bloom of Vancouver, WA; step-son, Seth Minor of Vancouver, WA; mother, June Murray of Blackpool, England; father, James (Steve) Murray of the Isle of Man, UK; sister, Nicola Atanassova of Poulton-Le-Fylde, England; brother, Simon Murray of Brighton, England; sister-in-law, Clare Murray of Brighton, England; grandson, Maddox Murray of Vancouver, WA; nieces, Molly Atanassova of England and Mazie Murray and nephew, Max Murray, both of Brighton, England. Because of his lovable personality and outgoing nature, Carl had an amazing ability to develop relationships and has left behind countless friends all over the world.
Carl's wife Wendy would like to extend her prayers,
love and support to all of Carl's brothers and sisters at the
Vancouver Fire Department. She also wishes to offer a truly heartfelt thank you for all that you have done for her and her family.
"I don't know what I would've done without all of you."
A memorial service for Carl is scheduled for Mon., Aug. 5, 2013 at 11:00 a.m. at the First Church of God, 3300 NE 78th St., Vancouver, WA.
A reception and celebration of Carl's life will follow the service at the Vancouver Fire Fighters Union Hall, 2807 NW Fruit Valley Rd., Vancouver, WA.
In lieu of flowers, please make donations to the Vancouver Fire Fighters Union, Local 452 Peer Charity fund.
Please sign his guestbook at: www.columbian.com/obits.

Evergreen Memorial Gardens

Published in The Columbian on August 3, 2013

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON, IN AND FOR THE COUNTY OF CLARK

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020	No. 15-2-04119-7
Plaintiff/Petitioner	
VS.	DECLARATION PURSUANT TO GR 17(a)(2)
CITY OF VANCOUVER, a municipal subdivision of the State of Washington	
Defendant/Respondent	

I declare as follows:

1. I am the party who received the foregoing email transmission for filing.
2. My address is: 310 SW 4th Avenue, Suite 440 Portland, Oregon 97204.
3. My phone number is 503-727-3100.
4. I have examined the foregoing document, determined that it consists of 9 pages, including the signature page and this Declaration page, and that it is complete and legible.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated:,05/16/2016 at Portland, Oregon.

Signature: _____
Print Name: Laurice Averill

Wednesday, June 07, 2017
Time: 14:24:36 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

I, Scott Weber Clark County Clerk **and ex-officio clerk of the** Clark County Superior Court **in the State of Washington, certify that the document** SerialID: 02XXXXX17671112014XX231627636 **containing** 9 **pages that was transmitted is a true and correct copy of the original that is of record in my office and that this image of the original has been transmitted pursuant to statutory authority under RCW 5.52.050. In Testimony whereof, I have electronically certified and attached the Seal of said Court on this date.**

Scott Weber
County Clerk

Kathy Croft

Kathy Croft

Date: Wednesday, June 07, 2017

Instructions to recipient:
If you wish to verify the authenticity of the certified document that was transmitted electronically by the Court, Sign on to www.ClerkePass.com, and Login As "User" & enter SerialID: 02XXXXX17671112014XX231627636 **. If you want to present this document to others, please ask them to Register & Login as "Viewer". The copy associated with this number will be displayed by the Court.**

Document SerialID: 02XXXXX17671112008XX231627635
Wednesday, June 07, 2017
Time: 14:23:04 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

JUDGE'S COPY

FILED
MAY 16 2016
Scott G. Weber, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries, Plaintiff, v. CITY OF VANCOUVER, a municipal subdivision of the State of Washington, Defendant.	Cause No.: 15-2-04119-7 PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S CR 56 MOTION FOR PARTIAL SUMMARY JUDGMENT

I. RELIEF REQUESTED BY PLAINTIFF

RCW 49.17.060 Employer—General safety standard—Compliance.
Each employer:
(1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees . . . ; and
(2) Shall comply with the rules, regulations, and orders promulgated under this chapter.
[bold, underline emphasis added]

WAC 296-305-01509 Management's responsibility.
(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:
(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.
. . .
(2) The fire department shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.
. . .
(6) The fire department shall develop and maintain a hazard communication program as required by WAC 296-800-170, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.
. . . . [bold, underline emphasis added]

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

PMC

WAC 296-305-01003 Scope and application.

. . .

(2) The provisions of this chapter apply to all firefighters and their work places . . . .

. . .

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries. **In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply**.

A. The firefighter right to sue statute does not limit Plaintiff's causes of action.

RCW 41.26.281 Cause of action for injury or death
If injury or death results to a member from the **intentional or negligent act or omission** of a member's governmental employer, the member, the widow, widower, child, or dependent of the member shall have the privilege to benefit under this chapter **and also have cause of action against the governmental employer as otherwise provided by law**, for any excess of damages over the amount received or receivable under this chapter. [bold, underline emphasis added]

The "firefighter right to sue statute" allows claims for intentional or negligent acts or omissions. Additionally, the statute also allows claims "as otherwise provided by law" arising from reckless of other conduct. It contains no provision against imposition of strict liability on Defendant. All of Plaintiff's causes of action are viable based upon the Defendant's reckless and continuing acts and omissions.

The statute of limitations does not run until the Plaintiff is told that the occupational lung cancer that killed her husband Carl Murray did not come from smoke, fumes and toxic substances but was caused by radon exposures inside its own fire stations that the City knew about for decades – and had an ongoing and continuous duty to tell its firefighters about – but said nothing.

The Defendant's Motion for Partial Summary Judgment should be denied in its entirety.

II. FACTS

A. Statutes of limitation have yet to begin to run under the "discovery rule".

All aspects of the relief sought by the Defendant should be denied. The statute of limitations did not run as to any cause of action because the Defendant recklessly failed to place its firefighters on notice of lethal levels of radon in City of Vancouver fire stations for decades. Such notice – each time there was a radon reading in the Defendant's fire stations – is mandatory. *See, WAC 296-305 Safety Standards for Fire Fighters*. The duty to inform firefighters of hazards they are exposed to is non-delegable. The

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

identify what fire stations, and on what dates, Carl Murray had been assigned during his career, Defendant "data dumped" over 73,000 pages listing every station, and every firefighter, assigned to every fire station for the 20 years. This is discovery abuse subject to another motion on another day. A CR 26(i) conference has been held on this issue – and others.

Reckless conduct in allowing ongoing exposure to lethal exposures of radon over decades – while ignoring the mandatory safety standards – requiring reporting of the ongoing radon hazard in Defendant's fire stations – leaves the outrage claim viable. Defendant's "certainty of outcome" defense is not a requirement for this cause of action. Survival and loss of consortium damages are provided by statute to certain statutory beneficiaries such as surviving spouses. Strict liability is a tort based claim also allowed under Washington tort law. How could any person or entity be so callous as to deprive firefighters of knowledge regarding ongoing exposures to lethal levels of radon – a Group 1 carcinogen. ER 201.

RCW 51.32.185 presumes that all respiratory diseases in firefighters are caused by smoke, fumes and toxic substances due to the nature of emergency responses firefighters make when lives and property are in danger. The Defendant admits that Carl Murray's lung cancer was occupational – but denies the lethal levels of radon contamination throughout the Defendant's fire station had anything to do with his death. Therefore, the statute has not even begun to run. Medical testimony is coming – and when it does come – the statute begins to run and the Defendant will be squarely engaged in the causation litigation it denies to date.

The Defendant recklessly failed to record levels of radon frequently over several decades, to continuously report the levels of radon to firefighters, to mitigate the lethal levels of radon exposure to firefighter, and to eliminate the exposures of firefighters to radon in its fire stations as it was required by law to do. Outrageous.

Subjecting firefighters to lethal doses of radon for years – and not telling them about it – when the law requires the Defendant to inform and correct radon exposures tolls any statute of limitations. Not all elements of the causes of action sufficient to start the statute were made known to the Plaintiff or

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

duty to be informed is a firefighter mandated right – and the duty to inform is the sole obligation of the Defendant. Sadly, but to the Defendant's detriment in this argument, it continues to deny a relationship between Carl Murray's occupational lung cancer and the lethal levels of radon in its fire stations. Defendant's conduct continues to be reckless – just as it has been for decades.

The Defendant's acts and omissions in failing to report hazardous conditions in fire stations as mandated by fire fighter safety standards law invokes the discovery rule and tolls any running of the statute.

Furthermore, at this early stage in this case, there is not yet medical testimony on causation of Carl Murray's lung cancer by lethal exposures to radon. Defendant has admitted that Carl Murray died of occupational lung cancer. His name is engraved on the Fallen Firefighter Line of Duty Death walls in Washington at the Training academy at North Bend and in Colorado proving his line of duty death as a firefighter. The cause of his line of duty death – is for medical experts. There will likely be several. It is important to review the case law and facts on this point.

The statute of limitations does not even begin to run until there is medical causation evidence that radon caused – or was a cause – of Carl Murray's death. The Defendant acknowledges only that smoke, fumes and toxic substance exposures while responding to fires as a public servant was <u>the</u> cause of his cancer.

As discovery continues – radon causation testimony will be available before any discovery cutoff and in more than enough time to be heard by the jury. There is no need for the Defendant to rush to judgment. Full, fair and <u>responsive</u> discovery is a prerequisite to real justice.

Res ipsa loquitur also applies in this case even though there <u>may</u> be more than one proximate cause of Carl Murray's lung cancer. Discovery is continuing but not without a significant amount of discovery abuse from Defendant. In light of the almost 200,000 page "data dump" received by Plaintiff from Defendant to date, there will likely be motions' practice to compel more responsive documentation to the requests actually made by the Plaintiff.

As an example as to why this is already necessary – when Defendant was simply requested to

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

any of Defendant's firefighters until Defendant finally provided thousands of pages of radon documents to Plaintiff in discovery less than three years ago. This material is now under review by Plaintiff's consultants. Information regarding Carl Murray's exposures has yet to be shared with Plaintiff's experts because Defendant's discovery abuse prevents meaningful review and analysis of his exposures. It is telling that in a prior Public Records Act request, the Defendant provided less than a thousand pages. During recent discovery the page count swelled to more than ___ pages in response to radon-related discovery. Then when only limited data was requested – the Defendant responded with over 73,000 pages – almost all it was non-responsive.

Default judgment for all causes of action based upon Defendant's acts and omissions cannot be ruled out at this date. Plaintiff has yet to sort out the Defendant's "data dump". It appears court intervention will be required.

What is clear is that the statute of limitations has not yet begun to run. The statute could not even begin to run until the Defendant's disgorging of radon contamination data – less than three years before this lawsuit was filed.

Although Carl Murray was not told about the lethal doses of radon being released in Defendant's fire stations – because the Defendant was reckless and derelict in its duties to follow firefighter safety standard mandates – and in carrying out its mandatory responsibilities over decades – the Defendant wants to use its own acts and omissions in suppressing notice to firefighters of this lethal danger – as a defense. After failing to put its firefighters like Carl Murray on notice it now attempts to hide behind a statute of limitations defense. That the Defendant failed to tell the firefighters of the ongoing and lethal levels of radon in its fire stations – while suggesting they simply check their own homes – is outrageous. The Defendant knew of the radon in the fire stations and did nothing but let the lethal exposure levels of radon continue to harm firefighters for years and years and years. That is extreme. It is indecent. It may – in the end – be criminal.

Defendant's conduct likely violates state and federal law. An argument for another day – but clearly summary judgment is premature – and unlikely in any event to be determined in Defendant's favor.

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

The Defendant cannot claim the statute of limitation defense when – year, after year, after year – it recklessly and illegally disregarded legislative mandates requiring Defendant to inform firefighters of dangerous conditions in their workplace and failed to inform now-decedent Carl Murray and other firefighters of their lethal exposures to exceptional levels of radon in Defendant's fire stations.

That Defendant advised firefighters to test their homes for radon levels "to protect yourself and your family" is meaningless in the context of Defendant violating its firefighters' right to know about lethal doses of radon in fire stations from the firefighters who worked there. It is an extreme and it is an outrageous "suggestion" when the Defendant knew that its fire houses were hotbeds of lethal radon exposures. Reckless, extreme, outrageous conduct by acts and omissions – and a jury will tell us all whether Plaintiff is right or wrong. But, this is a question for the jury given decades of extreme acts and omissions recklessly placing firefighters in harms way – and not a harm firefighters knew about, accepted, understood, were told about or could make a reasoned determination about. Firefighters do not have this responsibility. Carl Murray did not have this responsibility. The Defendant did. The Defendant does. The duty of the Defendant is not delegable. Defendant's conduct was, and is, outrageous. Plaintiff deserves her day in court on each and every issue raised in her Complaint.

Plaintiff agrees that the firefighter "right to sue" statute does subject damages to offset by specific categories of damages paid by the Defendant. However, the Defendant has refused to provide the figures and formulas for Defendant's calculations regarding the offset. These calculations will no doubt require careful, expert scrutiny.

RCW 41.26.281 does not limit the claims set forth in Plaintiff's Complaint. *See, Complaint.*

B. Causes of action in Plaintiff's Complaint are provided for in the firefighter right to sue statute.

Defendant's attempt to impute medical causation knowledge to Carl Murray based upon public service announcements that made no mention of lethal levels of radon in fire stations is frivolous. There is no evidence of medical opinion causation present in the record. There is trivialized information in 2001 regarding radon – but no followup – and no notice that it is a cause of lung cancer or that mitigation efforts were dismal failures that did not correct the radon exposure issues in City of

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Vancouver fire stations. The Defendant's attempt to run out the statute – is inconsistent with the Defendant's failure to even disclose radon levels in fire stations to its firefighters as required by law. The Defendant was derelict in its responsibilities to inform its firefighters about the risks they were being knowingly exposed to by their government employer.

III. ISSUES

1. Whether the statute of limitations can even begin to run when Defendant violates the mandatory firefighter safety laws and fails to inform firefighters of lethal levels of radon in its fire stations? **NO.**

2. Whether there are legal bars to any of the multiple causes of action filed in the Complaint by the Plaintiff against the Defendant? **NO.**

IV. EVIDENCE RELIED UPON

Plaintiff relies upon the records and pleadings herein, the declaration or Ron Meyers and exhibits, the declaration of Wendy Murray, and the fact that the Defendant continues to deny any relationship between lethal levels of radon in Defendant's fire stations as a cause of Carl Murray's lung cancer. The Defendant has not established medical causation – or knowledge of medical causation of this invidious occupational disease – necessary to even start the statute of limitations running. There was no basis to do so until the Defendant disgorged its records evidencing its reckless disregard for firefighter safety in recent discovery.

The discovery rule is the only equitable means by which a statute of limitation fairly can be applied to survival and wrongful death actions in cases where the Defendant failed to provide ifs firefighters with knowledge of an invidious occupational disease – it was withholding in violation of law every year (sometimes several times a year) for years and years and years. On other occasions the Defendant would go for years without even a single radon measurement in its fire stations.

V. LAW AND ARGUMENT

The Defendant's attempts to restrict the power of the firefighter "right to sue" statute, and other Washington law, must fail.

Negligence.

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

The elements of negligence are duty, breach, proximate cause, and damages. The statute of limitations does not run in Washington until the Plaintiff knows of the cause of his occupational disease. The statute of limitations does not run while the fact of lethal doses of radon are being concealed by his Defendant employer – especially in the presence of an affirmative duty to report such danger.

Passing on data about radon in homes did nothing to inform Carl Murray that his life was going to be cut short because of the City's reckless disregard of the lethal levels of radon in its fire stations. The Defendant's unrelated public service message about radon in homes did nothing to put Carl Murray on notice of Defendant's reckless disregard of radon levels in fire stations or to comply with firefighter safety standards regarding dangers to life and health. It did nothing to establish causation.

Wrongful Death.

*White v. Johns-Manville Corp.*103 Wash.2d 344, 358-360, 693 P.2d 687 (1985):

> We decline defendants' invitation to rule either that, as a matter of law, a survivorship action "accrues" at the time of death, or is barred if it was not actually or constructively discovered by the decedent during his lifetime. RCW 4.20.046 does not create a separate claim for the decedent's survivors; rather, it merely preserves the causes of action that a person could have maintained had he not died. *Wooldridge v. Woolett*, 96 Wash.2d 659, 662-63, 638 P.2d 566 (1981). **Defendants confuse the existence of a cause of action and the accrual of a cause of action; while *359 the plaintiff in the present case may have been injured by defendants during his life, his cause of action did not accrue unless he discovered, or should have discovered, the cause of his injuries**. *See Sahlie v. Johns-Manville Sales Corp.*, 99 Wash.2d 550, 554-55, 663 P.2d 473 (1983). Since the decedent would have benefitted from the discovery rule had he not died, his representatives should likewise benefit from it: what survives to the personal representatives are not only the decedent's ripe causes of action but include their potential causes of action which may not have accrued at the time of death.
>
> Our decision to apply the discovery rule to survivorship actions finds support in *Eisenmann v. Cantor Bros., Inc.*, 567 F.Supp. 1347 (N.D.Ill.1983). In that case an administratrix sued her deceased husband's employer alleging his occupational exposure to benzine proximately caused his death. On motions to dismiss, the defendant asserted plaintiff's claim was barred by the Illinois statute of limitation, which provided that "actions to recover damages for an injury to the person survive the death of the injured person." *Eisenmann*, at 1351 (quoting Ill.Ann.Stat. ch. 110 1/2, § 27-6 (Smith-Hurd 1978)). The court denied defendant's motion to dismiss.
>
> The *Eisenmann* court provided several reasons for its decision. **First, it noted that the survival statute related to a right of action for personal injury arising during the life of the injured person. Second, the court stressed that the general policy of survival statutes was to ensure that wrongdoers actually were not relieved of some portion of their liability because their acts had been so grievous as to cause death. Third, the court emphasized**

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

> **that in the cause of invidious occupational diseases the discovery rule was often the only fair means by which a statute of limitation fairly can be applied to survival and wrongful death actions**. Finally, the court rejected the holding of *McDaniel v. Johns-Manville Sales Corp.*, supra, in which the court refused to apply the discovery rule to survivorship **697 actions. The Eisenmann court noted:
>
> *360 While it is true that the [wrongful death and survivorship] Acts provide for different types of damages, the two causes of action are similar in their fundamental respects. The elements of both causes of action are essentially the same, as are the defenses generally available. Additionally, experience teaches us that both causes of action are predicated on the same set of operative facts. If, as is manifest, Mr. Eisenmann would have had the benefit of the discovery rule if he brought a tort action in his own name, neither policy nor logic will support a contrary result due to his death.
>
> Eisenmann, at 1353.
>
> We concur with the views expressed in Eisenmann. **The date of death in a case involving an invidious occupational disease does not necessarily mark the time at which the claimants knew or should have known of the cause of the deceased's death. If death marks the time at which the claimant obtained actual or constructive notice of the cause of the decedent's death, this always may be proved at trial**.
>
> A survivor takes the rights of the decedent-no more and no less. Therefore if the decedent would have had a cause of action during his lifetime, **but for the invidious nature of his disease and his inability to link the injury to the wrongdoer, then that cause of action, when discovered, should survive his death**.
>
> Eisenmann, at 1354. [bold, underline emphasis added]

Survival.

Survival includes all elements available in negligence including general damages and loss of consortium. Sure and certain relief includes emotional distress damages, other general damages and loss of consortium damages.

When Carl Murray's presumptive occupational disease claim was allowed by the Defendant it made no comment that the cause of his lung cancer was radon. Although it should have known – and could have put Carl Murray on notice of the radon exposure over several decades – it concealed that information. Yet even today it denies there is any relationship.

RCW 51.32.185 presumes respiratory disease in firefighters is caused by exposure to smoke, fumes and toxic substance. Until recently the recklessly high levels of radon contamination in Defendant's fire stations was not provided to its firefighters.

When a Public Records Act request was made to Defendant, it provided nominal documentation. The first partial response was not made until October 28, 2013 – less than three years ago. In litigation discovery in the past year only then was it made known that the lethal doses of radon in Defendant's

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

fire stations were multiples of the 4 pico curies per liter of radon – and had been for decades. Thousands of pages of documents that should have been provided in response to the Public Records Request were wrongfully withheld. They were withheld because the documents are "smoking guns" that prove the Defendant knew about the lethal levels of radon and refused to follow the law giving firefighters the right to know what hazards they are exposed to – even in the Defendant's own fire stations. The Defendant also failed to advise Carl Murray and other firefighters that there is no safe dose of radon. The Defendant has yet to reveal the likely cause of Carl Murray's cancer – although it was very clearly in the very best position to do so.

The Defendant's position regarding its liability is inconsistent with what it did for decades, what it did when Carl Murray was diagnosed then died of lung cancer -- and what it is trying to do to avoid liability for decades of reckless and outrageous conduct now.

B. Radon Exposures.

See, Declaration of Ron Meyers and exhibits.

In the basement, of one of the Defendant's fire stations where Carl Murray worked and where firefighters did their strenuous workouts –workout that cause faster breathing and deeper inhalation – radon levels reached at least 172.1 picocuries per liter [172.1 pCi/L]. However, it is important to note that even at lower radon levels <u>there is no safe level of exposure to radon</u>. Corrective measures are to be taken if radon levels exceed 4 pCi/L. Defendant was reckless and derelict in its mandatory duties to firefighters in conducting infrequent radon testing at its fire stations – apparently only starting in 2001.

In September of 2001, the basement level (the weight room where Carl Murray worked out) radon level was 172.1 pCi/L in station 2. This radon level is **43 times the level for corrective action** to reduce the radon level. Even 12 years later – in 2013 – Defendant allowed continued excessive radon levels that exceeded 4 pCi/L. In 2013 -- radon levels were still more than **4 times the level for corrective action.**

There is no legitimate dispute that radon was present in lethal levels in Defendant's fire stations,

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

that there is **no safe level of radon exposure**, and that these facts were not reported to firefighters as required by law – year, after year, after year.

The Defendant recklessly and outrageously failed to routinely check for radon in its fire stations from at least 1992 until 2001 – based upon discovery responses showing no radon testing or mitigation for this entire period of time. Even when Defendant conducted sporadic checks – it failed to follow the proper protocols for additional testing. Years passed between fire station radon tests. The Defendant recklessly and outrageously failed – day after day, week after week, month after month and year after year to protect its firefighters as mandated by law.

V. ARGUMENT AND AUTHORITY

The **EPA recommends taking action to reduce radon levels indoors if concentrations exceed 4 picocuries per liter of air (pCi/L). However, no safe level of exposure to radon has been determined.** "A Citizen's Guide to Radon | Radon | U.S EPA." U.S. Environmental Protection Agency. [http://www.epa.gov/radon/pubs/citguide.html#lower]

Radon existed in Defendant's fire stations where Carl Murray worked for over 20 years – and the Defendant knew it – but chose not to comply with the mandatory fire fighter safety standards in force in Washington state and tell him and every other firefighter they employed that they were being exposed to levels of radon many times higher that the level that requires mitigation or remediation.

RCW 4.20.010 Wrongful death — Right of action.
When the death of a person is caused by the wrongful act, neglect, or default of another his or her personal representative may maintain an action for damages against the person causing the death; and although the death shall have been caused under such circumstances as amount, in law, to a felony.

RCW 4.20.020 Wrongful death — Beneficiaries of action.
Every such action shall be for the benefit of the wife, husband, state registered domestic partner, **child or children, including stepchildren**, of the person whose death shall have been so caused.

RCW 4.20.046 Survival of actions.
(1) **All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former** and against the personal representatives of the latter, whether such actions arise on contract or otherwise, **and whether or not such actions would have survived at the common law or prior to the date of enactment of this**

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

section: PROVIDED, HOWEVER, That **the personal representative shall only be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased on behalf of those beneficiaries enumerated in RCW 4.20.020**, and **such damages are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action**. . . .

RCW 4.20.060 Action for personal injury survives to surviving spouse, state registered domestic partner, child, stepchildren, or heirs.
No action for a personal injury to any person occasioning death shall abate, nor shall such right of action determine, **by reason of such death, if such person has a surviving spouse**, state registered domestic partner, **or child living, including stepchildren**. . . .
[Emphasis added.]

Outrage.

WPI 14.03.01 Outrage—Burden of Proof
On plaintiff's outrage claim, the plaintiff has the burden of proving each of the following propositions:
(1) That the defendant engaged in **extreme** and **outrageous conduct**;
(2) That the **defendant's conduct caused severe emotional distress to [the decedent and] the plaintiff**;
(3) That the defendant **intentionally** or **recklessly** caused the emotional distress; and
(4) That the decedent **Carl Murray was a direct recipient** of the extreme and outrageous conduct and **Wendy Murray was an immediate family member of a direct recipient** of the conduct and was present at the time the conduct occurred.
If you find from your consideration of all the evidence that each of these propositions has been proved, your verdict should be for the plaintiff on the outrage claim. On the other hand, if you find that any of these propositions has not been proved, your verdict should be for the defendant on this claim.

WPI 14.03.02 Outrage—Extreme and Outrageous Conduct—Definition
Conduct may be considered extreme and outrageous only when the conduct is so extreme in degree and outrageous in character as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.

In deciding whether the defendant's conduct was extreme and outrageous, you should consider all the evidence bearing on the question and may consider, among others, the following specific factors:

[That the City of Vancouver failed to inform Carl Murray and every firefighter as required by mandatory firefighter safety standards that the City was allowing lethal levels of radon to exist in its fire stations for decades and that it failed to comply with its ongoing duty to eliminate the lethal hazard for many years.] The City's duty existed for all times Carl Murray was a firefighter. The City also had a duty to perform follow-up testing that was not done even though the test results were so high the City had several exposure levels requiring immediate mitigation of the radon. Each failure to inform and mitigate the lethal levels of radon is a separate duty to inform and mitigate.

Strict liability.

Strict liability applies to Defendant's decades of abnormally dangerous activity in allowing

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

firefighters exposure to lethal levels of radon gas in its fire stations. The level were frequently measured at multiples of the level that requires mitigation of the radon hazard.

Klein v. Pyrodyne Corp., 117 Wash.2d 1, 810 P.2d 917 (1991) is the law on strict liability. Determination of whether activity is abnormally dangerous activity is a question of law. *Klein* was argued by this Plaintiff's counsel at all levels:

> The basic principle of *Rylands v. Fletcher* has been accepted by the Restatement **920 (Second) of Torts (1977). See generally Prosser and Keeton § 78, at 551 (explaining that the relevant Restatement sections differ in some respects from the Rylands doctrine). Section 519 of the Restatement provides that any party carrying on an "abnormally dangerous activity" is strictly liable for ensuing damages. The test for what constitutes such an activity is stated in section 520 of the Restatement. **Both Restatement sections have been adopted by this court, and determination of whether an activity is an "abnormally dangerous activity" is a question of law**. *New Meadows Holding Co. v. Washington Water Power Co.*, 102 Wash.2d 495, 500, 687 P.2d 212 (1984); *Langan v. Valicopters, Inc.*, 88 Wash.2d 855, 567 P.2d 218 (1977); *Siegler v. Kuhlman*, 81 Wash.2d 448, 502 P.2d 1181 (1972), cert. denied, 411 U.S. 983, 93 S.Ct. 2275, 36 L.Ed.2d 959 (1973).
>
> Section 520 of the Restatement lists six factors that are to be considered in determining whether an activity is "abnormally dangerous." The factors are as follows:
>
> (a) existence of a high degree of risk of some harm to the person, land or chattels of others;
> (b) likelihood that the harm that results from it will be great;
> (c) inability to eliminate the risk by the exercise of reasonable care;
> (d) extent to which the activity is not a matter of common usage;
> (e) inappropriateness of the activity to the place where it is carried on; and
> (f) extent to which its value to the community is outweighed by its dangerous attributes.
>
> Restatement (Second) of Torts § 520 (1977). As we previously recognized in *Langan v. Valicopters, Inc.*, supra, 88 Wash.2d at 861–62, 567 P.2d 218 (citing Tent. Draft No. 10, 1964, of *7 comment (f) to section 520), the comments to section 520 explain how these factors should be evaluated:
>
> **Any one of them is not necessarily sufficient of itself in a particular case, and ordinarily several of them will be required for strict liability**. On the other hand, **it is not necessary that each of them be present, especially if others weigh heavily**. Because of the interplay of these various factors, it is not possible to reduce abnormally dangerous activities to any definition. The essential question is whether the risk created is so unusual, either because of its magnitude or because of the circumstances surrounding it, as to justify the imposition of strict liability for the harm that results from it, even though it is carried on with all reasonable care. [bold, underline emphasis added]

Basis for Defendant's strict liability.

The six factors considered in determining whether leaving lethal levels of radon in fire stations for decades is an activity that is abnormally dangerous are as follows:

(a) Existence of a high degree of risk of some harm to the person, land or chattels of others.

Radon exposure is the second leading cause of lung cancer. There is a high degree of risk. That the

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Defendant knew about the continuing presence of radon but chose not to share this information with its firefighters is a reckless and continuing violation of firefighter right to know safety standards.

(b) Likelihood that the harm that results from it will be great.

Lung cancer causes great harm economic and non-economic – and death. That the Defendant knew about the continuing presence of radon but chose not to share this information with its firefighters is a reckless and continuing violation of firefighter right to know safety standards.

(c) Inability to eliminate the risk by the exercise of reasonable care.

Carl Murray could not prevent the ongoing exposures to radon because he and other firefighters were not told their workplaces that were controlled exclusively by the Defendant were contaminated with lethal quantities of radon and that the Defendant was not mitigating as required by the Defendant's non-delegable duty to provide a safe work place and to report all dangers to firefighters.

(d) Extent to which the activity is not a matter of common usage.

Exposing firefighters to radon in fire stations where they exercise, work and sleep over several decades is a dangerous and lethal activity that is not a matter of common usage.

(e) Inappropriateness of the activity to the place where it is carried on.

The exposure of firefighters to lethal levels of radon is beyond inappropriate -- it is reckless and outrageous.

(f) Extent to which its value to the community is outweighed by its dangerous attributes.

There is no redeeming value to exposing firefighers who are serving in a most dangerous position to protect the community and its members from unnecessary and protracted lethal levels of radon in fire stations exclusively controlled by the Defendant.

VI. CONCLUSION

The Defendant's Motion for Partial Summary Judgment should be denied in its entirety. There is no running of any statute of limitations as to any cause of action. There is no limitation barring any cause of action pled by Plaintiff.

\

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

DATED this May 15th, 2016 at Olympia, Washington.

RON MEYERS & ASSOCIATES PLLC

By: Ron Meyers

Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA No. 27976
Tim Friedman, WSBA No. 37983
Counsel for Plaintiff Wendy Ann Murray as
Personal Representative of the Estate of Carl Murray

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the State of Washington that on the date stated below I caused to be served the foregoing document upon:

Attorney for Defendant
Daniel G. Lloyd
City Attorney's Office
PO Box 1995
Vancouver, WA 98668

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: dan.lloyd@cityofvancouver.us
deborah.hartsoch@cityofvancouver.us

Attorney for Defendant
Melissa K. Roeder
Foley & Mansfield PLLC
999 Third Avenue Ste 3760
Seattle, WA 98104

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: mroeder@foleymansfield.com
swalker@foleymansfield.com

DATED this 16 day of May, 2016 at Olympia, Washington.

RON MEYERS & ASSOCIATES PLLC
BY: SHANA PITTMAN
COMPLEX LITIGATION PARALEGAL
Email: shana.p@rm-law.us

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries, Plaintiff, v. CITY OF VANCOUVER, a municipal subdivision of the State of Washington, Defendant.	Cause No.: 15-2-04119-7 [PROPOSED] ORDER DENYING DEFENDANT'S CR 56 MOTION FOR SUMMARY JUDGMENT

THIS MATTER having come on duly and regularly for hearing before Honorable Judge David Gregerson on DEFENDANT CITY OF VANCOUVER'S MOTION FOR SUMMARY JUDGMENT, and the Court having considered the Motion and legal memoranda of all parties, and the Court having reviewed the following specific documents:

1. Defendant City of Vancouver's Motion for Partial Summary Judgment;
2. Declaration of Melissa K. Roeder in Support of Defendant City of Vancouver's Motion for Partial Summary Judgment with attached Exhibit A;
3. Declaration of Patrick Gilbride in Support Defendant City of Vancouver's Motion for Partial Summary Judgment with attached Exhibits A through D;
4. Declaration of Kathy Heil in Support Defendant City of Vancouver's Motion for Partial Summary Judgment with attached Exhibit A;

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

5. Plaintiff's Response in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment;

6. Declaration of Ron Meyers in Support of Plaintiff's Response in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment, including Exhibits A through P;

7. Declaration of Wendy Murray in Opposition to Defendant's CR 56 Motion For Partial Summary Judgment, including Exhibit A;

7. Other:_____; and,

the Court having heard oral argument on the Motion and being fully advised,

NOW THEREFORE: IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

The Defendant City of Vancouver's Motion for Partial Summary Judgment is **DENIED**.

DONE IN OPEN COURT this _____ day of _____, 2016.

_____
THE HONORABLE DAVID GREGERSON
Clark County Superior Court Judge

ORDER PRESENTED BY:

RON MEYERS & ASSOCIATES PLLC

By: _____
Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA No. 27976
Tim Friedman, WSBA No. 37983
Counsel for Plaintiff Wendy Ann Murray as
Personal Representative of the Estate of Carl Murray

APPROVED AS TO FORM; NOTICE OF PRESENTATION WAIVED; COPY RECEIVED:

CITY ATTORNEY'S OFFICE
VANCOUVER, WA

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

By: _____
Daniel G. Lloyd, WSBA No. 34221
Assistant City Attorney
Attorney for Defendant City of Vancouver

FOLEY & MANSFIELD, PLLP

By: _____
Melissa K. Roeder, WSBA No. 30836
Co-Counsel for City of Vancouver

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the State of Washington that on the date stated below I caused to be served the foregoing document upon:

Attorney for Defendant
Daniel G. Lloyd
City Attorney's Office
PO Box 1995
Vancouver, WA 98668

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: dan.lloyd@cityofvancouver.us
deborah.hartsoch@cityofvancouver.us

Attorney for Defendant
Melissa K. Roeder
Foley & Mansfield PLLC
999 Third Avenue Ste 3760
Seattle, WA 98104

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: mroeder@foleymansfield.com
swalker@foleymansfield.com

DATED this 16th day of May 16, 2016 at Olympia, Washington.

Lena Ulschmid

RON MEYERS & ASSOCIATES PLLC
BY: LENA ULSCHMID
LEGAL ASSISTANT
Email: lena.u@rm-law.us

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON, IN AND FOR THE COUNTY OF CLARK

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020	No. 15-2-04119-7
Plaintiff/Petitioner	
VS.	DECLARATION PURSUANT TO GR 17(a)(2)
CITY OF VANCOUVER, a municipal subdivision of the State of Washington	
Defendant/Respondent	

I declare as follows:

1. I am the party who received the foregoing email transmission for filing.
2. My address is: 310 SW 4th Avenue, Suite 440 Portland, Oregon 97204.
3. My phone number is 503-727-3100.
4. I have examined the foregoing document, determined that it consists of 21 pages, including the signature page and this Declaration page, and that it is complete and legible.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated:,05/16/2016 at Portland, Oregon.

Signature: _____
Print Name: Laurice Averill

EXHIBIT A

Shana Pittman

From: Shannon D. Walker [swalker@foleymansfield.com]
Sent: Tuesday, April 26, 2016 11:47 AM
To: Ron Meyers; Matthew G. Johnson; Shana Pittman; Lena Ulschmid
Cc: Melissa K. Roeder; dan.lloyd@cityofvancouver.us; deborah.hartsoch@cityofvancouver.us
Subject: Murray v. City of Vancouver

Attached please find Defendant City of Vancouver's Objections and Responses to Plaintiff's First Interrogatories and Requests for Production. The original Verification page will be forwarded upon receipt. Please let us know if you have any questions.

ShareFile Attachments

Title	Size
COV's Ans to Pl's Rogs RFP_rev by DGL.pdf	86.5 KB
Fire Suppression Contract 1992-1994 Part 1.pdf	2.2 MB
Fire Suppression Contract 1992-1994 Part 2.pdf	517.8 KB
Fire Suppression Contract 1995-1997 Part 1.pdf	2.2 MB
Fire Suppression Contract 1995-1997 Part 2.pdf	72.8 KB
Fire Suppression Contract 1998-2000.pdf	189.1 KB
Fire Suppression Contract 2001-2002.pdf	137.6 KB
Fire Suppression Contract 2003-2005.pdf	163.6 KB
Fire Suppression Contract 2006-2008.pdf	200.2 KB
Fire Suppression Contract 2009.pdf	3.9 MB
Fire Suppression Contract 2010-2013.pdf	755.4 KB
No Station Number_1954-1968.PDF	36.5 MB
No Station Number_1967.PDF	131.7 MB
No Station Number_1968.PDF	37 MB
No Station Number_1969.PDF	53.2 MB
No Station Number_1970.PDF	56.2 MB
No Station Number_1972.PDF	53.7 MB
No Station Number_1975.PDF	36.7 MB
No Station Number_1976.PDF	47.2 MB
No Station Number_1977.PDF	57.4 MB
No Station Number_1979.PDF	21.6 MB

No Station Number_1994.PDF	7 MB
Station 1, 2, 3_1_1961.PDF	7.6 MB
Station 1, 2, 3_1957.PDF	7.6 MB
Station 1, 2, 3_1958.PDF	6.3 MB
Station 1, 2, 3_1959.PDF	5.7 MB
Station 1, 2, 3_1960.PDF	7.2 MB
Station 1, 2, 3_1962.PDF	7 MB
Station 1, 2, 3_2_1961.PDF	4 MB
Station 1_1956.PDF	11.4 MB
Station 1_1966.PDF	82.9 MB
Station 1_1971.PDF	64.8 MB
Station 1_1973.PDF	28.7 MB
Station 1_1974.PDF	32.3 MB
Station 1_1978.PDF	71.3 MB
Station 1_1980.PDF	58.8 MB
Station 1_1981.PDF	80.7 MB
Station 1_1982.PDF	18.6 MB
Station 1_1983.PDF	47.6 MB
Station 1_1984.PDF	19.1 MB
Station 1_1985.PDF	50.2 MB
Station 1_1986.PDF	40.7 MB
Station 1_1987.PDF	50.7 MB
Station 1_1998.PDF	93.1 MB
Station 1120_1954.PDF	24 MB
Station 1120_1957.PDF	5.5 MB
Station 1550_1954-1956.PDF	25 MB
Station 2_1978.PDF	122.2 MB
Station 2_1980.PDF	41.6 MB
Station 3_1979.PDF	52.3 MB
Station 3_1982.PDF	45.4 MB
Station 3_1983.PDF	54.4 MB
Station 3_1984.PDF	48.5 MB
Station 3_1985.PDF	40.5

	MB
Station 3_1986.PDF	30.7 MB
Station 3_1987.PDF	79 MB
Station 3_1988.PDF	46.5 MB
Station 5_1963.PDF	7.4 MB
Station 5_1967-1972.PDF	138.9 MB
Station 5_1981-1984.PDF	118 MB
Station 5_1984-1986.PDF	114.9 MB
Station 5_1988.PDF	69 MB
Station 51_1989.PDF	69.8 MB
Station 51_1990.PDF	68.4 MB
Station 51_1991.PDF	131.3 MB
Station 51_1992.PDF	93.4 MB
Station 51_1993.PDF	111.6 MB
Station 51_1994.PDF	142.4 MB
Station 512_1984-1985-1986.PDF	45.7 MB
Station 512_1987-1989.PDF	71 MB
Station 53_1989.PDF	99.4 MB
Station 53_1990.PDF	128.3 MB
Station 53_1991.PDF	62.4 MB
Station 53_1992.PDF	104.3 MB
Station 53_1993.PDF	69.5 MB
Station 53_1994.PDF	141.1 MB
Station 55_1989.PDF	126 MB
Station 55_1990.PDF	56.4 MB
Station 55_1991.PDF	58.5 MB
Station 55_1992.PDF	73.7 MB
Station 56_1991.PDF	59.4 MB
Station 56_1992.PDF	91.2 MB
Station 56_1993.PDF	76 MB
Station 58_1991.PDF	15.5 MB
Station 58_1992.PDF	62.8

	MB
Station 58_1993.PDF	60.3 MB
Station 6_1988.PDF	63.8 MB
Station 6_1989.PDF	78.5 MB
Station 6_1990.PDF	23 MB
Station 81_1998.PDF	3.5 MB
Station 81_1998.PDF	18.3 MB
Station 81_2000.PDF	32.5 MB
Station 81_2000.PDF	70 MB
Station 81_2000_1.PDF	24.2 MB
Station 81_2000_2.PDF	30.6 MB
Station 81_2001.PDF	17.9 MB
Station 81_2001-2002.PDF	120.7 MB
Station 81_2002-2003.PDF	105.2 MB
Station 81_2003.PDF	90 MB
Station 81_2003-2004.PDF	121 MB
Station 81_2004.PDF	121.3 MB
Station 81_2005.PDF	107.3 MB
Station 81_2005_1.PDF	98.2 MB
Station 81_2006.PDF	126.6 MB
Station 81_2007.PDF	84.5 MB
Station 82_1994.PDF	36.2 MB
Station 82_1998.PDF	5.5 MB
Station 82_1998.PDF	17.8 MB
Station 82_2000.PDF	32.4 MB
Station 82_2000.PDF	58.8 MB
Station 82_2000_1.PDF	23.4 MB
Station 82_2000_2.PDF	34.3 MB
Station 82_2001.PDF	27.9 MB
Station 82_2001-2002.PDF	123.5 MB
Station 82_2002-2003.PDF	104.3 MB
Station 82_2003.PDF	24.4

	MB
Station 82_2003-2004.PDF	105.1 MB
Station 82_2004.PDF	25.3 MB
Station 82_2005.PDF	93.2 MB
Station 82_2005.PDF	124.2 MB
Station 82_2006.PDF	112.8 MB
Station 82_2007.PDF	110.2 MB
Station 82_2007-2008.PDF	72.6 MB
Station 82_2008.PDF	21.9 MB
Station 83_1998.PDF	4.4 MB
Station 83_1998.PDF	11.4 MB
Station 83_2000.PDF	34.7 MB
Station 83_2000.PDF	33.7 MB
Station 83_2000_1.PDF	21.7 MB
Station 83_2001.PDF	80.2 MB
Station 83_2001.PDF	16 MB
Station 83_2002.PDF	79.7 MB
Station 83_2003.PDF	91.4 MB
Station 83_2003_1.PDF	98.2 MB
Station 83_2004.PDF	105 MB
Station 83_2005.PDF	95.6 MB
Station 83_2005.PDF	25.4 MB
Station 83_2006-2007.PDF	93.8 MB
Station 83_2007.PDF	79.4 MB
Station 84_1998.PDF	6.5 MB
Station 84_1998.PDF	16.4 MB
Station 84_2000.PDF	22.6 MB
Station 84_2000.PDF	115.2 MB
Station 84_2000_1.PDF	33.3 MB
Station 84_2001.PDF	58.1 MB
Station 84_2001_1.PDF	90.4 MB

Station 84_2002.PDF	54.3 MB
Station 84_2003.PDF	82.4 MB
Station 84_2003_1.PDF	95.1 MB
Station 84_2004.PDF	12.2 MB
Station 84_2005.PDF	129.2 MB
Station 84_2005.PDF	57.9 MB
Station 84_2006-2007.PDF	109.2 MB
Station 84_2007.PDF	79.6 MB
Station 84_2007-2008.PDF	74.2 MB
Station 85 #2_2003.PDF	79.5 MB
Station 85_1994.PDF	385.8 MB
Station 85_1998.PDF	4.7 MB
Station 85_2000.PDF	22.5 MB
Station 85_2000.PDF	46.4 MB
Station 85_2000_1.PDF	33.8 MB
Station 85_2001.PDF	116.9 MB
Station 85_2001.PDF	138 MB
Station 85_2002.PDF	116.7 MB
Station 85_2003.PDF	180.9 MB
Station 85_2004.PDF	133.2 MB
Station 85_2005.PDF	74.8 MB
Station 85_2005.PDF	113.2 MB
Station 85_2006.PDF	71.7 MB
Station 85_2006-2007.PDF	33.8 MB
Station 86_1994-1995.PDF	36.5 MB
Station 86_1998.PDF	5.3 MB
Station 86_1998.PDF	10.2 MB
Station 86_2000.PDF	22 MB
Station 86_2000.PDF	25.5 MB
Station 86_2000_1.PDF	29.5 MB
Station 86_2001.PDF	140.8 MB

Station 86_2001-2002.PDF	196.1 MB
Station 86_2002-2003.PDF	177.7 MB
Station 86_2003.PDF	137.7 MB
Station 86_2003-2004.PDF	210 MB
Station 86_2004.PDF	104.6 MB
Station 86_2005.PDF	92.3 MB
Station 86_2005.PDF	103.6 MB
Station 86_2005_1.PDF	97.1 MB
Station 86_2007.PDF	65.7 MB
Station 87_1999.PDF	10.7 MB
Station 87_2000.PDF	9.7 MB
Station 87_2006.PDF	63 MB
Station 88_1994.PDF	273.7 MB
Station 88_1998.PDF	12.2 MB
Station 88_1998_1.PDF	4 MB
Station 88_2000.PDF	28.4 MB
Station 88_2000.PDF	50.5 MB
Station 88_2000_1.PDF	21.8 MB
Station 88_2001.PDF	69.8 MB
Station 88_2001_1.PDF	55.7 MB
Station 88_2002-2003.PDF	193.9 MB
Station 88_2003.PDF	65.7 MB
Station 88_2003_1.PDF	87.3 MB
Station 88_2004.PDF	42.1 MB
Station 88_2005.PDF	67.4 MB
Station 88_2005.PDF	21.6 MB
Station 88_2006.PDF	90.8 MB
Station 88_2007.PDF	62.2 MB
Station 88_2008.PDF	14.5 MB
Station 89_1998.PDF	4.3 MB
Station 89_1998.PDF	8.5 MB

Station 89_2000.PDF	21.9 MB
Station 89_2000.PDF	49.8 MB
Station 89_2000_1.PDF	31 MB
Station 89_2001.PDF	148.7 MB
Station 89_2001-2002.PDF	101.5 MB
Station 89_2002-2003.PDF	74.4 MB
Station 89_2003.PDF	121 MB
Station 89_2003_1.PDF	107.5 MB
Station 89_2004.PDF	89.5 MB
Station 89_2005.PDF	88.9 MB
Station 89_2005.PDF	95.1 MB
Station 89_2006.PDF	69.1 MB
Station 89_2007.PDF	88.8 MB
Station 89_2007.PDF	67.2 MB
Station BC 81_2000.PDF	22.5 MB
Station BC 81-82_2005.PDF	86 MB
Station BC 82_2000.PDF	22.1 MB
Station BC_2000.PDF	23.7 MB
Station BC_2001.PDF	65.7 MB
Station BC_2002.PDF	36.7 MB
Station BC_2003.PDF	72 MB
Station BC_2004.PDF	76.1 MB
Station BC_2007.PDF	63.8 MB
Station BCs 81, 82_2000.PDF	19.9 MB

Powered by ShareFile

Shannon Walker uses ShareFile to share documents securely. Learn More.

FOLEY & MANSFIELD

Shannon D. Walker | Paralegal | T: 206-456-5069 | F:206-456-5361
999 Third Avenue, Suite 3760 | Seattle, WA 98104 | foleymansfield.com

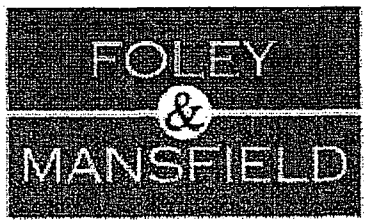
Chicago | Detroit | Kansas City | Los Angeles | Miami | Minneapolis | New York | Oakland | Portland | **Seattle** | St. Lc
NOTICE: Important disclaimers and limitations apply to this email. Please click HERE to view these disclaimers and limitations.

EXHIBIT B

Shana Pittman

From: Melissa K. Roeder [mroeder@foleymansfield.com]
Sent: Tuesday, May 10, 2016 9:57 AM
To: 'Lloyd, Dan'; Lena Ulschmid; Shannon D. Walker; Hartsoch, Deborah; Gennifer Holland
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

I am in my office and ready to discuss. M.



Melissa K. Roeder | Attorney - Of Counsel | T: 206-456-5068 | F:206-456-5361
999 Third Avenue, Suite 3760 | Seattle, WA 98104 | foleymansfield.com

Chicago | Detroit | Kansas City | Los Angeles | Miami | Minneapolis | New York | Oakland | Portland | **Seattle** | St.
NOTICE: Important disclaimers and limitations apply to this email. Please click HERE to view these disclaimers and limitations.

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Tuesday, May 10, 2016 9:57 AM
To: 'Lena Ulschmid'; Melissa K. Roeder; Shannon D. Walker; Hartsoch, Deborah; Gennifer Holland
Cc: 'Ron Meyers'; 'Shana Pittman'
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

Please direct the call to Melissa only. My wife just called and she is ill so I cannot be available.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lena Ulschmid [mailto:Lena.U@rm-law.us]
Sent: Monday, May 09, 2016 3:03 PM
To: Lloyd, Dan; 'mroeder@foleymansfield.com'; 'swalker@foleymansfield.com'; Hartsoch, Deborah; gholland@foleymansfield.com
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

Good afternoon,

The CR 26(i)conference tomorrow at 10am has been confirmed by all parties. Please call our office at 360-459-5600 and we will get everyone connected.

Thank you,

Lena Ulschmid

Lena Ulschmid

RON MEYERS
& ASSOCIATES PLLC

Legal Assistant
8765 Tallon Ln NE Ste A
Lacey WA 98516
Phone: 360-459-5600
Fax: 360-459-5622
E-mail: lena.u@rm-law.us
Web: www.vulnerableadultabuse.com
Web: www.olympiainjurylawyer.com

CONFIDENTIAL COMMUNICATION
This email and any attachments are intended only for the above-named addressee, and may contain information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the intended recipient or agent of the recipient, you are hereby notified that any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you received this message in error, please notify our office immediately. Thank you.

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Friday, May 06, 2016 3:03 PM
To: Lena Ulschmid; 'mroeder@foleymansfield.com'; 'swalker@foleymansfield.com'; Hartsoch, Deborah
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference

May 10 at 10am works for us. Melissa Roeder is lead counsel so she will need to be on the call.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lena Ulschmid [mailto:Lena.U@rm-law.us]
Sent: Friday, May 06, 2016 2:33 PM
To: mroeder@foleymansfield.com; swalker@foleymansfield.com; Lloyd, Dan; Hartsoch, Deborah
Cc: Ron Meyers; Shana Pittman
Subject: Murray v. City of Vancouver - CR 26(i) conference
Importance: High

Good afternoon,

We request a CR 26(i) conference to discuss Defendant's responses to Plaintiff's First Interrogatories and Requests for Production propounded to Defendant City of Vancouver. In particular, we intend to discuss Defendant's inadequate answers to all Plaintiff's Interrogatories and inadequate responses to Plaintiff's Requests for Production Nos. 1, 2, 5, and 6 to Defendant City Of Vancouver.

With respect to RFP No. 1, wherein Plaintiff requested Defendant COV **state in detail** the **specific** times, **specific** dates, and **specific** fire station locations Carl Murray was assigned to work at during his entire career as a City of Vancouver Firefighter, Plaintiff received and was referred to over seventy thousand pages referencing all firefighters, in all fire stations. This is unacceptable.

Mr. Meyers is available on the following dates:

May 10, 2016 at 10am or 11am
May 12, 2016 at 10am or 11am

Please advise if one of these dates will work for your office. If not, please provide your available dates.

Thank you,

Lena Ulschmid

RON MEYERS
& ASSOCIATES PLLC

Lena Ulschmid
Legal Assistant
8765 Tallon Ln NE Ste A
Lacey WA 98516
Phone: 360-459-5600
Fax: 360-459-5622
E-mail: lena.u@rm-law.us
Web: www.vulnerableadultabuse.com
Web: www.olympiainjurylawyer.com

CONFIDENTIAL COMMUNICATION
This email and any attachments are intended only for the above-named addressee, and may contain information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the intended recipient or agent of the recipient, you are hereby notified that any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you received this message in error, please notify our office immediately. Thank you.

EXHIBIT C

TRANSACTION REPORT

OCT/04/2013/FRI 10:28 AM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	OCT/04	10:27AM	13604878719	0:00:45	4	MEMORY OK SG3	1717

Ron Meyers & Associates *PLLC*
8765 Tallon Lane NE, Suite A ❖ Lacey, WA 98516 ❖ 360-459-5600

FAX TRANSMITTAL FORM

To: Records Division
Company: City of Vancouver, WA
Fax: 360 487 8719

From: Amberle DuVal
Company: Ron Meyers & Associates PLLC
Fax: 360-459-5622

- ☐ For Your Information
- ☐ For Your Files
- ☐ For Your Review
- ☑ Please Reply

Date Sent: 10/04/2013
Time Sent: 10:15 am
Number of Pages Including Cover Page: 4

Re: Public Records Request

RON MEYERS & ASSOCIATES PLLC
By: Amberle DuVal
Receptionist / Legal Assistant
Email: amberle.d@rm-law.us

Ron Meyers & Associates *PLLC*

8765 Tallon Lane NE, Suite A ❖ Lacey, WA 98516 ❖ 360-459-5600

FAX TRANSMITTAL FORM

To: Records Division	From: Amberle DuVal
Company: City of Vancouver, WA	Company: Ron Meyers & Associates PLLC
Fax: 360 487 8719	Fax: 360-459-5622

- ☐ For Your Information
- ☐ For Your Files
- ☐ For Your Review
- ☑ Please Reply

Date Sent: 10/04/2013
Time Sent: 10:15 am
Number of Pages Including Cover Page: 4

Re: Public Records Request

RON MEYERS & ASSOCIATES PLLC
By: Amberle DuVal
Receptionist / Legal Assistant
Email: amberle.d@rm-law.us

The information in this fax message is privileged and confidential. It is intended only for the use of the recipient named above or the employee or agent responsible to deliver it to the intended recipient. If you received this in error, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us at 360-459-5600. Thank you.

CITY OF VANCOUVER, WASHINGTON
PUBLIC RECORDS ACT OFFICER

Public Records Act Request
Via Fax: (360) 487-8719

I. Public Disclosure Request

Please provide the following Public Records:

1. All **internal documents** and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations **from 1988 to the present.**

2. All **third party documents** received by the City of Vancouver regarding radon in any City of Vancouver fire stations **from 1988 to the present.**

3. All documents setting forth every **measurement** of radon levels in any City of Vancouver fire stations **from 1988 to the present.**

4. All documents, investigative reports and supporting data, findings, conclusions, and all other written or imaged material, not provided in the prior requests regarding the **presence** of radon in any City of Vancouver fire stations **from 1988 to the present.**

5. All documents regarding **implementation** of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations **from 1988 to the present.**

6. All emails to or from any City of Vancouver employee containing the word **"radon"** or **otherwise referencing the presence of radon** in any City of Vancouver fire station **from 1988 to the present.**

Ron Meyers & Associates PLLC will pay in advance upon receipt of invoice, or upon receipt of requested public records and invoice, the reasonable copying and mailing or delivery costs.

Wherever reasonably possible compliance with these requests should be by digital or

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

electronic reproduction in Adobe PDF or other PDF formats on CD or emailed to ron.m@rm-law.us in compressed email format.

II. Agency Decision Not To Comply With Public Disclosure Request

If the government agency refuses to timely and fully comply with this Public Record Act Request, the government agency is respectfully requested to provide the reason for withholding any such document and to identify each withheld document with enough specificity to allow judicial review of the government agency decision to withhold documents requested pursuant to the Public Record Act or Public Disclosure Act and other Washington law.

III. Authority Supporting Request

To fulfill its statutory purpose, courts are to liberally construe disclosure provisions of Public Disclosure Act (PDA), and narrowly construe its exemptions. It is the court, not the public agency seeking to avoid disclosure, which determines whether public record is exempt from disclosure under Public Disclosure Act.

In reviewing an agency's action with regard to a public disclosure request, a court must consider the public policy underlying the Public Disclosure Act: that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment.

Any person who prevails against a government agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that the maker of the request was denied the right to inspect or copy said public record.

See: RCW 42.56.001 et seq, Public Records Act; *O'Connor v. Washington State Dept. of Social and Health Services*, 143 Wn.2d 895, 25 P.3d 426 (2001); *Yousoufian v. Office of Ron Sims*,

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

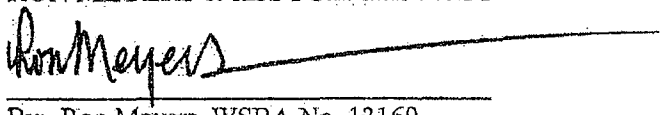
114 Wn. App. 836, 60 P.3d 667 (2003); *Concerned Ratepayers Assoc v. Public Utility District No. 1 of Clark County*, 138 Wn. 2d 950, 983 P.2d 635 (1999); *Confederated Tribes of Chehalis Reservation v. Johnson*, 135 Wn. 2d 734, 958 P.2d 260 (1998); and *Amren v. The City of Kalama*, 131 Wash. 2d 25, 929 P.2d 389 (1997).

See also, RCW 51.32.185; WAC 296-305 Fire Fighting Safety Standards for the State of Washington; WAC 296-305-01001; WAC 296-305-01003, WAC 296-305-01509; WAC 296-305-01005; WAC 296-305-01501; WAC 296-305-01501; WAC 296-305-01505; WAC 296-305-01507; WAC 296-305-01513.

See also, Washington Industrial Safety and Heath Act (WISHA).

Dated this October 4, 2013 at Lacey, Washington.

RON MEYERS & ASSOCIATES PLLC



By: Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA 27976
Tim Friedman, WSBA No. 39058

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

EXHIBIT D

Shana Pittman

From: Ron Meyers
Sent: Wednesday, October 09, 2013 11:01 AM
To: Shana Pittman
Subject: FW: Fire Station Records Request

fyi...

From: McJilton, Raelyn [mailto:Raelyn.McJilton@cityofvancouver.us]
Sent: Wednesday, October 09, 2013 10:26 AM
To: Amberie DuVal; Ron Meyers
Subject: Fire Station Records Request

Dear Mr. Meyers:

We are in receipt of your records request dated October 4, 2013, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.

4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.

5. All emails to or from any City of Vancouver employee containing the word "radon: or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

The City of Vancouver is in the process of gathering documentation related to your request. We anticipate being able to fulfill your request by November 1, 2013. If the materials are available sooner than anticipated or if we have an unforeseen delay, you will be notified promptly.

Sincerely

Raelyn McJilton
Records Officer
City of Vancouver
360.487.8711

EXHIBIT E

Shana Pittman

From: Ron Meyers
Sent: Monday, October 28, 2013 4:23 PM
To: Shana Pittman
Subject: MURRAY: 10/4/13 Public Records Request
Attachments: Meyers - Radon-Fire Station.pdf

Importance: High

fyi..

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Monday, October 28, 2013 2:41 PM
To: Ron Meyers
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: 10/4/13 Public Records Request
Importance: High

Dear Mr. Meyers:

On October 4, 2013, you submitted a request for public records, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.
4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.
5. All emails to or from any City of Vancouver employee containing the word "radon" or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

You requested that the records be made available by digital or electronic reproduction.

For category #5 (emails), the City searched its email vault using the terms "radon" and "fire station". As such, any email in the system containing both search terms sent and/or received on or before the date of your request (October 4, 2013) is produced. **If you desired different search terms, please advise promptly.** No exemptions are claimed, so there are no redactions and no email has been withheld. At your request, emails have been converted to PDF and are all text searchable. I am attaching all emails responsive to these parameters in a single *.pdf file, which has been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626."

What is not attached here, though, are the various attachments to the emails. The aggregate size of all attachments exceeds 6 MB, which often bounces back as undeliverable. This is also true of the records responsive to Categories 1-4, which are also now in *.pdf format, but exceed 6 MB. I will attempt to send these files in separate emails, but if they do not go through, you will need to pay for them to be burned to a CD-ROM for a fee of $5 ($10 if you want the disc mailed to you).

I point out, however, that a few emails reference "image" attachments. For example, please refer to page 000001 (referencing an attachment named "image001.jpg"). These files are either logos that appear in a user's signature block (such as the City of Vancouver logo), or are background themes to a user's Outlook account, so that the user can send emails with a colorful background (i.e., blue with clouds). If you want those *.jpg files, we will need to produce the emails in a format other than *.pdf. Given that you appear to be looking for the substance of emails rather than what type of background was used, and because you specifically requested that emails be produced in *.pdf format, we are assuming you do not want those "image" attachments here. **Please clarify if this assumption is incorrect.** If you do not notify us that you would like the emails produced in a different format, the City will assume that the method of production is acceptable.

As to the scope of the emails, I have asked the Information Technologies Department to ensure that there are no emails stored locally on any user's desktop or on any network drive. I have been advised that when the City converted to its current email system in 2008, all Personal Storage Table (*.pst) files that existed were absorbed into the system (i.e., vault), and the ability to create *.pst files was disabled. In other words, the attached results should encompass any and all emails in the custody and control of the City. The search for any remaining *.pst files may take a few days, but given that the City does not expect to find additional emails, and that the current results are ready, I am sending those now. However, if any are found, they will be disclosed and produced subject to any possible exemption.

If the emails containing the attachments are able to go through, it will conclude the City's response to your 10/4/13 request. If the emails do not go through, then production will occur upon receipt of your payment. Thank you and please contact me if you have any questions, concerns, or clarifications to your request as discussed above.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

EXHIBIT F

Shana Pittman

From: Ron Meyers
Sent: Thursday, March 20, 2014 2:58 PM
To: Shana Pittman; Mindy Leach
Subject: FW: 10/4/13 Public Records Request
Attachments: Vancouver Fire 6 Radon canister test 06-10-13.pdf; 2006 VFD RADON REPORT.PDF

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Thursday, March 20, 2014 12:26 PM
To: Ron Meyers
Cc: McJilton, Raelyn; Norfleet, Dan
Subject: RE: 10/4/13 Public Records Request

Mr. Meyers:

This email responds to your office's letter dated March 19, 2014, which the City's Records Officer received yesterday by fax. There are only two records (aside from emails) that reference radon and Fire Station 6 (formerly known as Fire Station 85). One record was attached to the email below which I sent on October 28, 2013 (2006 VFD RADON REPORT.pdf) (refer to page 1 of the table that is on page 8 of the report). It is attached again for convenience.

A second search did confirm that one other record (two pages) did exist (Vancouver Fire 6 Radon canister test 06-10-13.pdf), which I attach to this email. Your paralegal did not provide an email address in her letter of yesterday's date, so we are sending this to your address. If this is incorrect, please advise. We are attempting to discern why the document was inadvertently omitted from the October 28 batch of production, but it was inadvertent. Nevertheless, we are sending this record now well in advance of the April 25, 2014, deadline established by your paralegal's letter of yesterday.

There is no charge for this production. I hope this alleviates any concerns you have had. If not, please do not hesitate to contact me.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:44 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: RE: 10/4/13 Public Records Request
Importance: High

Mr. Meyers:

Attached are the files responsive to categories 1-4. Please confirm receipt of this and the other emails.

This completes the City's response to your request. Thank you.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:43 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: RE: 10/4/13 Public Records Request

Mr. Meyers:

Attached are the "attachments" to the emails that were sent in my previous emails.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:41 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: 10/4/13 Public Records Request
Importance: High

Dear Mr. Meyers:

On October 4, 2013, you submitted a request for public records, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.
4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.
5. All emails to or from any City of Vancouver employee containing the word "radon" or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

You requested that the records be made available by digital or electronic reproduction.

For category #5 (emails), the City searched its email vault using the terms "radon" and "fire station". As such, any email in the system containing both search terms sent and/or received on or before the date of your request (October 4, 2013) is produced. **If you desired different search terms, please advise promptly.** No exemptions are claimed, so there are no redactions and no email has been withheld. At your request, emails have been converted to PDF and are all text searchable. I am attaching all emails responsive to these parameters in a single *.pdf file, which has been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626."

What is not attached here, though, are the various attachments to the emails. The aggregate size of all attachments exceeds 6 MB, which often bounces back as undeliverable. This is also true of the records responsive to Categories 1-4, which are also now in *.pdf format, but exceed 6 MB. I will attempt to send these files in separate emails, but if they do not go through, you will need to pay for them to be burned to a CD-ROM for a fee of $5 ($10 if you want the disc mailed to you).

I point out, however, that a few emails reference "image" attachments. For example, please refer to page 000001 (referencing an attachment named "image001.jpg"). These files are either logos that appear in a user's signature block (such as the City of Vancouver logo), or are background themes to a user's Outlook account, so that the user can send emails with a colorful background (i.e., blue with clouds). If you want those *.jpg files, we will need to produce the emails in a format other than *.pdf. Given that you appear to be looking for the substance of emails rather than what type of background was used, and because you specifically requested that emails be produced in *.pdf format, we are assuming you do not want those "image" attachments here. **Please clarify if this assumption is incorrect.** If you do not notify us that you would like the emails produced in a different format, the City will assume that the method of production is acceptable.

As to the scope of the emails, I have asked the Information Technologies Department to ensure that there are no emails stored locally on any user's desktop or on any network drive. I have been advised that when the City converted to its current email system in 2008, all Personal Storage Table (*.pst) files that existed were absorbed into the system (i.e., vault), and the ability to create *.pst files was disabled. In other words, the attached results should encompass any and all emails in the custody and control of the City. The search for any remaining *.pst files may take a few days, but given that the City does not expect to find additional emails, and that the current results are ready, I am sending those now. However, if any are found, they will be disclosed and produced subject to any possible exemption.

If the emails containing the attachments are able to go through, it will conclude the City's response to your 10/4/13 request. If the emails do not go through, then production will occur upon receipt of your payment. Thank you and please contact me if you have any questions, concerns, or clarifications to your request as discussed above.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

EXHIBIT G

PBS
ENVIRONMENTAL

17 September, 2001

Post-It® Fax Note 7671	Date	# of pages ▸ 2
To Ernie Nutt	From BC	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

Ernie Schraener
City of Vancouver
Vancouver, WA 98668
Ph: (360) 892-4323 ext. 4306
Fax: (360) 892-4801

RE: RADON SCREENING RESULTS FROM TWO CITY OF VANCOUVER FIRE DEPARTMENT BUILDINGS

Dear Mr. Schraener:

On September 13, 2001, PBS Environmental performed radon-screening tests at two City of Vancouver Fire Department Buildings located in Vancouver, Washington. A total of 6 radon test kits were deployed using Air Chek, Inc., Pro Chek devices for duration of approximately four days. Sample locations were determined at each site through building construction regarding areas of the buildings that may represent a worse-case scenario. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. Laboratory analysis reported elevated levels of radon gas in 3 of the 6 samples collected. The following is a summary of the radon sample locations and analysis results.

Building	Sample Location	Building Level	Sample No.	Analysis (pCi/l)
STA 1				
Station 82	Weight Room	Basement	2098266	11.2
	SE Corner – Compressor Rm.	1st Level	2098273	<0.3
	Westside – Bureau Annex	1st Level	2098268	2.7
STA 2				
Station 86	Crawlspace (Weight Room)	Basement	2098269	172.1
	Power Room	Basement	2098270	9.0
	TV Room	1st Level	2098276	3.8

Based upon review of EPA protocol, we recommend that further testing be conducted. If an initial test result reported between 4 and 10 pCi/L, you have the choice of testing again with a short-term device (Typically 2-7 days) or a long-term device (Typically 3-12 months). If the result was greater than 10 pCi/L, you should retest with another short-term measurement. PBS makes this recommendation based on the understanding that radon levels fluctuate naturally and that it is important to know if the initial tests were an accurate assessment of each building's average radon level or whether the high levels could have been caused by outside factors including drafts and humidity.

Ernie Schraener
City of Vancouver
Re: Radon Screening Results From City of Vancouver Fire Department Buildings
17 September, 2001
Page 2

The Air Chek, Inc. 4-7 day sampling kit and the 90-day Alpha Track long-term test kit are primarily recommended for further testing. Additional testing areas should consist of the lowest occupied areas of each building that are used on a regular basis. Please feel free to call me at 503-417-7680, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Evelyn Cummings
Prime Inspector

REVIEWED BY: CAK

EXHIBIT H

FAX

Date 10/23/01

Number of pages including cover sheet 1

TO: Ernie Schraner

Vancouver Fire Department

RE Fire Station 82

Phone 360 418-5402

Fax Phone 360 892-4801

FROM: Brian Schain

Encompass Mechanical Services, Portland

5711 SW Hood

Portland, OR 97201

Phone (503) 736-0522

Fax Phone (503) 736-0523

CC:

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

Ernie,

I just spoke with Doug Hancock with PBS Environmental regarding Fire Station 82 and 86. I understand 86 was retested and we achieved a level a success. I would like to get a copy of the most recent test for my records.

Regarding 82, the issue is to introduce outside air into the mechanical room and Doug is in agreement with that concept. I have visited the site with my concrete saw cutter and we are prepared to begin the work. As you know there is also the issue of negative pressure in the building. I believe we can solve this problem as well. The issues I see at this point involve introducing adequate outside air to cure the higher levels of Radon, alleviate the negative pressure and allow some sort of relief so we do not over pressurize the space. The design consists of cutting hole in the outside wall and ducting to the mechanical room. We will install a duct heater to temper the air. We will also cut an additional hole and install a barometric damper for pressure relief if no relief exists.

I understand the level of importance of this site and the need to begin the work immediately, but I want to make sure that we only cut the appropriate size holes once. With that in mind, I am reviewing the equipment list for size and capacity to determine the osa penetration and will review as-builts of the space.

Thanks for your patience,

Brian

Document SerialID: 02XXXXX17671112008XX231627635

PBS ENVIRONMENTAL

27 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 8-12, and 19-21, 2001, PBS Environmental performed radon testing at the Fire Department Building located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two to four days for each testing cycle. November 8-12, 2001 sample locations were tested with the Basement Mechanical Room door and wall return grills sealed to determine if radon levels could be reduced by this effort. November 19-21, 2001 sample locations were tested after the two underground ducts had been permanently sealed to determine if these radon mitigation efforts have decreased building radon levels. This testing was part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in the all four of the November 8-12 samples collected, however, they were reduced compared to earlier tests. Laboratory analysis reported elevated levels of radon gas in all five of the November 19-21 samples collected, however, the Dorm, Dayroom, Weight Room and Mechanical Room results were reduced by as much as 50% compared to the original October 3-5, 2001 tests. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results. Table One summarizes test results from November 8-12, 2001. Table Two summarizes test results from November 19-21, 2001.

TABLE ONE

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Right Return Duct, Mech. Room	Basement	2476377	11/08/01	37.2
	Tunnel Vent Duct, Mech. Room	Basement	2476385	11/08/01	26.1
	Mechanical Room	Basement	2476396	11/08/01	33.5
	Weight Room	Basement	2476387	11/08/01	25.1

Document SerialID: 02XXXXX17671112008XX231627635

TABLE TWO

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Tunnel Vent Duct, Mech. Room	Basement	2476376	11/19/01	32.3
	Weight Room	Basement	2476383	11/19/01	17.0
	Day Room	Basement	2476386	11/19/01	10.4
	Mechanical Room	Basement	2476394	11/19/01	31.8
	Dorm Room	2nd Floor	2476399	11/19/01	13.2

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

reviewed by: dh

Document SerialID: 02XXXXX17671112008XX231627635

PBS
ENVIRONMENTAL

12 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 3-5, 2001, PBS Environmental performed radon-screening tests at one Fire Department Building located in Vancouver, Washington. A total of four radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two days each testing cycle. Sample locations were selected to determine if there are elevated levels of radon in the return ductwork located beneath the building. This is part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in all four samples collected. Samples 2476380 and 2476382 were collected with the return ductwork uncovered and Samples 2476390 and 2476392 were collected with the return ductwork covered. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 82	S.E. Return Duct, Mech. Room	Basement	2476380	**16.5**
	W. Return Duct, Mech. Room	Basement	2476382	**20.7**
	S.E. Return Duct, Mech. Room	Basement	2476390	**23.4**
	W. Return Duct, Mech. Room	Basement	2476392	**84.1**

COVERE

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour
Prime Inspector

REVIEWED BY:

ENGINEERING AND ENVIRONMENTAL SOLUTIONS

1220 SW Morrison Street, Suite 600 Portland, OR 97205 503/248-1939 Fax 503/248-0223

BEND EUGENE PORTLAND SEATTLE TRI-CITIES VANCOUVER

Document SerialID: 02XXXXX17671112008XX231627635

November 9, 2001 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476390	23.4	70	11/05/01 @ 12 pm	11/08/01 @ 10 am	11/09/01		8.1%
2476392	84.1	69	11/05/01 @ 12 pm	11/08/01 @ 9 am	11/09/01		6.8%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

November 6, 2001 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2445 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476380	16.5	48	11/03/01 @ 1 pm	11/05/01 @ 1 pm	11/06/01		14.8%
2476382	20.7	48	11/03/01 @ 1 pm	11/05/01 @ 1 pm	11/06/01		11.3%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Document SerialID: 02XXXXX17671112008XX231627635

PBS ENVIRONMENTAL

RECEIVED NOV 28 2001

27 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

#1

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 8-12, and 19-21, 2001, PBS Environmental performed radon testing at the Fire Department Building located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two to four days for each testing cycle. November 8-12, 2001 sample locations were tested with the Basement Mechanical Room door and wall return grills sealed to determine if radon levels could be reduced by this effort. November 19-21, 2001 sample locations were tested after the two underground ducts had been permanently sealed to determine if these radon mitigation efforts have decreased building radon levels. This testing was part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in the all four of the November 8-12 samples collected, however, they were reduced compared to earlier tests. Laboratory analysis reported elevated levels of radon gas in all five of the November 19-21 samples collected, however, the Dorm, Dayroom, Weight Room and Mechanical Room results were reduced by as much as 50% compared to the original October 3-5, 2001 tests. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results. Table One summarizes test results from November 8-12, 2001. Table Two summarizes test results from November 19-21, 2001.

TABLE ONE

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Right Return Duct, Mech. Room	Basement	2476377	11/08/01	37.2
	Tunnel Vent Duct, Mech. Room	Basement	2476385	11/08/01	26.1
	Mechanical Room	Basement	2476396	11/08/01	33.5
	Weight Room	Basement	2476387	11/08/01	25.1

TABLE TWO

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Tunnel Vent Duct, Mech. Room	Basement	2476376	11/19/01	32.3
	Weight Room	Basement	2476383	11/19/01	17.0
	Day Room	Basement	2476386	11/19/01	10.4
	Mechanical Room	Basement	2476394	11/19/01	31.8
	Dorm Room	2nd Floor	2476399	11/19/01	13.2

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

reviewed by: dh

November 23, 2001 **** LABORATORY ANALYSIS REPORT ****

P2445 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	nCi/l	Hours	Started	Ended	Analyzed	NOTES	N.S.%
2476376	32.3 ↓	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	TUNNEL [illegible]	8.8%
2476383	17.0 ↓	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Lt. Room [illegible]	5.1%
2476386	10.4	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DAY Room [illegible]	6.8%
2476394	31.8 ↓	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	NIGHT Room	10.0%
2476399	13.2	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DORM [illegible]	5.5%

Air Check, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

testing Cycle

- ~~Tested w/ [illegible] Room door return & [illegible] return covered~~
- To determine if levels can be reduced
- Tested w/ ductwork sealed (underground) NO returns covered

November 23, 2001 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476376	32.3	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	TUNNEL WEST	8.8%
2476383	17.0	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Lit. Room	6.1%
2476386	10.4	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DAY Room	6.8%
2476394	31.8	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	MBCH Room	10.0%
2476399	13.2	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Dorm	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Schraner, Ernie

From: Connie Latour [connie_latour@pbsenv.com]
Sent: Monday, May 13, 2002 1:50 PM
To: 'ernie.schraner@ci.vancouver.wa.us'
Subject: FW: report.18122.pdf

report.18122.pdf
(3 KB)

Ernie,
Attached is the radon report. STA 1 2
Locations are as follows:
2491265 - Mechanical Room
2491282 - Dorm
2491290 - Cptns Office 1st floor
2491291 - workout room
2491292 - conference room
2491300 - reception
2491301 - kitchen
2491310 - dayroom

Report to follow.

Connie L.

May 13, 2002 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2491265	1.3	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	MECHANICAL	4.7%
2491282	0.5	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	DORM	4.2%
2491290	1.3	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	CAPTAINS OFFICE	4.0%
2491291	4.7	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	WORKOUT room	4.0%
2491292	0.7	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Conference Room	4.0%
2491300	1.4	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Reception	4.0%
2491301	1.1	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Kitchen	4.8%
2491310	1.5	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	DAY ROOM	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Document SerialID: 02XXXXX17671112008XX231627635

PBS

PORTLAND
SEATTLE
VANCOUVER
EUGENE
BEND
TRI-CITIES

May 22, 2002

Mr. Ernie Schraner
Facilities/Maintenance Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Re: Radon Screening Results From Fire Department Building #82
PBS Project #15801.000

Dear Mr. Schraner:

On May 17, 2002, PBS Environmental performed radon testing at Fire Department Building #82 located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of one radon test kit was deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately three days for the test. The test was performed to determine the radon level in the workout room after recent mitigation efforts were completed. Laboratory analysis indicated there was not an elevated level of radon gas in the one sample collected. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Workout Room	Basement	2476470	5/17/02	0.9

Please feel free to call me at 503-417-7589, should you have any questions regarding this report.

Sincerely,

Connie LaTour
Prime Inspector

Rev:

4412 SW Corbett
Portland, OR 97201
503.248.1939 MAIN
503.248.0223 FAX
888.248.1939 TOLLFREE

ENGINEERING AND ENVIRONMENTAL | www.pbsenv.com

Document SerialID: 02XXXXX17671112008XX231627635

May 21, 2002 **** LABORATORY ANALYSIS REPORT ****

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476470	0.9	68	05/17/02 @ 12 pm	05/20/02 @ 8 am	05/21/02		7.4%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

PBS ENVIRONMENTAL

19 October, 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPT. BUILDING 86

Dear Mr. Schraner:

On October 15, 2001, PBS Environmental performed radon-screening tests at one Fire Department Building located in Vancouver, Washington. A total of three radon test kits were deployed using Air Chek, Inc., Pro Chek devices for duration of approximately two days. Sample locations were selected to determine if recent mitigation efforts were successful. Laboratory analysis reported elevated levels of radon gas in one of the three samples collected. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 86	Crawlspace	Basement	2474973	5.1
	Weight Room	Basement	2474993	1.3
	Hose Tower	Basement	2474975	1.4

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

REVIEWED BY: DH

PBS
ENVIRONMENTAL

18 October, 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM 25 CITY OF VANCOUVER BUILDINGS

Dear Mr. Schraner:

On October 5, 2001, PBS Environmental performed an additional radon-screening test at Fire Station 81 located in Vancouver, Washington. One radon test kit was deployed using Air Chek, Inc., Pro Chek device for a duration of approximately two days. The sample location was selected per Fire Department personnel's request. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 81	Equipment Services	1st Floor	2174998	0.6

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour
Prime Inspector

REVIEWED BY: DH

EXHIBIT I

Document SerialID: 02XXXXX17671112008XX231627635

February 21, 2006

Mr. Ernest Schraner, Jr.
Facilities / Maintenance Coordinator
CITY OF VANCOUVER FIRE DEPARTMENT
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Project No. 65-06052.00

Subject: Radon Testing at 10 Fire Stations

Dear Ernie:

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, is pleased to present the radon testing survey of the 10 fire stations specified by you located throughout the Vancouver, Washington area.

Please find the enclosed original and copy of the report.

Thank you for the opportunity to work with you on this project. We look forward to assisting you in future environmental and industrial hygiene projects.

Sincerely,

Ed Gay
Senior Project Manager
Occupational Health and Safety

EG/eg

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street, Suite 440
Portland, OR 97232

Main: (971) 244-1200
Fax: (971) 244-1209
www.us.bureauveritas.com

Document SerialID: 02XXXXX17671112008XX231627635

Radon Testing in Ten Fire Stations

February 21, 2006

Clayton Project Number 65-06052.00

Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street
Suite 440
Portland, Oregon 97232
971.244.1200
www.us.bureauveritas.com

Section Page

1.0 INTRODUCTION 1

2.0 BACKGROUND 1

3.0 METHODS 1

4.0 RESULTS AND DISCUSSION 2

4.1 INITIAL RESULTS BELOW 4.0 PCI/L 2

4.2 STATION 82 2

5.0 RECOMMENDATIONS 3

6.0 LIMITATIONS 4

Table

Results of Radon Testing

Appendices

Laboratory Sample Results

1.0 INTRODUCTION

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, was retained by Mr. Ernest Schraner, Jr., Facilities Coordinator for the City of Vancouver Fire Department, to conduct radon testing at ten fire station buildings within Vancouver, Washington.

Clayton's scope of services is described in the proposal letter to Mr. Schraner, which also included the terms and conditions under which the work was performed (Clayton Proposal Number PR-65OH06.076) dated October 18, 2005.

Mr. Ed Gay, Senior Project Manager with Clayton, performed the three month long term testing between the initial placement date of November 7, 2005 and the final pick up date of February 13, 2006. Mr. Schraner provided background information and accompanied Mr. Gay to provide access for the placement of the AirChek Radon samplers for the current monitoring session.

2.0 BACKGROUND

Radon is a colorless and odorless gas produced by the radioactive decay of the element radium, which results from the natural radioactive breakdown of uranium in soil, rock, and water. Radon is naturally found in the outdoor and indoor air, soil air, and in ground water. Radon typically moves up through soil pore spaces and rock fractures near the surface of the earth and escapes into the atmosphere. Soil air often flows toward building foundations where radon can seep through cracks and other holes in the foundation. Once inside, the radon can become trapped and concentrated. Openings which commonly allow easy inflow of the gas include: cracks in floors and walls, gaps in suspended floors, openings around sump pumps and drains, cavities in wall, joints in construction materials, gaps around utility penetrations (pipes and wires), and crawl spaces that open directly into the building.

The US Environmental Protection Agency (EPA) ranks indoor radon among the most serious environmental health problems. It is the second leading cause of lung cancer in the United States.

PBS Environmental conducted baseline radon testing within the ten fire stations in October 2001. Clayton followed up with sampling exercises in April and May of 2003.

3.0 METHODS

Clayton performed long term radon testing (three months) by deploying AirChek Alpha Track Radon Devices. Alpha Track detectors are passive devices that allow continual adsorption and desorption of radon. The radon testing was conducted, to the extent reasonable, under normal operating building conditions. The testing was performed using EPA approved sampling methodology. Thirty-three long term radon detectors were placed in locations designated by Mr. Schraner and Mr. Gay within the ten fire stations during this three month radon testing session.

4.0 RESULTS AND DISCUSSION

The average indoor radon level, according to the EPA, is estimated to be about 1.3 picoCuries per liter (pCi/L). If radon test results are at or above the action level of 4.0 pCi/L, the EPA recommends that follow-up long-term testing be performed.

Analytical results indicated only Fire Stations 82 had radon concentrations at or above the EPA recommended action level. The remaining nine (9) fire stations had radon concentrations below the EPA action level.

The results for the radon testing and sampling information are provided in the attached Table. Brief descriptions of the buildings are also included in the table, such as the buildings being built over basements, or slabs on grade, and how many floors. For example, Station 82 has all three descriptions, basement, some slab portions and a second floor. Also stated are the perceived activity levels in the stations. Most stations are active with personnel coming and going. Two stations, 810 and 87, are unmanned and used primarily for storage. Cracks in slabs, basement floors, and walls, or unsealed foundations, provide entry for the radon gas

Laboratory analytical results are provided in the Appendix.

4.1 INITIAL RESULTS BELOW 4.0 PCI/L

Analytical laboratory results indicated nine (9) fire stations had radon concentrations below the EPA recommended action level. No additional action or retesting is required at this time. The City of Vancouver Fire Department should retest for radon when occupancy patterns change.

Refer to the attached Table for test details including location and results.

4.2 STATION 82

Clayton conducted long-term (3 months) radon testing in seven locations within Station 82 from November 7, 2005 through February 13, 2006. Five (5) radon results were above the EPA action level. One test canister could not be located and is presumed missing in Station 82 from the Day Room. (Two other canisters are also missing, one in Station 84, the exercise room and one in Station 81, the chief's office.)

The heating, ventilation, and air conditioning (HVAC) system in Station 82 services all areas within the two-story building and basement except the Fire Prevention Office, which is served by a local air-handling unit. Of prime importance would be incoming fresh air and continuous operation.

In a prior short-term sampling episode (April 22 through 25, 2003) some results were above the EPA action level for radon particularly in the Fire Prevention Office.

This is a very active station with a large group of rotating personnel but there are definite results which illustrate that the HVAC in the building needs an investigation.

5.0 RECOMMENDATIONS

Based on the sampling results and observations made during the survey, Clayton offers the following recommendations:

- A full investigation of the air handling equipment in Station 82 should be undertaken to determine adequate air flow. Perhaps a study performed by a qualified engineer in the radon/HVAC field.
- Unauthorized personnel should not attempt to adjust the ventilation parameters, because in the past some electric breakers were found to be in the "off" position and fresh air vents have been closed. The City of Vancouver Fire Department Facilities Department should establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.
- After some reforms are instituted the Vancouver Fire Department should perform short-term radon testing as soon as possible in Station 82 to determine if the air handling system has been improved.
- Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year.

BUREAU VERITAS

6.0 LIMITATIONS

Clayton prepared this report to aid the City of Vancouver Fire Department in evaluating ten fire stations for indoor radon concentrations. This report is for the exclusive use of the client, applies only to the specific subject property detailed above, and shall not be relied upon by any other party without the prior consent of the undersigned.

Within the limitations of scope, schedule, and budget, our services have been executed in accordance with generally accepted practices in this area at the time this letter was prepared. No other hazardous materials/wastes were investigated. No other conditions, expressed or implied, should be understood.

Thank you for the opportunity to continue providing our services to the City of Vancouver Fire Department.

Report prepared by:

Ed Gay
Senior Project Manager
Portland Regional Office

Report reviewed by:

Scott Turkle, CIH
Senior Consultant
Portland Regional Office

February 21, 2006

BUREAU VERITAS

TABLE

Table
Results of Long Term Radon Testing
at various
City of Vancouver Fire Stations
Vancouver, Washington
Clayton Project No. 65-06052.00
Sampling Date: November 7, 2005 through February 13, 2006

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
89	1st	Community Room on a slab – active building	169643	2.2
89	1st	Day Room on a slab – active building	169651	2.2
810	1st	Kitchen on a slab – inactive building	169642	0.6
810	1st	Storage room on a slab – inactive building	169641	0.5
88	1st	Day Room on a slab – active building	169650	1.1
88	1st	Capitan's office on a slab – active building	169645	1.4
88	1st	Community Room on a slab – active building	169644	1.0
87	1st	Kitchen on a slab – inactive building	169646	0.5
86	1st	Dorm Room – basement building – active building	169662	0.8
86	1st	Day Room – basement building – active building	169664	0.8
86	1st	Kitchen basement building active building	169663	0.8
86	Basement	Machine Room – active building	169661	2.7
85	1st	Exercise room on a slab – active building	169648	1.6
85	1st	Captain's office on a slab – active building	169647	1.5
85	1st	Day Room – on a slab – active building	169649	1.7
84	1st	Day Room – basement building – active building	169654	1.7

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
84	1st	Captain's office – basement building – active building	169658	1.5
84	1st	Dormitory – basement building – active building	169660	1.8
84	1st	Exercise room	**MISSING CANISTER**	
83	1st	Dormitory – on a slab – active building	169652	1.3
83	1st	Day Room – on a slab - active building	169659	1.2
82	Basement	Machine room – active building	169672	**7.6**
82	Basement	Exercise room – active building	169671	**6.1**
82	1st	File room on a slab – active building	169670	0.8
82	1st	Front office – on a slab – active building	169667	**4.8**
82	1st	Day room office – over basement – active building	169669	**7.5**
82	2nd	Dormitory – active building	169673	**7.5**
82	1st	Day Room	**MISSING CANISTER**	
81	1st	Administration office – on a slab – active building	**81-X1** Original number 169653	0.4
81	1st	Dormitory – on a slab- active building	169666	0.4
81	1st	Conference room – on a slab – active building	169665	0.3
81	1st	Service Shop office – on a slab – active building	169657	0.4
81	1st	Chief's office	**MISSING CANISTER**	
EPA Recommended Indoor Radon Concentration Action Level				4.0

Notes:
pCi/L: picoCuries per Liter
EPA: United States Environmental Protection Agency
Bold: radon levels above the EPA Action Level

APPENDIX

LABORATORY ANALYTICAL RESULTS

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

February 16, 2006

CLAYTON GROUP SERVICES
ATTN: ED GAY
1500 NE IRVING STREET
SUITE 440
PORTLAND, OR 97232

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
169641	0.5	STATION 810-STORAGE ROOM	11/07/05	02/13/06	
169642	0.6	STATION 810-KITCHEN	11/07/05	02/13/06	
169643	2.2	STATION 89-COMMUNITY ROOM	11/07/05	02/13/06	
169644	1.0	STATION 88-COMMUNITY ROOM	11/07/05	02/13/06	
169645	1.4	STATION 88-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169646	0.5	STATION 87-KITCHEN	11/07/05	02/13/06	
169647	1.5	STATION 85-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169648	1.6	STATION 85-EXERCISE ROOM	11/07/05	02/13/06	
169649	1.7	STATION 85-DAY ROOM	11/07/05	02/13/06	
169650	1.1	STATION 88-DAY ROOM	11/07/05	02/13/06	
169651	2.2	STATION 89-DAY ROOM	11/07/05	02/13/06	
169652	1.3	STATION 83-DORM	11/07/05	02/13/06	
169653	0.4	STATION 81-ADMIN OFFICE	11/07/05	02/13/06	
169654	1.7	STATION 84-DAY ROOM	11/07/05	02/13/06	
169657	0.4	STATION 81-SERVICE SHOP OFFICE	11/07/05	02/13/06	
169658	1.5	STATION 84-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169659	1.2	STATION 83-DAY ROOM	11/07/05	02/13/06	
169660	1.8	STATION 84-DORM	11/07/05	02/13/06	

Continued

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
169661	2.7	STATION 86-MACHINE ROOM	11/07/05	02/13/06	
169662	0.8	STATION 86-DORM	11/07/05	02/13/06	
169663	0.8	STATION 86-KITCHEN	11/07/05	02/13/06	
169664	0.8	STATION 86-DAY ROOM	11/07/05	02/13/06	
169665	0.3	STATION 81-CONFERENCE ROOM	11/07/05	02/13/06	
169666	0.4	STATION 81-DORM	11/07/05	02/13/06	
169667	4.8	STAION 82-OFFICE FRONT	11/07/05	02/13/06	
169669	7.5	STATION 82-OFFICE BY DAY ROOM	11/07/05	02/13/06	
169670	0.8	STATION 82-FILE ROOM	11/07/05	02/13/06	
169671	6.1	STATION 82-EXERCISE ROOM	11/07/05	02/13/06	
169672	7.6	STATION 82-MACHINE ROOM	11/07/05	02/13/06	
169673	7.5	STATION 82-DORMITORY	11/07/05	02/13/06	

EXHIBIT J

Document SerialID: 02XXXXX17671112008XX231627635

Long Term Radon Testing
Fire Station 82

COPY

July 18, 2006

Clayton Project Number 34006-006130.00

Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street
Suite 440
Portland, Oregon 97232
971.244.1200
www.us.bureauveritas.com

BUREAU VERITAS

Section | Page

1.0 INTRODUCTION 1

2.0 BACKGROUND 1

3.0 METHODS 1

4.0 RESULTS AND DISCUSSION 2

4.1 INITIAL RESULTS BELOW 4.0 PCI/L 2

4.2 STATION 82 HISTORY 2

5.0 RECOMMENDATIONS 2

LIMITATIONS 3

Table

Results of Radon Testing

Appendices

Laboratory Sample Results

1.0 INTRODUCTION

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, was retained by Mr. Ernest Schraner, Jr., Facilities Coordinator for the City of Vancouver Fire Department, to conduct follow-up long term radon testing at Station 82 in Vancouver, Washington.

Clayton's scope of services is described in the proposal letter to Mr. Schraner via Mr. Tim Haldeman with the City of Vancouver, which also included the terms and conditions under which the work was performed (Clayton Proposal Number PR-65OH06.20-7) dated March 31, 2006.

Mr. Ed Gay, Senior Project Manager with Clayton, performed this episode of follow-up testing at Station 82 (between April 3, 2006 and July 10, 2006) based on the prior three month long term testing between November 7, 2005 and February 13, 2006. Mr. Schraner provided background information and accompanied Mr. Gay to provide access for the placement of the AirChek Radon samplers for the current monitoring session.

2.0 BACKGROUND

Radon is a colorless and odorless gas produced by the radioactive decay of the element radium, which results from the natural radioactive breakdown of uranium in soil, rock, and water. Radon is naturally found in the outdoor and indoor air, soil air, and in ground water. Radon typically moves up through soil pore spaces and rock fractures near the surface of the earth and escapes into the atmosphere. Soil air often flows toward building foundations where radon can seep through cracks and other holes in the foundation. Once inside, the radon can become trapped and concentrated. Openings which commonly allow easy inflow of the gas include: cracks in floors and walls, gaps in suspended floors, openings around sump pumps and drains, cavities in wall, joints in construction materials, gaps around utility penetrations (pipes and wires), and crawl spaces that open directly into the building.

The US Environmental Protection Agency (EPA) ranks indoor radon among the most serious environmental health problems. It is the second leading cause of lung cancer in the United States.

PBS Environmental conducted baseline radon testing within the ten fire stations in October 2001. Clayton followed up with sampling exercises in April and May of 2003.

3.0 METHODS

Clayton performed long term radon testing (three months) by deploying AirChek Alpha Track Radon Devices. Alpha Track detectors are passive devices that allow continual adsorption and desorption of radon. The radon testing was conducted, to the extent reasonable, under normal operating building conditions. The testing was performed using EPA approved sampling methodology. Ten (10) long term radon detectors were placed in locations designated by Mr. Schraner and Mr. Gay within Station 82 during this three month radon testing session, lasting from April 3, 2006 until July 10, 2006.

4.0 RESULTS AND DISCUSSION

The average indoor radon level, according to the EPA, is estimated to be about 1.3 picoCuries per liter (pCi/L). If radon test results are at or above the action level of 4.0 pCi/L, the EPA recommends that follow-up long-term testing be performed.

Current analytical results indicated that Fire Stations 82 had radon concentrations well below the EPA recommended action level.

The results for the radon testing and sampling information are provided in the attached Table. Brief descriptions of the building are also included in the table, such as the building being built over basements, or slabs on grade, and how many floors. For example, Station 82 has all three descriptions, basement, some slab portions and a second floor. Also stated are the perceived activity levels in the stations. Station 82 is a very active station with crews and office personnel coming and going. Cracks in slabs, basement floors, and walls, or unsealed foundations, provide entry for the radon gas

Laboratory analytical results are provided in the Appendix.

4.1 INITIAL RESULTS BELOW 4.0 PCI/L

Analytical laboratory results indicated that in Station 82 had radon concentrations below the EPA recommended action level. No additional action or retesting is required at this time. The City of Vancouver Fire Department should retest for radon when occupancy patterns change.

Refer to the attached Table for test details including location and results.

4.2 STATION 82 HISTORY

Clayton conducted **prior** long-term (3 months) radon testing in seven locations within Station 82 from November 7, 2005 through February 13, 2006. Five (5) radon results, **at that time,** were above the EPA action level.

Mr. Schraner commented to Mr. Gay that there have been upgrades and added efficiencies to the HVAC system. These improvements in the air handling system are corroborated by the current very low level radon readings

5.0 RECOMMENDATIONS

Based on the sampling results and observations made during the survey, Clayton offers the following recommendations:

- Periodic radon sampling should be undertaken at Station 82 to insure the proper utilization of the air handling system.
- Unauthorized personnel should not attempt to adjust the ventilation parameters, because in the past some electric breakers were found to be in the "off" position and fresh air vents have been closed. The City of Vancouver Fire Department Facilities Department should

establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.

- Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year.

LIMITATIONS

Clayton prepared this report to aid the City of Vancouver Fire Department in evaluating Fire Station 82 for indoor radon concentrations. This report is for the exclusive use of the client, applies only to the specific subject property detailed above, and shall not be relied upon by any other party without the prior consent of the undersigned.

Within the limitations of scope, schedule, and budget, our services have been executed in accordance with generally accepted practices in this area at the time this letter was prepared. No other hazardous materials/wastes were investigated. No other conditions, expressed or implied, should be understood.

Thank you for the opportunity to continue providing our services to the City of Vancouver Fire Department.

Report prepared by:

Ed Gay
Senior Project Manager
Portland Regional Office

Report reviewed by:

Scott Turkle, CIH
Senior Consultant
Portland Regional Office

July 18, 2006

BUREAU VERITAS

TABLE

Table
Results of Long Term Radon Testing
at Station 82
City of Vancouver Fire Station
Vancouver, Washington
Clayton Project No. 34006-006130.00
Sampling Date: April 3, 2006 through July 10, 2006

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
82	Basement	Exercise Room – active room-personnel	174241	1.4
82	Basement	Machine Room- inactive room-	174242	1.6
82	Main floor	File/Conference Room – active room - personnel	174243	1.3
82	Main floor	Fire Prevention Office – active room - personnel	174244	0.4
82	2nd floor	Large classroom – active room-personnel	174245	1.9
82	2nd floor	Dormitory – back partition – active room - personnel	174246	1.6
82	2nd floor	Dormitory – bookcase – active room - personnel	174247	1.4
82	Main floor	Day Room by TV – active room – personnel	174248	1.6
82	Main floor	Day Room Office – active room-personnel	174249	1.6
82	Main floor	Front office by reception – active area – personnel and citizens	174250	1.9
EPA Recommended Indoor Radon Concentration Action Level				4.0

Notes:
pCi/L: picoCuries per Liter
EPA: United States Environmental Protection Agency
Bold: radon levels above the EPA Action Level

BUREAU VERITAS

APPENDIX

LABORATORY ANALYTICAL RESULTS

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

July 14, 2006

CLAYTON GROUP SERVICES
ATTN: ED GAY
1500 NE IRVING STREET
SUITE 440
PORTLAND, OR 97232

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
174241	1.4	STATION 82, EVERGREEN BLVD,EXERCISE ROOM	04/03/06	07/10/06	
174242	1.6	STATION 82, EVERGREEN BLVD,MACHINE ROOM	04/03/06	07/10/06	
174243	1.3	STATION 82, EVERGREEN BLVD, FILE ROOM	04/03/06	07/10/06	
174244	0.4	STATION 82,EVERGREEN BLVD,FIRE PREVENT	04/03/06	07/10/06	
174245	1.9	STATION 82, EVERGREEN BLVD,CLASSROOM	04/03/06	07/10/06	
174246	1.6	STATION 82,EVERGREEN BLVD,DORM BACK	04/03/06	07/10/06	
174247	1.4	STATION 82,EVERGREEN BLVD, DORM BOOK	04/03/06	07/10/06	
174248	1.6	STATION 82,EVERGREEN BLVD,DAYROOM	04/03/06	07/10/06	
174249	1.6	STATION 82,EVERGREEN BLVD,DAY RM OFFICE	04/03/06	07/10/06	
174250	1.9	STATION 82,EVERGREEN BLVD, MAIN OFFICE	04/03/06	07/10/06	

WHAT YOUR TEST RESULTS MEAN

The average indoor radon level in homes is estimated by the US EPA to be below 2 pCi/l. About 0.4 pCi/l is normally found in outside air. Congress has set a long-term goal that indoor radon levels be no more than outdoor levels. While this goal is not yet technologically achievable in all cases, the radon concentration in most homes with elevated concentrations can be reduced to below 2 pCi/l. However, US EPA believes that any radon exposure carries some risk. No level of radon is safe and you can reduce your risk of lung cancer by lowering your radon exposure. If your living patterns change and you begin occupying a level of your home lower than the level on which you have tested, you should retest your home on that lower level. Also, radon concentrations fluctuate daily, seasonally, and with weather conditions. This alpha track monitor provides the best averaging for these fluctuations. Therefore, you may wish to test again for a full year to average seasonal fluctuations or if exposure was for less than 90 days.

EXHIBIT K

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA BASEMENT PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 3tajy160

EXPOSURE START DATE/TIME	3/ 9/2011	12:18		
END	3/11/2011	12:17	EXPOSURE HOURS =	48.0
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN685L
WATER GAIN = 3.4 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 5.4

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FLOOR TV
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 1tajy155

EXPOSURE START DATE/TIME	3/ 9/2011	12:22		
END	3/11/2011	12: 6	EXPOSURE HOURS =	47.7
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN847L
WATER GAIN = 3.2 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.6

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FLOOR CAPT
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tajy156

EXPOSURE START DATE/TIME	3/ 9/2011	12:20		
END	3/11/2011	12: 7	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN206L
WATER GAIN = 3.1 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.4

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FL N LOBBY
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 3tajy157

EXPOSURE START DATE/TIME	3/ 9/2011	12:33	
END	3/11/2011	12:10	EXPOSURE HOURS = 47.6
ANALYSIS	3/18/2011	13:33	DECAY HOURS = 169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN377B
WATER GAIN = 3.5 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.9

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FLOOR DORM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 1tajy158

EXPOSURE START DATE/TIME	3/ 9/2011	12:25		
END	3/11/2011	12:13	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.5

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN232B
WATER GAIN = 3.7 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.2

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASSROOM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tajy159

EXPOSURE START DATE/TIME	3/ 9/2011	12:26		
END	3/11/2011	12:14	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.5

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN705G
WATER GAIN = 3.2 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 4.3

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

EXHIBIT L

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOUTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASS RM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tali053

EXPOSURE START DATE/TIME	1/23/2013	11:18	
END	1/25/2013	12:41	EXPOSURE HOURS = 49.4
ANALYSIS	2/ 4/2013	14:17	DECAY HOURS = 241.6

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: DB428I
WATER GAIN = 1.6 grams

****
RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 11.8
****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.
****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

EXHIBIT L

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOUTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASS RM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tali053

EXPOSURE START DATE/TIME	1/23/2013	11:18	
END	1/25/2013	12:41	EXPOSURE HOURS = 49.4
ANALYSIS	2/ 4/2013	14:17	DECAY HOURS = 241.6

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: DB428I
WATER GAIN = 1.6 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 11.8

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

EXHIBIT M

McCann Engineering LLC
1335 NW 23rd Ave., Suite 100
Portland, OR 97210-2687
PH. (503)243-2242 FAX (503)243-2448
Email: engineer@mellc.pro

27 February 2013

Mr. Daniel E. Norfleet
Superintendent Facilities
Facilities - General Services
4711 E. Fourth Plain Blvd.
Vancouver, WA 98668-1005

RE: City of Vancouver; Fire Station #1
Subject: Radon Investigation

Dear Dan,

On 4 February 2013 we met at Fire Station #1 on 900 W. Evergreen Blvd. We observed the site, reviewed recent radon test data, and met with maintenance technician and fire department staff. Radon readings that had previously been marginally high had recently become very high.

The Basement Weight Room consistently has the highest readings and it was a bit of a surprise to find high readings in the second floor classroom. Since radon emanates from the soil, I would expect lower level rooms to have higher concentrations. And the Basement does in fact have the highest readings. The Basement walls and floor are concrete in contact with soil.

The Basement Mechanical Room (BMR) also has walls and floor in contact with soil. Outside air is pulled into the BMR by the supply air fan for the main heating and cooling system. The outside air ducts open to the BMR and the supply air fan exerts negative pressure on the room to pull air through the BMR to the inlet of the main HVAC system. The rate of radon coming through the walls and floors is accelerated by this negative pressure exerted on the room by the supply air fan. And this air is circulated throughout most of the building where this main HVAC system distributes its airflow.

The reason for the outside air drawn into the BMR in the manner described above is apparently to cool the electrical switchgear in the room. Having the system open to the mechanical and electrical room like this is likely the reason for the fire damper discussed below.

We discussed the lack of airflow we noted in all but the sleeping room served by the rooftop unit. I recommended that we look for a fire damper that might be closed since that is the most common reason for sudden loss of airflow. The maintenance

technician, Dave Adkins, did not think there were fire dampers in this system but later found one and opened it. Following is his report:

- After examining the mechanical systems at Fire Station #1 we found that a fire/smoke damper installed in the main return air duct had failed, closing off all return air movement in the building. This damper appears to have been installed during a relatively recent redesign of the return air duct system. During the redesign, return air was eliminated from the basement limiting the ability to exchange air in that area of the building. I have added some return air to the basement and corrected the faulty damper position. I placed two radon test canisters to verify if this will correct the high Radon levels recently seen in the building. The samples will be collected and sent to the testing lab on 2/8/13. We should have results within 10 days of that.

With the air damper opened, the readings reverted back to the previous moderately high range. The latest 48-hour reading was 5.7 pCi/L. It is likely that the reason for the louvers in the doors to the Basement Mechanical Room (BMR) being sealed shut was to cause more outside air to be drawn into the BMR through the 2 ducts connecting outside openings to the BMR. By opening the BMR to the Basement, the amount of outside air intake was reduced and more radon laden air was recirculated throughout the building.

The Vancouver area is noted for Radon issues with readings in basements ranging from 1 to 20 pCi/L common.

The following is provided to educate the readers of this report as to the significance of these readings. This table was produced by the EPA, 2002; as a risk assessment for smokers and non-smokers.

The following is an updated chart of the lifetime risk of lung cancer death per person from radon exposure in homes (excerpted from the updated radon risk assessment).

Radon Level [a]	*Lifetime Risk of Lung Cancer Death (per person) from Radon Exposure in Homes* [b]		
pCi/L	*Never Smokers*	*Current Smokers* [c]	*General Population*
20	*36 out of 1,000*	*260 out of 1,000*	*110 out of 1,000*
10	*18 out of 1,000*	*150 out of 1,000*	*56 out of 1,000*
8	*15 out of 1,000*	*120 out of 1,000*	*45 out of 1,000*
4	*7.3 out of 1000*	*62 out of 1,000*	*23 out of 1,000*
2	*3.7 out of 1000*	*32 out of 1,000*	*12 out of 1,000*
1.25	*2.3 out of 1000*	*20 out of 1,000*	*7.3 out of 1,000*
0.4	*0.73 out of 1000*	*6.4 out of 1000*	*2.3 out of 1,000*

a Assumes constant lifetime exposure in homes at these levels.
b Estimates are subject to uncertainties as discussed in Chapter VIII of

the risk assessment.

Recommendations

(Note that the following recommendations are subject to verification of site layout, space availability, and various systems functions and parameters.)

1. A three-fold strategy is recommended:
    a. Seal floors and walls in contact with soil.
    b. Provide positive pressurization in all areas where radon could be introduced through walls or floors.
    c. Seal the HVAC system against radon intrusion.
2. Provide a cabinet fan to draw outside air through existing ducts rather than using the existing supply air fan to draw air through the ducts by negatively pressurizing the Basement Mechanical Room (BMR).

    a. Modular Section Cabinet Fan with a backward inclined fan – Greenheck MSCF-BI
        i. Inlet plenum will connect to 2 round ducts embedded in concrete ceiling. If one is a return and the other OSA, they need to be individually dampered.
        ii. Outlet to be ducted into return air side of main air handler.
        iii. MSCF factory equipped with insulated cabinet.
        iv. All ductwork to be insulated per code.
        v. OSA ducts drawing from below grade locations need to be ducted to min 3' above grade and goose-necked or louvered to preclude water penetration.
3. Provide opening in supply air duct in BMR and provide 200 cfm to positively pressurize BMR. Adjust airflow as necessary to cool electrical switchgear.
4. Close and seal the opening recently made by maintenance technician from Basement to BMR except as required for cooling electrical switchgear.
    a. An alternative would be to alternately discharge outside air directly into the BMR when building is in heating mode and mechanically cooled air when building is in cooling mode. This would be preferred as lower airflow and less energy would be required most of the year when the building is in heating mode.
5. Do not return air from Basement to the building HVAC system. Provide sidewall exhaust fan in Basement wall to negatively pressurize Basement.
    a. Greenheck CW fan.
6. Thoroughly seal all negatively pressurized ductwork in BMR – nickel-thick duct mastic on all seams and joints.

7. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to all concrete floors and walls that are in contact with ground.

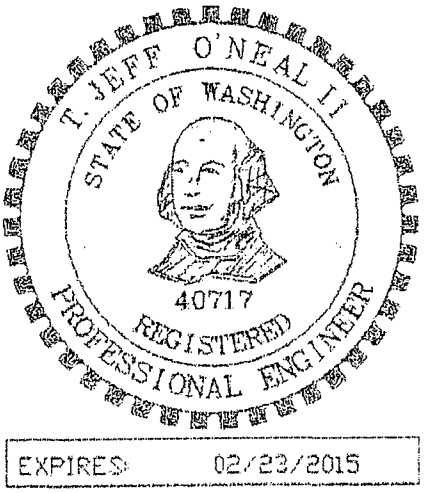
8. Retest all areas previously tested for radon two weeks after completion of above work.

Sincerely,

T. Jeff O'Neal II

T. Jeff O'Neal II, P.E.

10339



EXPIRES: 02/23/2015

EXHIBIT N

McCann Engineering LLC
1335 NW 23rd Ave., Suite 100
Portland, OR 97210-2687
PH. (503)243-2242 FAX (503)243-2448
Email: engineer@mellc.pro

23 April 2013

Mr. Daniel E. Norfleet
Superintendent Facilities
Facilities - General Services
4711 E. Fourth Plain Blvd.
Vancouver, WA 98668-1005

RE: City of Vancouver; Fire Stations #3,8,9 & 4
Subject: Radon Investigation

Dear Dan,

On 25 April 2013 Chief Knable and I met with you at your office and traveled to fire stations 3, 8, 9, and 4, respectively. We observed the conditions at each site and assessed each building relative to elevated radon levels. Following are my observations and recommendations:

Lab results from canisters placed between 26 and 28 February 2013 are as follows:

LOCATION	BSMT /	1ST /	2ND	RESULT	CANISTER# (DB)
#3 DORM		X		3.2	304I
" WORKOUT		X		1.6	392I
" TV		X		3.4	412I
#4 DORM		X		3.0	783C
" TV		X		2.0	006B
#5 TV			X	1.0*	903F
" DORM		X		1.0*	310B
" INSPECTOR		X		1.0*	390I
" ADMIN		X		1.0*	293I
#8 DORM		X		3.2	660F
" TV		X		2.8	333I

* minimum detectable value

The Vancouver area is noted for Radon issues with readings in basements ranging from 1 to 20 pCi/L common.

The following is provided to educate the readers of this report as to the significance of these readings. This table was produced by the EPA, 2002; as a risk assessment for smokers and non-smokers.

The following is an updated chart of the lifetime risk of lung cancer death per person from radon exposure in homes (excerpted from the updated radon risk assessment).

Radon Level [a]	*Lifetime Risk of Lung Cancer Death (per person) from Radon Exposure in Homes* [b]		
pCi/L	*Never Smokers*	*Current Smokers* [c]	*General Population*
20	*36 out of 1,000*	*260 out of 1,000*	*110 out of 1,000*
10	*18 out of 1,000*	*150 out of 1,000*	*56 out of 1,000*
8	*15 out of 1,000*	*120 out of 1,000*	*45 out of 1,000*
4	*7.3 out of 1000*	*62 out of 1,000*	*23 out of 1,000*
2	*3.7 out of 1000*	*32 out of 1,000*	*12 out of 1,000*
1.25	*2.3 out of 1000*	*20 out of 1,000*	*7.3 out of 1,000*
0.4	*0.73 out of 1000*	*6.4 out of 1000*	*2.3 out of 1,000*

a Assumes constant lifetime exposure in homes at these levels.
b Estimates are subject to uncertainties as discussed in Chapter VIII of the risk assessment.

From the EPA's "A Citizen's Guide to Radon"(2004) and "Home Buyer's and Seller's Guide" (2005).

Your short term radon test result is	**What to do after the first test**	**What to do after second test or 2 cans at same time & place**
Greater than 20 pCi/L	Perform short term follow-up test immediately	Fix your home*
10 pCi/L to 20 pCi/L	Perform short term follow-up test immediately	Fix your home*
4 pCi/L to about 10 pCi/L	Perform follow-up test short or long term	Fix your home*
Less than 4 pCi/L	Perform follow-up test if bedroom or living area is in the basement	Consider fixing if between 2 and 4 pCi/L.

EPA AND TCS RECOMMEND YOU TAKE FOLLOW-UP MEASUREMENTS BEFORE YOU UNDERTAKE MAJOR EFFORTS TO CORRECT THE PROBLEM.

If your first or second test was a long term test: Fix your home if the result is 4 pCi/L or more.

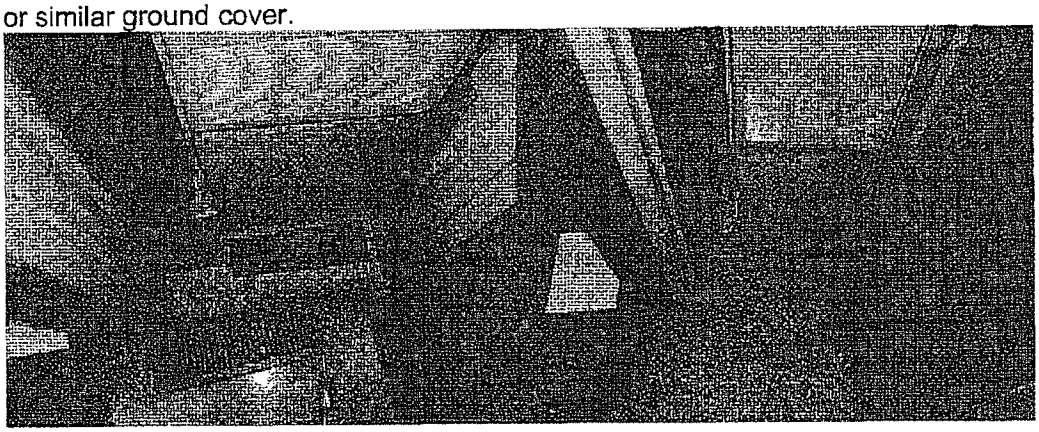
If you used a second short term test: Consider fixing your home is the average of the first and second tests is 4 pCi/L or higher.

Even radon levels below 4 pCi/L pose some risk, and you can reduce your risk of lung cancer by lowering your radon level. Most homes today can be reduced to 2 pCi/L or below.

If you smoke and your home has high radon levels, your risk of lung cancer is especially high.

Fire Station 3:

There was a digital radon meter in the Day/TV Room indicating a level of 4.2 pCi/L. This is higher than the recent lab analyzed canister test result of 3.2 in the TV Room and 3.4 in the Dorm Room. The furnace serving the building was located in the same room. There was a floor grille located in the furnace enclosure. I removed this grille to find it opened directly to the crawl space and the crawl space had poor or no visqueen or similar ground cover.



The crawl space conditions are the likely reason for the elevated radon levels and this opening to the crawl space in the furnace enclosure is a key cause of the elevated radon levels. The furnace draws air from this enclosure, through the louvered door and floor grille, and distributes it throughout the building. There is a moderately large sidewall exhaust fan in the sleeping room and ceiling exhaust in the bathroom that provide ventilation by drawing air from outside through various cracks and crevices in the ceilings, walls, and floors.

The programmable thermostat that controls the furnace was set to circulate air continuously – the fan was in the "On" rather than the "Auto" position. This is the correct setting – we want the fan to continuously circulate air.

There was a piece of plywood stashed in the furnace enclosure, so I laid it over the floor opening to substantially reduce the air transfer from the crawl space in this location.

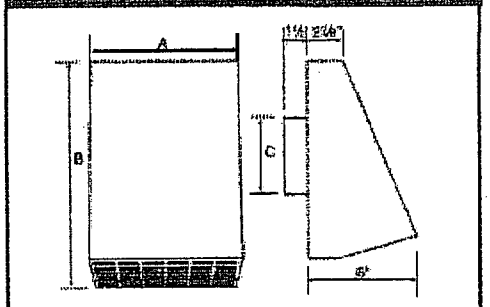
The Exercise Room was on the other side of the Truck Bay, its foundation is slab on grade, and it has a separate through-the-wall, PTAC unit for heating and cooling. Its reading in the recent lab test was 1.6 pCi/L. No work required.

Recommendations

(Note that all recommendations are subject to verification of site layout, space availability, and various systems functions and parameters.)

1. Make sure all thermostats remain in the Fan-On setting at all times.
2. A four-fold strategy is recommended:
   a. Seal the floor penetration in the furnace enclosure and any other floor penetrations to the crawl space.
   b. Provide positive pressurization to the occupied space by bringing outside air into the furnace enclosure by running a 10-inch duct from a screened gooseneck air inlet above the roof to a point inside the furnace enclosure.
   c. Cover the ground in the crawl space with soil-gas retarder membrane. Minimum 6-mil polyethylene or similar sheeting, continuously applied, 12-inch lap at joints, and any rips, punctures, or tears covered by additional sheets.
   d. Provide negative pressurization to the crawl space by closing and sealing all but two foundation/crawl space vents at one end of the building and

DIMENSIONAL DATA



MODEL	A	B	C	SHIP WT.
XMV-A4	10¼"	13"	4"	9 lbs.
XMV-A4HP	10¼"	13"	4"	10
XMV-A6	10¼"	13"	6"	11
XMV-A6HP	14¼"	17"	6"	14
XMV-A8HP	14¼"	17"	8"	16

ORDERING INFORMATION

P/N	MODEL
99 070	XMV-A4
99 071	XMV-A4HP
99 072	XMV-A6
99 073	XMV-A6HP
99 074	XMV-A8HP

		AIRFLOW			FLEXIBLE DUCT LENGHTS	
FAN	PACKAGE	TOTAL CFM	GRILLE CFM	DUCT DIAM.	A	B
XMV - A4	Single	60	60	4"	40'	—
XMV - A4HP	Single	60	60	4"	100'	—
XMV - A4HP	Dual	120	60	4"	60'	10'
XMV - A6	Dual	200	100	6"	20'	10'
XMV - A6HP*	Dual	300	150	6"	100'	50'
*Speed control recommended for shorter duct lengths.						
XMV - A8HP	Triple	300	100	8"/5"	50'	20'

installing a fan in a vent in the other end of the building. American Aldes XMV-A4HP; 120 cfm. Johnson Air in Portland is the local American Aldes rep.

Fire Station 8:

There was a digital radon meter in the TV Room. It was reading 2.9 pCi/L The latest lab canister analysis results are 2.8 for the TV Room and 3.2 for the Dorm Room.

Rooftop HVAC units heat and cool these areas. Separate units serve the TV Room and Dorm Room. The Dorm Room had its thermostat set to continuously circulate air, which is the proper setting. The floors are slab on grade and the Dorm Room has under-floor ductwork in the slab.

The TV Room thermostat was set to only operate the fan when heating or cooling was required. This is not the proper setting for a continuously occupied space.

Recommendations

1. Make sure all thermostats remain in the Fan-On setting at all times.
2. Verify that outside air dampers are open in the rooftop HVAC units and about 10% of the airflow is outside air.
3. Place a digital radon meter in the Dormitory.
4. For the Dormitory HVAC system, increase the outside air intake and test to determine how much this improves the radon levels.
5. If increasing outside air to the Dormitory Room up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Apply epoxy lining to the ductwork embedded in the floor slab.
    c. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

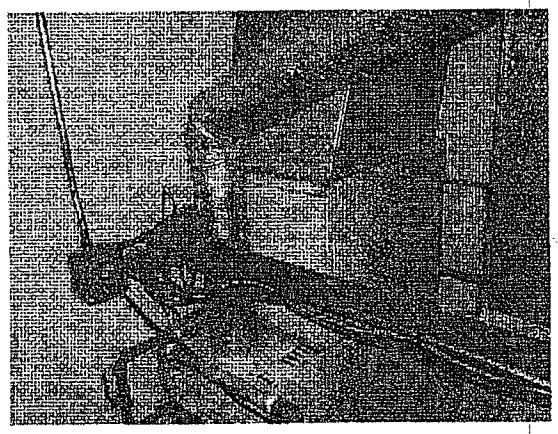
Fire Station 9:

There was a digital radon meter in the Kitchen. It was reading 2.5 pCi/L. Note that instructions with the meters indicate the Kitchen is not the appropriate place to place the meter. The latest lab canister analysis results are 2.9 for the TV Room and 2.4 for the Dorm Room.

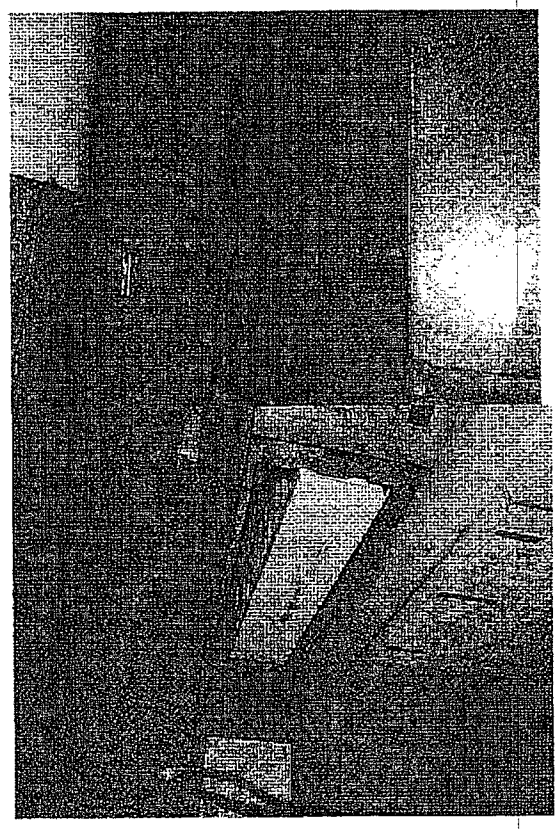
Document SerialID: 02000000001 POOR QUALITY ORIGINAL 27635

There are three HVAC systems at Station 9, Main areas to include TV Room, Dorm Room, and Classroom. The Classroom and Main/TV Room thermostats were in the Fan-Auto setting rather than Fan-On as they should have been.

The furnaces for the TV Room and Dorm Room were collocated in a mechanical room next to the Kitchen and TV Room. Several issues were noted with this installation:



- The most immediate concern is that the Armaflex foam rubber insulation on the refrigeration lineset is too close to the flue for Furnace #1. The flue appears to be a single-wall B-vent type flue and a 1-inch separation from combustible materials is required. ***This is a fire hazard and needs to be verified and corrections made as soon as possible.***



- Second, the outside air (OSA) ductwork for the furnaces appeared to be dampered off. The OSA ductwork is uninsulated and it may have been dampered off because it had condensation forming on it and dripping onto the floor and getting the ceiling wet where it penetrates the drywall. I turned the handles to what appeared to be the fully open position as seen in the photo at right. The damper position needs to be verified.

- There are electrostatic filter housings for the furnaces that have been converted to standard pleated filters. However, undersized filters are being used. 4-inch filters that are not tall enough to fully engage the filter frame are being used rather than the proper 5-inch, full-height filters. They are allowing significant amounts of unfiltered air to bypass the filters.

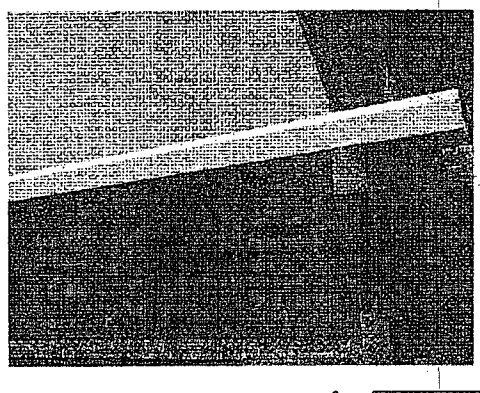
The Classroom HVAC unit is apparently on the roof. Radon readings should be taken in the Classroom to see if mitigation in this area is necessary.

For the Dorm Room and Main areas, both supply and return air grilles are located in the ceilings. Heating occurs most of the year and warm buoyant air in heating mode tends to stay along the ceiling and short circuit between supply and return grilles unless steps are taken to intentionally prevent this. This is critical for both thermal comfort and for proper ventilation to mitigate radon especially but other contaminants as well.

Recommendations

1. Verify/Provide adequate clearance between furnace flues and all combustibles.
2. Provide properly sized pleated replacement filters for furnace filter units.
3. Make sure all thermostats remain in the Fan-On setting at all times.
4. Verify that outside air dampers are open in the rooftop HVAC units and at least 10% of the airflow is outside air. Increase percentage of outside air as necessary (an as possible) to decrease radon levels.
5. Place a digital radon meter in the Dormitory.
6. Move the existing radon meter out of the Kitchen and into the TV Room.
7. If canisters in the Classroom record elevated radon levels, place digital radon meter in Classroom to monitor mitigation results.
8. For the HVAC systems, increase the outside air intake and test to determine how much this improved the radon levels. Additional and/or larger ductwork may be required for the Dorm and TV Room furnaces.
9. If increasing outside air up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Fire Station 4:

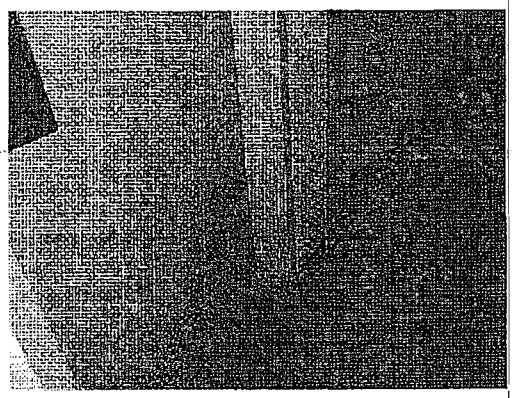


There was a digital radon meter in the TV Room. It was reading 5.7 pCi/L. The latest lab canister analysis results are 2.0 for the TV Room and 3.0 for the Dorm Room.

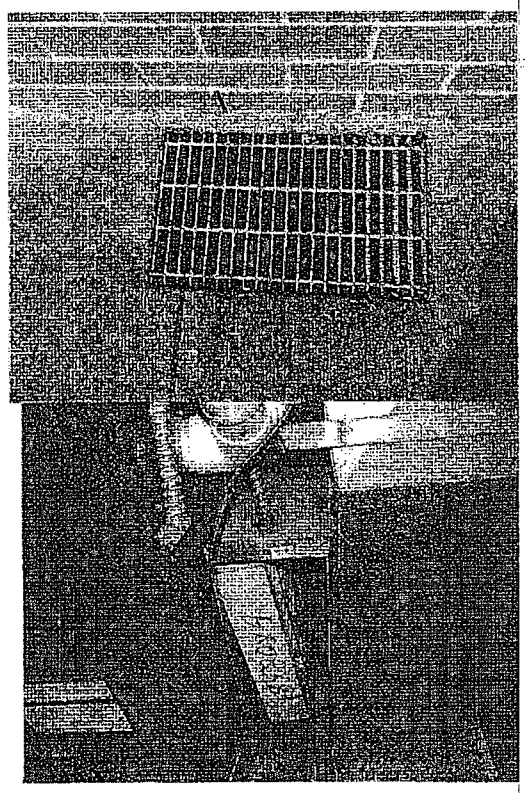
The HVAC system appears not to have outside air provided directly to it. There are not roof penetrations for OSA, but there is a possibility

Document SerialID: 02XXXXX17671112008XX231627635

POOR QUALITY ORIGINAL



OSA ducts extend from vents in the soffit soffit to return air ducts in the attic. Note that the attic is conditioned (the insulation is in the roof assembly, above the attic), so there is no reason to vent the soffit, other than moisture protection for the soffit, alone. Unless there is a good air-seal at the bird-blocking between rafters and joists at the wall top plates, there will be air leakage into the conditioned attic and significant heat loss (wasted energy) will result.



There are exhaust fans in the bathroom that could potentially mitigate the elevated radon levels. However, there is very little undercut under the bathroom doors. So very little exhaust is drawn from other spaces outside the bathrooms.

There are two Jenn-Air cook-tops in the Kitchen. They have downdraft exhaust systems that convey air through under-slab ducts to a well outside the building. This is a potential source of entry of radon into the space. We turned on one of the cook-top fans onto low speed and asked the firefighters to leave it on continuously to provide more fresh air and see if this helped lower the radon level measured by the meter nearby.

Furnace filters have the same issue described above for FS#9:

Thermostats for the Dorm Room and Classroom were set to Fan-Auto and the TV Room thermostat was set to Fan-On. We changed the Dorm and Classroom stats to Fan-On and they should stay that way.

Recommendations

1. Provide properly sized pleated replacement filters for furnace filter units.
2. Make sure all thermostats remain in the Fan-On setting at all times.
3. Run both Jenn-Air fans on low until other measures are taken to insure radon is not entering through their ductwork.

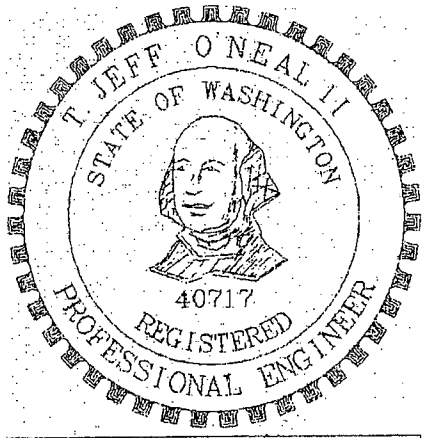
4. Provide Ruskin CDRS-25 round control dampers with blade seals in the Jenn_air exhaust ducts. Provide normally closed Belimo damper controller, connected to the damper for each range exhaust that opens when the fan turns on.
5. Verify that there is outside air to furnaces outside air dampers are open such that at least 10% of the airflow is outside air. Increase percentage of outside air as necessary (an as possible) to decrease radon levels.
6. Provide 22" x 14" Price STG, steel transfer door grilles with completely sight-proof core in each bathroom door.
7. Verify exhaust ductwork serving the Jenn-Air cook-tops is completely sealed with approved "nickel-thick" mastic, particularly between the floor and the new dampers.
8. Verify all floor penetrations for ductwork and other purposes are completely sealed.
9. Place a digital radon meter in the Dormitory.
10. For the HVAC systems, verify outside air is supplied to the furnaces, increase the outside air intake and test to determine how much this improved the radon levels. Additional and/or larger ductwork may be required for the Dorm and TV Room furnaces.
11. If increasing outside air up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Sincerely,

T. Jeff O'Neal II

T. Jeff O'Neal II, P.E.

10339



EXPIRES: 02/23/2015

EXHIBIT O

6/12/2013

TO: **The City of Vancouver**
ATTN: **Mike Shrum**
Facilities Contract Services Supervisor

Proposal for Architectural Services
Fire Station 1
Radon Mitigation / HVAC Upgrade Review

Dear Mike:

This proposal for work is prepared by Wilson Associates Architects and Planners (Architecture and Engineering), for the use of The City of Vancouver (Client). Unless otherwise noted, the fees proposed in the work order are firm. This proposal is valid for 90 days after the posted date.

The project consists of reviewing original construction documents and recent mechanical drawings for an upgrade of the HVAC system at the existing City of Vancouver Fire Station 1 located at 990 West Evergreen Boulevard. The purpose of the review is to determine existing fire separation locations and assist with resolving code questions with respect to fire damper requirements. Wilson Associates will also investigate possible inadequacies related to existing fire separations and associated opening protection.

Project Understanding
Wilson Associates will visit the existing Fire Station 1 and review Client-provided construction documents to determine probable fire separation locations. Following the site visit and existing construction document review, Wilson Associates will generate a report outlining the existing conditions and probable fire separation upgrade requirements. Wilson Associates will also review their findings, and probable solution(s) with the City of Vancouver Building Department. Following final resolution of the fire separation issues, Wilson Associates will provide the Mechanical Engineer-of-Record, McCann Engineering LLC, with information necessary for them to revise their system design for compliance with IBC requirements.

Work Proposed:

• Review of Existing Conditions	**$ 440.00**
• Architectural Code Research / Coordinate with Building Official(s)	**$ 460.00**
• Generate / Issue Report	**$ 200.00**
TOTAL:	**$ 1,100.00**

REIMBURSABLE EXPENSES
Reimbursable expenses shall be charged according to the attached rate sheet. For this project, we can provide a Not-To-Exceed reimbursable allowance of $50.

TOTAL (NOT-TO-EXCEED) **$ 1,150.00**

BILLING:
Billing shall be monthly based on a percentage of work completed.

Respectfully,

Andy Jacobson

Signed: _____

Dated: _____

EXHIBIT P

Risk Management
415 W. 6th Street, 3rd Floor, P.O. Box 1995, Vancouver, WA 98668-1995
Phone: 360-487-8494 Fax: 360-487-8496

CLAIM FOR DAMAGES FORM

IMPORTANT: Please complete this form as completely as possible. Attach separate sheets if necessary.

PERSONAL INFORMATION

Name Wendy Ann Murray as Personal Representative of the Estate of Carl Murray Date of Birth 3/20/1962 Social Security No. _____ (Optional)
Current Address 13832 NW 10th Ct - Unit C City Vancouveer State WA Zip code 98685
Home phone no. 360-909-9271 Work phone no. _____ Mobile phone no. _____
Employer _____ If minor, name of parent or guardian: _____
Address at time claim arose (if different than above): 910 NW 92nd St, Vancouver, WA 98665

INCIDENT (TIME AND PLACE INJURY OR DAMAGE OCCURRED)

Date of Incident 1993 through 2013 Time of Incident When on duty during those years. ☐ a.m. ☐ p.m.

Exact location of occurrence: Fire stations 1, 2, 6 , and other City of Vancouver Fire Stations

Describe nature of incident (i.e., the conduct and circumstances that brought about the injury or damage) (Be as detailed as possible)

See attached.

INJURY/DAMAGES

Describe the injury or property damage.

Wrongful death, survival, economic and non-economic damages from occupation radon exposures in City of Vancouver fire stations causing injury and death.

Medical treatment received? ☒ Yes ☐ No Name of doctor See attached.
Hospital treatment received? ☒ Yes ☐ No Name of hospital See attached.

Are you covered by insurance? Please list your agent or carrier and policy #:
This is a firefighter line of duty tort claim against the City of Vancouver. The City of Vancouver is insured for liability claims.
This is not required by statute.

What is the amount of damages claimed? (Please include copies of receipts or estimates)
For tortious conduct of the City of Vancouver including outrage, gross negligence, negligence, survival and wrongful death.

Have you filed a claim with anybody else? If so, with whom?
This is a firefighter line of duty tort claim against the City of Vancouver. This is not required by the statute.

AUTOMOBILE CLAIMS ONLY

Name, address and telephone number of the owner of the vehicle involved, if different from operator:

WITNESSES (if any)

Please list the names of all persons involved and contact information, if known.
(Attach separate sheets if necessary)

Name See attached.
Address
Phone No.

Name See attached.
Address
Phone No.

OTHER HELPFUL INFORMATION

It is helpful for us to know as much as possible about the incident and what we might be able to do to help. Please include: who you talked to at the City and why you believe the City may be responsible.

The City of Vancouver has admitted that Carl Murray's death was caused by his line of duty exposures to smoke, fumes and toxic substances.
Carl Murray's death was caused by career exposure to radon in City of Vancouver fire stations resulting in terminal cancer.
See attached.

VERIFICATION

This claim form must be signed either by: (a) the claimant, verifying the claim, (b) pursuant to a written power of attorney, by the attorney in fact for the claimant, (c) by an attorney admitted to practice in Washington state on the claimant's behalf; or (d) by a court-approved guardian or guardian ad litem on behalf of the claimant.

(COMPLETE ONLY ONE SECTION)

CLAIMANT

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct..

Date _____ Place signed: _____ Signature _____

ATTORNEY IN FACT

I declare under penalty of perjury under the laws of the State of Washington that I am an attorney in fact for the claimant and that I am authorized to present this claim on his/her behalf. (Attach copy of documentation supporting attorney in fact relationship).

Date _____ Place signed: _____

Print Name _____ Signature _____

ATTORNEY AT LAW

I declare under penalty of perjury under the laws of the State of Washington that I am an attorney admitted to practice in the State of Washington, am in good standing, and am authorized by the claimant, who is my client, to file this claim on his/her behalf.

Date FEB 4, 15 Place signed: Olympia, Washington Signature Ron Meyers

Print Name Ronald G. Meyers ; WSBA No. 13169

COURT APPROVED GUARDIAN OR GUARDIAN AD LITEM

I declare under penalty of perjury under the laws of the State of Washington that I am a court-approved guardian or guardian ad litem for the claimant and am authorized to present this claim on his/her behalf. (Attach court documentation showing court approval of guardian/guardian ad litem appointment).

Date _____ Place signed: _____

Print Name _____ Signature _____

HOW TO SUBMIT THIS FORM

This form must be submitted to the City Risk Manager, Tim Haldeman. It may be mailed to Tim Haldeman, City of Vancouver Risk Manager, P.O. Box 1995, Vancouver, WA 98668-1995. The form may also be delivered to the City Risk Manager, 415 W. 6th Street, Vancouver, WA 98660; business hours are Monday through Friday 8:00 a.m. to 5:00 p.m. If the Risk Manager is not present, the following people are authorized to accept the claim in his absence: Liability Administrator (Susan Lindahl) or Risk Analyst (Jackie McGee).

This Tort Notice conforms with RCW 4.96.020

Wendy Ann Murray as Personal Representative of the Estate of Carl Murray
Claim for Tort Damages - City of Vancouver
Attachment to Notice of Tort Claim

Nature of Incident:

The City of Vancouver has known of the excessive radon levels in its fire stations at least since conducting radon testing at ten City of Vancouver fire stations in October of 2001. Carl Murray, a career firefighter and Fire Caption for the City of Vancouver, died on July 30, 2013 from lung cancer caused by radon gas poisoning after 19 years in various City of Vancouver fire stations. The City of Vancouver is liable for damages from its tortious conduct up to and including the death of firefigher Murray. *RCW 41.26.281.*

The City of Vancouver knew that radon level in the basements and other locations of its fire stations was above the permissible level. In buildings radon levels are usually highest in the basement. The City of Vancouver had its fitness equipment in the basements of fire stations where radon levels were beyond the permissible limit.

Radon gas in the air breaks down to other radioactive elements (radon progeny). Radon progeny are tiny radioactive particles that can lodge in the lining of the lungs, where they continue to break down into other radioactive elements by releasing radiation. The radiation released in this "radioactive decay" process can damage lung cells and eventually lead to lung cancer.

Because radon and its progeny are absorbed mainly by inhaling, and because the alpha particles they give off travel only a short distance, damage is concentrated in the lungs.

The evidence that radon causes lung cancer comes from studies in people and studies done in the lab.

The International Agency for Research on Cancer (IARC) is part of the World Health Organization (WHO). Its major goal is to identify causes of cancer. Based on the data available, IARC classifies radon and its progeny as "carcinogenic to humans."

The National Toxicology Program (NTP) is formed from parts of several different US government agencies, including the National Institutes of Health (NIH), the Centers for Disease Control and Prevention (CDC), and the Food and Drug Administration (FDA). The NTP has classified radon as "known to be a human carcinogen."

The US Environmental Protection Agency (EPA) monitors the human health effects from exposure to various substances in the environment. The EPA lists radon as the second leading cause of lung cancer and the number one cause of lung cancer among non-smokers.

The City of Vancouver failed in its duties to protect its firefighters from Radon gas poisoning. The failure in its duties occurred at times when the City of Vancouver knew of excessive levels of radon gas in its fire stations, failed to warn firefighters of the toxic levels of radon, and failed to property mitigate high-levels of radon gas in the City's fire stations, all of which led to the early, tragic, and unnecessary death of firefighter Carl Murray. *WAC 296-305.*

The City of Vancouver had a non-delegable duty to provide a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to its employees.

RCW 49.17.060 Employer — General safety standard — Compliance.
Each employer:
(1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees: PROVIDED, That no citation or order assessing a penalty shall be issued to any employer solely under the authority of this subsection except where no applicable rule or regulation has been adopted by the department covering the unsafe or unhealthful condition of employment at the workplace; and
(2) Shall comply with the rules, regulations, and orders promulgated under this chapter.

At all time material to Plaintiff's claims it was law that WAC 296-305 "shall" be considered as the firefighter safety standards for the state of Washington. *WAC 296-305-01003(3).*

City of Vancouver had a duty to provide a safe work place and to comply with the safety and health standards to achieve the safest workplace reasonably attainable under the conditions to which firefighters will be exposed. *WAC 296-305-01001.*

WAC 296-305-01509 Management's responsibility.
(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:
(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.

City of Vancouver was required to furnish and require the use of appropriate safety devices and safeguards. All work methods, and operations are required to be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the safety and health of employees. *WAC 296-305-01513.*

City of Vancouver duty to comply with the safety and health standards to achieve the safest workplace reasonably attainable under the conditions to which firefighters will be exposed applied to "any and all activities, operations and equipment." *WAC 296-305-01003.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver knew that radon gases in the basements of fire stations created a "hazardous atmosphere" for firefighters such as Carl Murray, deceased, by being in the basements, by working out strenuously in the basements, by direct contact, by inhalation and by ingestion. *WAC 296-305-01005.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver knew that radon gases in the basements of fire stations were being transferred to firefighters such as Carl Murray by being in the basements, by working out strenuously in the basements, by direct contact, by inhalation and by ingestion. *WAC 296-305-01005.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material and had a duty to report any injury or illness that firefighters such as Carl Murray experienced within eight hours of an incident related hospitalization or fatality. *WAC 296-305-01501.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material and had a duty to identify the hazardous gases, chemicals or materials involved. *WAC 296-305-01505.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal levels of radon gases and had a duty to provide good record keeping and safety training to identify and correct safety and health hazards including radon gas exposures in the basements of City of Vancouver fire stations. *WAC 296-305-01507.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver failed to comply with it mandated Hazard Communication Program – a procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees, including exposures that cause cancer. *WAC 296-305-01005; WAC 296-800-170.*

City of Vancouver failed to provide a safe work place. City of Vancouver failed to properly train command personnel. City of Vancouver failed to comply with the Washington Industrial Safety and Health Act, including but not limited to RCW 49.17.060.

City of Vancouver failed to comply with the Washington Administrative Code, including but not limited to Chapter 296-305 Safety Standards for Fire Fighters, thereby causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver failed to comply with its own regulations and policies, thereby causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care to Carl Murray, now deceased, thereby causing his radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care by acting negligently, recklessly and outrageously, thereby causing his radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care by causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death caused economic and non-economic damages including loss of consortium damages of Wendy Ann Murray his spouse at the time of his death and damages to other statutory beneficiaries.

Carl Murray's name has been engraved on the Fallen Fire Fighter Memorial in Colorado along with his IAFF Local #452 and July 30, 2013 date of death. His memory was honored at the Washington State Fallen Firefighters Memorial Service on June 1, 2014. The City of Vancouver has admitted that his lung cancer death occurred in the line of duty.

Medical and Hospital Providers:

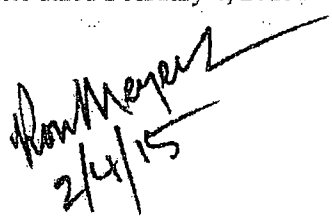
1. Urgent Care on Hwy 99 in Hazel Dell, Vancouver
2. Dr. Levine-Wellness doctor for the VFD
3. Vancouver Clinic-Salmon Creek
4. Shawn He-Salmon Creek Medical Center Oncologist.
5. Dr. Alan Sandler-OHSU
6. Dr. Lopez Chavez-OHSU
7. Dr. Paul Schipper-OHSU Surgeon
8. Dr. Charles Thomas-Radiation Oncology
9. Dr. John Holland-Radiation Oncology-OHSU
10. Dr. Martin Fuss-Radiation Oncology-OHSU
11. Emergency Room-OHSU
12. Knight Cancer Center for Chemotherapy
13. Dr. Hank Kaplan-Swedish Hospital Seattle
14. Dr. Naou Kim-Surgeon-Swedish
15. Chemotherapy
16. Seattle Radiology
17. Dr. Kaplan had an infectious disease specialist work with Carl for quite some time.
18. Dr Louise Tolzmann- Primary care physician
19. Dr. Dwight McKee.
20. Dr. Grunburg- Final Oncologist Compass Oncology over in Portland at Peterkort Location
21. Hospice prescribed by Dr. Grunburg
22. Legacy Salmon Creek Hospital
23. District Six Fire Department
24. American Medical Response
25. The Weisenthal Clinic in California

Witnesses:

Wendy Ann Murray
Madeleine Bloom
Olivia Bloom
Sophie Murray
Seth Minor
City of Vancouver Employees
City of Vancouver Fire Department Personnel, current and former
City of Vancouver Independent Contractors and Agents
Expert witnesses for liability and damages

Spoliation:

See letter dated February 4, 2015.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON, IN AND FOR THE COUNTY OF CLARK

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020	No. 15-2-04119-7
Plaintiff/Petitioner	
VS.	DECLARATION PURSUANT TO GR 17(a)(2)
CITY OF VANCOUVER, a municipal subdivision of the State of Washington	
Defendant/Respondent	

I declare as follows:

1. I am the party who received the foregoing email transmission for filing.
2. My address is: 310 SW 4th Avenue, Suite 440 Portland, Oregon 97204.
3. My phone number is 503-727-3100.
4. I have examined the foregoing document, determined that it consists of 111 pages, including the signature page and this Declaration page, and that it is complete and legible.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated:,05/16/2016 at Portland, Oregon.

Signature: _____
Print Name: Laurice Averill

Wednesday, June 07, 2017
Time: 14:23:04 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

I, Scott Weber Clark County Clerk **and ex-officio clerk of the** Clark County Superior Court **in the State of Washington, certify that the document** SerialID: 02XXXXX17671112008XX231627635 **containing** 132 **pages that was transmitted is a true and correct copy of the original that is of record in my office and that this image of the original has been transmitted pursuant to statutory authority under RCW 5.52.050. In Testimony whereof, I have electronically certified and attached the Seal of said Court on this date.**

Scott Weber
County Clerk

Kathy Croft

Kathy Croft

Date: Wednesday, June 07, 2017

Instructions to recipient:
If you wish to verify the authenticity of the certified document that was transmitted electronically by the Court, Sign on to www.ClerkePass.com, and Login As "User" & enter SerialID: 02XXXXX17671112008XX231627635 **. If you want to present this document to others, please ask them to Register & Login as "Viewer". The copy associated with this number will be displayed by the Court.**

APPENDIX C

Document SerialID: 02XXXXX17671112008XX231627635
Wednesday, June 07, 2017
Time: 14:23:04 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

JUDGE'S COPY

FILED
MAY 16 2016
Scott G. Weber, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries, Plaintiff, v. CITY OF VANCOUVER, a municipal subdivision of the State of Washington, Defendant.	Cause No.: 15-2-04119-7 PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S CR 56 MOTION FOR PARTIAL SUMMARY JUDGMENT

I. RELIEF REQUESTED BY PLAINTIFF

RCW 49.17.060 Employer—General safety standard—Compliance.
Each employer:
(1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees . . . ; and
(2) Shall comply with the rules, regulations, and orders promulgated under this chapter.
[bold, underline emphasis added]

WAC 296-305-01509 Management's responsibility.
(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:
(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.
. . .
(2) The fire department shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.
. . .
(6) The fire department shall develop and maintain a hazard communication program as required by WAC 296-800-170, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.
. . . . [bold, underline emphasis added]

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

PMC

WAC 296-305-01003 Scope and application.

. . .

(2) The provisions of this chapter apply to all firefighters and their work places . . . .

. . .

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries. **In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply**.

A. The firefighter right to sue statute does not limit Plaintiff's causes of action.

RCW 41.26.281 Cause of action for injury or death
If injury or death results to a member from the **intentional or negligent act or omission** of a member's governmental employer, the member, the widow, widower, child, or dependent of the member shall have the privilege to benefit under this chapter **and also have cause of action against the governmental employer as otherwise provided by law**, for any excess of damages over the amount received or receivable under this chapter. [bold, underline emphasis added]

The "firefighter right to sue statute" allows claims for intentional or negligent acts or omissions. Additionally, the statute also allows claims "as otherwise provided by law" arising from reckless of other conduct. It contains no provision against imposition of strict liability on Defendant. All of Plaintiff's causes of action are viable based upon the Defendant's reckless and continuing acts and omissions.

The statute of limitations does not run until the Plaintiff is told that the occupational lung cancer that killed her husband Carl Murray did not come from smoke, fumes and toxic substances but was caused by radon exposures inside its own fire stations that the City knew about for decades – and had an ongoing and continuous duty to tell its firefighters about – but said nothing.

The Defendant's Motion for Partial Summary Judgment should be denied in its entirety.

II. FACTS

A. Statutes of limitation have yet to begin to run under the "discovery rule".

All aspects of the relief sought by the Defendant should be denied. The statute of limitations did not run as to any cause of action because the Defendant recklessly failed to place its firefighters on notice of lethal levels of radon in City of Vancouver fire stations for decades. Such notice – each time there was a radon reading in the Defendant's fire stations – is mandatory. *See, WAC 296-305 Safety Standards for Fire Fighters.* The duty to inform firefighters of hazards they are exposed to is non-delegable. The

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

identify what fire stations, and on what dates, Carl Murray had been assigned during his career, Defendant "data dumped" over 73,000 pages listing every station, and every firefighter, assigned to every fire station for the 20 years. This is discovery abuse subject to another motion on another day. A CR 26(i) conference has been held on this issue – and others.

Reckless conduct in allowing ongoing exposure to lethal exposures of radon over decades – while ignoring the mandatory safety standards – requiring reporting of the ongoing radon hazard in Defendant's fire stations – leaves the outrage claim viable. Defendant's "certainty of outcome" defense is not a requirement for this cause of action. Survival and loss of consortium damages are provided by statute to certain statutory beneficiaries such as surviving spouses. Strict liability is a tort based claim also allowed under Washington tort law. How could any person or entity be so callous as to deprive firefighters of knowledge regarding ongoing exposures to lethal levels of radon – a Group 1 carcinogen. ER 201.

RCW 51.32.185 presumes that all respiratory diseases in firefighters are caused by smoke, fumes and toxic substances due to the nature of emergency responses firefighters make when lives and property are in danger. The Defendant admits that Carl Murray's lung cancer was occupational – but denies the lethal levels of radon contamination throughout the Defendant's fire station had anything to do with his death. Therefore, the statute has not even begun to run. Medical testimony is coming – and when it does come – the statute begins to run and the Defendant will be squarely engaged in the causation litigation it denies to date.

The Defendant recklessly failed to record levels of radon frequently over several decades, to continuously report the levels of radon to firefighters, to mitigate the lethal levels of radon exposure to firefighter, and to eliminate the exposures of firefighters to radon in its fire stations as it was required by law to do. Outrageous.

Subjecting firefighters to lethal doses of radon for years – and not telling them about it – when the law requires the Defendant to inform and correct radon exposures tolls any statute of limitations. Not all elements of the causes of action sufficient to start the statute were made known to the Plaintiff or

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

duty to be informed is a firefighter mandated right – and the duty to inform is the sole obligation of the Defendant. Sadly, but to the Defendant's detriment in this argument, it continues to deny a relationship between Carl Murray's occupational lung cancer and the lethal levels of radon in its fire stations. Defendant's conduct continues to be reckless – just as it has been for decades.

The Defendant's acts and omissions in failing to report hazardous conditions in fire stations as mandated by fire fighter safety standards law invokes the discovery rule and tolls any running of the statute.

Furthermore, at this early stage in this case, there is not yet medical testimony on causation of Carl Murray's lung cancer by lethal exposures to radon. Defendant has admitted that Carl Murray died of occupational lung cancer. His name is engraved on the Fallen Firefighter Line of Duty Death walls in Washington at the Training academy at North Bend and in Colorado proving his line of duty death as a firefighter. The cause of his line of duty death – is for medical experts. There will likely be several. It is important to review the case law and facts on this point.

The statute of limitations does not even begin to run until there is medical causation evidence that radon caused – or was a cause – of Carl Murray's death. The Defendant acknowledges only that smoke, fumes and toxic substance exposures while responding to fires as a public servant was the cause of his cancer.

As discovery continues – radon causation testimony will be available before any discovery cutoff and in more than enough time to be heard by the jury. There is no need for the Defendant to rush to judgment. Full, fair and responsive discovery is a prerequisite to real justice.

Res ipsa loquitur also applies in this case even though there may be more than one proximate cause of Carl Murray's lung cancer. Discovery is continuing but not without a significant amount of discovery abuse from Defendant. In light of the almost 200,000 page "data dump" received by Plaintiff from Defendant to date, there will likely be motions' practice to compel more responsive documentation to the requests actually made by the Plaintiff.

As an example as to why this is already necessary – when Defendant was simply requested to

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

any of Defendant's firefighters until Defendant finally provided thousands of pages of radon documents to Plaintiff in discovery less than three years ago. This material is now under review by Plaintiff's consultants. Information regarding Carl Murray's exposures has yet to be shared with Plaintiff's experts because Defendant's discovery abuse prevents meaningful review and analysis of his exposures. It is telling that in a prior Public Records Act request, the Defendant provided less than a thousand pages. During recent discovery the page count swelled to more than ___ pages in response to radon-related discovery. Then when only limited data was requested – the Defendant responded with over 73,000 pages – almost all it was non-responsive.

Default judgment for all causes of action based upon Defendant's acts and omissions cannot be ruled out at this date. Plaintiff has yet to sort out the Defendant's "data dump". It appears court intervention will be required.

What is clear is that the statute of limitations has not yet begun to run. The statute could not even begin to run until the Defendant's disgorging of radon contamination data – less than three years before this lawsuit was filed.

Although Carl Murray was not told about the lethal doses of radon being released in Defendant's fire stations – because the Defendant was reckless and derelict in its duties to follow firefighter safety standard mandates – and in carrying out its mandatory responsibilities over decades – the Defendant wants to use its own acts and omissions in suppressing notice to firefighters of this lethal danger – as a defense. After failing to put its firefighters like Carl Murray on notice it now attempts to hide behind a statute of limitations defense. That the Defendant failed to tell the firefighters of the ongoing and lethal levels of radon in its fire stations – while suggesting they simply check their own homes – is outrageous. The Defendant knew of the radon in the fire stations and did nothing but let the lethal exposure levels of radon continue to harm firefighters for years and years and years. That is extreme. It is indecent. It may – in the end – be criminal.

Defendant's conduct likely violates state and federal law. An argument for another day – but clearly summary judgment is premature – and unlikely in any event to be determined in Defendant's favor.

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

The Defendant cannot claim the statute of limitation defense when – year, after year, after year – it recklessly and illegally disregarded legislative mandates requiring Defendant to inform firefighters of dangerous conditions in their workplace and failed to inform now-decedent Carl Murray and other firefighters of their lethal exposures to exceptional levels of radon in Defendant's fire stations.

That Defendant advised firefighters to test their homes for radon levels "to protect yourself and your family" is meaningless in the context of Defendant violating its firefighters' right to know about lethal doses of radon in fire stations from the firefighters who worked there. It is an extreme and it is an outrageous "suggestion" when the Defendant knew that its fire houses were hotbeds of lethal radon exposures. Reckless, extreme, outrageous conduct by acts and omissions – and a jury will tell us all whether Plaintiff is right or wrong. But, this is a question for the jury given decades of extreme acts and omissions recklessly placing firefighters in harms way – and not a harm firefighters knew about, accepted, understood, were told about or could make a reasoned determination about. Firefighters do not have this responsibility. Carl Murray did not have this responsibility. The Defendant did. The Defendant does. The duty of the Defendant is not delegable. Defendant's conduct was, and is, outrageous. Plaintiff deserves her day in court on each and every issue raised in her Complaint.

Plaintiff agrees that the firefighter "right to sue" statute does subject damages to offset by specific categories of damages paid by the Defendant. However, the Defendant has refused to provide the figures and formulas for Defendant's calculations regarding the offset. These calculations will no doubt require careful, expert scrutiny.

RCW 41.26.281 does not limit the claims set forth in Plaintiff's Complaint. *See, Complaint.*

B. Causes of action in Plaintiff's Complaint are provided for in the firefighter right to sue statute.

Defendant's attempt to impute medical causation knowledge to Carl Murray based upon public service announcements that made no mention of lethal levels of radon in fire stations is frivolous. There is no evidence of medical opinion causation present in the record. There is trivialized information in 2001 regarding radon – but no followup – and no notice that it is a cause of lung cancer or that mitigation efforts were dismal failures that did not correct the radon exposure issues in City of

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Vancouver fire stations. The Defendant's attempt to run out the statute – is inconsistent with the Defendant's failure to even disclose radon levels in fire stations to its firefighters as required by law. The Defendant was derelict in its responsibilities to inform its firefighters about the risks they were being knowingly exposed to by their government employer.

III. ISSUES

1. Whether the statute of limitations can even begin to run when Defendant violates the mandatory firefighter safety laws and fails to inform firefighters of lethal levels of radon in its fire stations? **NO.**

2. Whether there are legal bars to any of the multiple causes of action filed in the Complaint by the Plaintiff against the Defendant? **NO.**

IV. EVIDENCE RELIED UPON

Plaintiff relies upon the records and pleadings herein, the declaration or Ron Meyers and exhibits, the declaration of Wendy Murray, and the fact that the Defendant continues to deny any relationship between lethal levels of radon in Defendant's fire stations as a cause of Carl Murray's lung cancer. The Defendant has not established medical causation – or knowledge of medical causation of this invidious occupational disease – necessary to even start the statute of limitations running. There was no basis to do so until the Defendant disgorged its records evidencing its reckless disregard for firefighter safety in recent discovery.

The discovery rule is the only equitable means by which a statute of limitation fairly can be applied to survival and wrongful death actions in cases where the Defendant failed to provide ifs firefighters with knowledge of an invidious occupational disease – it was withholding in violation of law every year (sometimes several times a year) for years and years and years. On other occasions the Defendant would go for years without even a single radon measurement in its fire stations.

V. LAW AND ARGUMENT

The Defendant's attempts to restrict the power of the firefighter "right to sue" statute, and other Washington law, must fail.

Negligence.

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

The elements of negligence are duty, breach, proximate cause, and damages. The statute of limitations does not run in Washington until the Plaintiff knows of the cause of his occupational disease. The statute of limitations does not run while the fact of lethal doses of radon are being concealed by his Defendant employer – especially in the presence of an affirmative duty to report such danger.

Passing on data about radon in homes did nothing to inform Carl Murray that his life was going to be cut short because of the City's reckless disregard of the lethal levels of radon in its fire stations. The Defendant's unrelated public service message about radon in homes did nothing to put Carl Murray on notice of Defendant's reckless disregard of radon levels in fire stations or to comply with firefighter safety standards regarding dangers to life and health. It did nothing to establish causation.

Wrongful Death.

*White v. Johns-Manville Corp.*103 Wash.2d 344, 358-360, 693 P.2d 687 (1985):

> We decline defendants' invitation to rule either that, as a matter of law, a survivorship action "accrues" at the time of death, or is barred if it was not actually or constructively discovered by the decedent during his lifetime. RCW 4.20.046 does not create a separate claim for the decedent's survivors; rather, it merely preserves the causes of action that a person could have maintained had he not died. *Wooldridge v. Woolett*, 96 Wash.2d 659, 662-63, 638 P.2d 566 (1981). **Defendants confuse the existence of a cause of action and the accrual of a cause of action; while *359 the plaintiff in the present case may have been injured by defendants during his life, his cause of action did not accrue unless he discovered, or should have discovered, the cause of his injuries**. *See Sahlie v. Johns-Manville Sales Corp.*, 99 Wash.2d 550, 554-55, 663 P.2d 473 (1983). Since the decedent would have benefitted from the discovery rule had he not died, his representatives should likewise benefit from it: what survives to the personal representatives are not only the decedent's ripe causes of action but include their potential causes of action which may not have accrued at the time of death.
>
> Our decision to apply the discovery rule to survivorship actions finds support in *Eisenmann v. Cantor Bros., Inc.*, 567 F.Supp. 1347 (N.D.Ill.1983). In that case an administratrix sued her deceased husband's employer alleging his occupational exposure to benzine proximately caused his death. On motions to dismiss, the defendant asserted plaintiff's claim was barred by the Illinois statute of limitation, which provided that "actions to recover damages for an injury to the person survive the death of the injured person." *Eisenmann*, at 1351 (quoting Ill.Ann.Stat. ch. 110 1/2, § 27-6 (Smith-Hurd 1978)). The court denied defendant's motion to dismiss.
>
> The *Eisenmann* court provided several reasons for its decision. **First, it noted that the survival statute related to a right of action for personal injury arising during the life of the injured person. Second, the court stressed that the general policy of survival statutes was to ensure that wrongdoers actually were not relieved of some portion of their liability because their acts had been so grievous as to cause death. Third, the court emphasized**

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

that in the cause of invidious occupational diseases the discovery rule was often the only fair means by which a statute of limitation fairly can be applied to survival and wrongful death actions. Finally, the court rejected the holding of *McDaniel v. Johns-Manville Sales Corp.*, supra, in which the court refused to apply the discovery rule to survivorship **697 actions. The Eisenmann court noted:

*360 While it is true that the [wrongful death and survivorship] Acts provide for different types of damages, the two causes of action are similar in their fundamental respects. The elements of both causes of action are essentially the same, as are the defenses generally available. Additionally, experience teaches us that both causes of action are predicated on the same set of operative facts. If, as is manifest, Mr. Eisenmann would have had the benefit of the discovery rule if he brought a tort action in his own name, neither policy nor logic will support a contrary result due to his death.

Eisenmann, at 1353.

We concur with the views expressed in Eisenmann. **The date of death in a case involving an invidious occupational disease does not necessarily mark the time at which the claimants knew or should have known of the cause of the deceased's death. If death marks the time at which the claimant obtained actual or constructive notice of the cause of the decedent's death, this always may be proved at trial**.

A survivor takes the rights of the decedent-no more and no less. Therefore if the decedent would have had a cause of action during his lifetime, **but for the invidious nature of his disease and his inability to link the injury to the wrongdoer, then that cause of action, when discovered, should survive his death**.

Eisenmann, at 1354. [bold, underline emphasis added]

Survival.

Survival includes all elements available in negligence including general damages and loss of consortium. Sure and certain relief includes emotional distress damages, other general damages and loss of consortium damages.

When Carl Murray's presumptive occupational disease claim was allowed by the Defendant it made no comment that the cause of his lung cancer was radon. Although it should have known – and could have put Carl Murray on notice of the radon exposure over several decades – it concealed that information. Yet even today it denies there is any relationship.

RCW 51.32.185 presumes respiratory disease in firefighters is caused by exposure to smoke, fumes and toxic substance. Until recently the recklessly high levels of radon contamination in Defendant's fire stations was not provided to its firefighters.

When a Public Records Act request was made to Defendant, it provided nominal documentation. The first partial response was not made until October 28, 2013 – less than three years ago. In litigation discovery in the past year only then was it made known that the lethal doses of radon in Defendant's

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

fire stations were multiples of the 4 pico curies per liter of radon – and had been for decades. Thousands of pages of documents that should have been provided in response to the Public Records Request were wrongfully withheld. They were withheld because the documents are "smoking guns" that prove the Defendant knew about the lethal levels of radon and refused to follow the law giving firefighters the right to know what hazards they are exposed to – even in the Defendant's own fire stations. The Defendant also failed to advise Carl Murray and other firefighters that there is no safe dose of radon. The Defendant has yet to reveal the likely cause of Carl Murray's cancer – although it was very clearly in the very best position to do so.

The Defendant's position regarding its liability is inconsistent with what it did for decades, what it did when Carl Murray was diagnosed then died of lung cancer -- and what it is trying to do to avoid liability for decades of reckless and outrageous conduct now.

B. Radon Exposures.

See, Declaration of Ron Meyers and exhibits.

In the basement, of one of the Defendant's fire stations where Carl Murray worked and where firefighters did their strenuous workouts –workout that cause faster breathing and deeper inhalation – radon levels reached at least 172.1 picocuries per liter [172.1 pCi/L]. However, it is important to note that even at lower radon levels there is no safe level of exposure to radon. Corrective measures are to be taken if radon levels exceed 4 pCi/L. Defendant was reckless and derelict in its mandatory duties to firefighters in conducting infrequent radon testing at its fire stations – apparently only starting in 2001.

In September of 2001, the basement level (the weight room where Carl Murray worked out) radon level was 172.1 pCi/L in station 2. This radon level is **43 times the level for corrective action** to reduce the radon level. Even 12 years later – in 2013 – Defendant allowed continued excessive radon levels that exceeded 4 pCi/L. In 2013 -- radon levels were still more than **4 times the level for corrective action.**

There is no legitimate dispute that radon was present in lethal levels in Defendant's fire stations,

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

that there is **no safe level of radon exposure**, and that these facts were not reported to firefighters as required by law – year, after year, after year.

The Defendant recklessly and outrageously failed to routinely check for radon in its fire stations from at least 1992 until 2001 – based upon discovery responses showing no radon testing or mitigation for this entire period of time. Even when Defendant conducted sporadic checks – it failed to follow the proper protocols for additional testing. Years passed between fire station radon tests. The Defendant recklessly and outrageously failed – day after day, week after week, month after month and year after year to protect its firefighters as mandated by law.

V. ARGUMENT AND AUTHORITY

The **EPA recommends taking action to reduce radon levels indoors if concentrations exceed 4 picocuries per liter of air (pCi/L). However, no safe level of exposure to radon has been determined.** "A Citizen's Guide to Radon | Radon | U.S EPA." U.S. Environmental Protection Agency. [http://www.epa.gov/radon/pubs/citguide.html#lower]

Radon existed in Defendant's fire stations where Carl Murray worked for over 20 years – and the Defendant knew it – but chose not to comply with the mandatory fire fighter safety standards in force in Washington state and tell him and every other firefighter they employed that they were being exposed to levels of radon many times higher that the level that requires mitigation or remediation.

RCW 4.20.010 Wrongful death — Right of action.
When the death of a person is caused by the wrongful act, neglect, or default of another his or her personal representative may maintain an action for damages against the person causing the death; and although the death shall have been caused under such circumstances as amount, in law, to a felony.

RCW 4.20.020 Wrongful death — Beneficiaries of action.
Every such action shall be for the benefit of the wife, husband, state registered domestic partner, **child or children, including stepchildren**, of the person whose death shall have been so caused.

RCW 4.20.046 Survival of actions.
(1) **All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former** and against the personal representatives of the latter, whether such actions arise on contract or otherwise, **and whether or not such actions would have survived at the common law or prior to the date of enactment of this**

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

section: PROVIDED, HOWEVER, That **the personal representative shall only be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased on behalf of those beneficiaries enumerated in RCW 4.20.020**, and **such damages are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action**. . . .

RCW 4.20.060 Action for personal injury survives to surviving spouse, state registered domestic partner, child, stepchildren, or heirs.
No action for a personal injury to any person occasioning death shall abate, nor shall such right of action determine, **by reason of such death, if such person has a surviving spouse**, state registered domestic partner, **or child living, including stepchildren**. . . .
[Emphasis added.]

Outrage.

WPI 14.03.01 Outrage—Burden of Proof
On plaintiff's outrage claim, the plaintiff has the burden of proving each of the following propositions:
(1) That the defendant engaged in **extreme** and **outrageous conduct**;
(2) That the **defendant's conduct caused severe emotional distress to [the decedent and] the plaintiff**;
(3) That the defendant **intentionally** or **recklessly** caused the emotional distress; and
(4) That the decedent **Carl Murray was a direct recipient** of the extreme and outrageous conduct and **Wendy Murray was an immediate family member of a direct recipient** of the conduct and was present at the time the conduct occurred.
If you find from your consideration of all the evidence that each of these propositions has been proved, your verdict should be for the plaintiff on the outrage claim. On the other hand, if you find that any of these propositions has not been proved, your verdict should be for the defendant on this claim.

WPI 14.03.02 Outrage—Extreme and Outrageous Conduct—Definition
Conduct may be considered extreme and outrageous only when the conduct is so extreme in degree and outrageous in character as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.

In deciding whether the defendant's conduct was extreme and outrageous, you should consider all the evidence bearing on the question and may consider, among others, the following specific factors:

[That the City of Vancouver failed to inform Carl Murray and every firefighter as required by mandatory firefighter safety standards that the City was allowing lethal levels of radon to exist in its fire stations for decades and that it failed to comply with its ongoing duty to eliminate the lethal hazard for many years.] The City's duty existed for all times Carl Murray was a firefighter. The City also had a duty to perform follow-up testing that was not done even though the test results were so high the City had several exposure levels requiring immediate mitigation of the radon. Each failure to inform and mitigate the lethal levels of radon is a separate duty to inform and mitigate.

Strict liability.

Strict liability applies to Defendant's decades of abnormally dangerous activity in allowing

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

firefighters exposure to lethal levels of radon gas in its fire stations. The level were frequently measured at multiples of the level that requires mitigation of the radon hazard.

Klein v. Pyrodyne Corp., 117 Wash.2d 1, 810 P.2d 917 (1991) is the law on strict liability. Determination of whether activity is abnormally dangerous activity is a question of law. *Klein* was argued by this Plaintiff's counsel at all levels:

> The basic principle of *Rylands v. Fletcher* has been accepted by the Restatement **920 (Second) of Torts (1977). See generally Prosser and Keeton § 78, at 551 (explaining that the relevant Restatement sections differ in some respects from the Rylands doctrine). Section 519 of the Restatement provides that any party carrying on an "abnormally dangerous activity" is strictly liable for ensuing damages. The test for what constitutes such an activity is stated in section 520 of the Restatement. **Both Restatement sections have been adopted by this court, and determination of whether an activity is an "abnormally dangerous activity" is a question of law**. *New Meadows Holding Co. v. Washington Water Power Co.*, 102 Wash.2d 495, 500, 687 P.2d 212 (1984); *Langan v. Valicopters, Inc.*, 88 Wash.2d 855, 567 P.2d 218 (1977); *Siegler v. Kuhlman*, 81 Wash.2d 448, 502 P.2d 1181 (1972), cert. denied, 411 U.S. 983, 93 S.Ct. 2275, 36 L.Ed.2d 959 (1973).
>
> Section 520 of the Restatement lists six factors that are to be considered in determining whether an activity is "abnormally dangerous." The factors are as follows:
>
> (a) existence of a high degree of risk of some harm to the person, land or chattels of others;
> (b) likelihood that the harm that results from it will be great;
> (c) inability to eliminate the risk by the exercise of reasonable care;
> (d) extent to which the activity is not a matter of common usage;
> (e) inappropriateness of the activity to the place where it is carried on; and
> (f) extent to which its value to the community is outweighed by its dangerous attributes.
>
> Restatement (Second) of Torts § 520 (1977). As we previously recognized in *Langan v. Valicopters, Inc.*, supra, 88 Wash.2d at 861–62, 567 P.2d 218 (citing Tent. Draft No. 10, 1964, of *7 comment (f) to section 520), the comments to section 520 explain how these factors should be evaluated:
>
> **Any one of them is not necessarily sufficient of itself in a particular case, and ordinarily several of them will be required for strict liability**. On the other hand, **it is not necessary that each of them be present, especially if others weigh heavily**. Because of the interplay of these various factors, it is not possible to reduce abnormally dangerous activities to any definition. The essential question is whether the risk created is so unusual, either because of its magnitude or because of the circumstances surrounding it, as to justify the imposition of strict liability for the harm that results from it, even though it is carried on with all reasonable care. [bold, underline emphasis added]

Basis for Defendant's strict liability.

The six factors considered in determining whether leaving lethal levels of radon in fire stations for decades is an activity that is abnormally dangerous are as follows:

(a) Existence of a high degree of risk of some harm to the person, land or chattels of others.

Radon exposure is the second leading cause of lung cancer. There is a high degree of risk. That the

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

Defendant knew about the continuing presence of radon but chose not to share this information with its firefighters is a reckless and continuing violation of firefighter right to know safety standards.

(b) Likelihood that the harm that results from it will be great.

Lung cancer causes great harm economic and non-economic – and death. That the Defendant knew about the continuing presence of radon but chose not to share this information with its firefighters is a reckless and continuing violation of firefighter right to know safety standards.

(c) Inability to eliminate the risk by the exercise of reasonable care.

Carl Murray could not prevent the ongoing exposures to radon because he and other firefighters were not told their workplaces that were controlled exclusively by the Defendant were contaminated with lethal quantities of radon and that the Defendant was not mitigating as required by the Defendant's non-delegable duty to provide a safe work place and to report all dangers to firefighters.

(d) Extent to which the activity is not a matter of common usage.

Exposing firefighters to radon in fire stations where they exercise, work and sleep over several decades is a dangerous and lethal activity that is not a matter of common usage.

(e) Inappropriateness of the activity to the place where it is carried on.

The exposure of firefighters to lethal levels of radon is beyond inappropriate -- it is reckless and outrageous.

(f) Extent to which its value to the community is outweighed by its dangerous attributes.

There is no redeeming value to exposing firefighers who are serving in a most dangerous position to protect the community and its members from unnecessary and protracted lethal levels of radon in fire stations exclusively controlled by the Defendant.

VI. CONCLUSION

The Defendant's Motion for Partial Summary Judgment should be denied in its entirety. There is no running of any statute of limitations as to any cause of action. There is no limitation barring any cause of action pled by Plaintiff.

\

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

DATED this May 15th, 2016 at Olympia, Washington.

RON MEYERS & ASSOCIATES PLLC

By: _____
Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA No. 27976
Tim Friedman, WSBA No. 37983
Counsel for Plaintiff Wendy Ann Murray as
Personal Representative of the Estate of Carl Murray

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the State of Washington that on the date stated below I caused to be served the foregoing document upon:

Attorney for Defendant
Daniel G. Lloyd
City Attorney's Office
PO Box 1995
Vancouver, WA 98668

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: dan.lloyd@cityofvancouver.us
deborah.hartsoch@cityofvancouver.us

Attorney for Defendant
Melissa K. Roeder
Foley & Mansfield PLLC
999 Third Avenue Ste 3760
Seattle, WA 98104

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: mroeder@foleymansfield.com
swalker@foleymansfield.com

DATED this 16 day of May, 2016 at Olympia, Washington.

RON MEYERS & ASSOCIATES PLLC
BY: SHANA PITTMAN
COMPLEX LITIGATION PARALEGAL
Email: shana.p@rm-law.us

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY, a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020 beneficiaries, Plaintiff, v. CITY OF VANCOUVER, a municipal subdivision of the State of Washington, Defendant.	Cause No.: 15-2-04119-7 [PROPOSED] ORDER DENYING DEFENDANT'S CR 56 MOTION FOR SUMMARY JUDGMENT

THIS MATTER having come on duly and regularly for hearing before Honorable Judge David Gregerson on DEFENDANT CITY OF VANCOUVER'S MOTION FOR SUMMARY JUDGMENT, and the Court having considered the Motion and legal memoranda of all parties, and the Court having reviewed the following specific documents:

1. Defendant City of Vancouver's Motion for Partial Summary Judgment;
2. Declaration of Melissa K. Roeder in Support of Defendant City of Vancouver's Motion for Partial Summary Judgment with attached Exhibit A;
3. Declaration of Patrick Gilbride in Support Defendant City of Vancouver's Motion for Partial Summary Judgment with attached Exhibits A through D;
4. Declaration of Kathy Heil in Support Defendant City of Vancouver's Motion for Partial Summary Judgment with attached Exhibit A;

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

5. Plaintiff's Response in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment;

6. Declaration of Ron Meyers in Support of Plaintiff's Response in Opposition to Defendant's CR 56 Motion for Partial Summary Judgment, including Exhibits A through P;

7. Declaration of Wendy Murray in Opposition to Defendant's CR 56 Motion For Partial Summary Judgment, including Exhibit A;

7. Other:_____; and,

the Court having heard oral argument on the Motion and being fully advised,

NOW THEREFORE: IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

The Defendant City of Vancouver's Motion for Partial Summary Judgment is **DENIED**.

DONE IN OPEN COURT this _____ day of _____, 2016.

_____
THE HONORABLE DAVID GREGERSON
Clark County Superior Court Judge

ORDER PRESENTED BY:

RON MEYERS & ASSOCIATES PLLC

By: _____
Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA No. 27976
Tim Friedman, WSBA No. 37983
Counsel for Plaintiff Wendy Ann Murray as
Personal Representative of the Estate of Carl Murray

APPROVED AS TO FORM; NOTICE OF PRESENTATION WAIVED; COPY RECEIVED:

CITY ATTORNEY'S OFFICE
VANCOUVER, WA

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Olympia, WA 98516
Ph: (360) 459-5600 / Web: www.ronmeyerslaw.net

By: _____
Daniel G. Lloyd, WSBA No. 34221
Assistant City Attorney
Attorney for Defendant City of Vancouver

FOLEY & MANSFIELD, PLLP

By: _____
Melissa K. Roeder, WSBA No. 30836
Co-Counsel for City of Vancouver

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the State of Washington that on the date stated below I caused to be served the foregoing document upon:

Attorney for Defendant
Daniel G. Lloyd
City Attorney's Office
PO Box 1995
Vancouver, WA 98668

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: dan.lloyd@cityofvancouver.us
deborah.hartsoch@cityofvancouver.us

Attorney for Defendant
Melissa K. Roeder
Foley & Mansfield PLLC
999 Third Avenue Ste 3760
Seattle, WA 98104

[ ] Via U.S. Postal Service
[ ] Via Facsimile
[ ] Via Hand Delivery Courtesy of ABC Legal Services
[✓] Via Email [per stipulated agreement]: mroeder@foleymansfield.com
swalker@foleymansfield.com

DATED this 16th day of May 16, 2016 at Olympia, Washington.

Lena Ulschmid

RON MEYERS & ASSOCIATES PLLC
BY: LENA ULSCHMID
LEGAL ASSISTANT
Email: lena.u@rm-law.us

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON, IN AND FOR THE COUNTY OF CLARK

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020	No. 15-2-04119-7
Plaintiff/Petitioner	
VS.	DECLARATION PURSUANT TO GR 17(a)(2)
CITY OF VANCOUVER, a municipal subdivision of the State of Washington	
Defendant/Respondent	

I declare as follows:

1. I am the party who received the foregoing email transmission for filing.
2. My address is: 310 SW 4th Avenue, Suite 440 Portland, Oregon 97204.
3. My phone number is 503-727-3100.
4. I have examined the foregoing document, determined that it consists of 21 pages, including the signature page and this Declaration page, and that it is complete and legible.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated:,05/16/2016 at Portland, Oregon.

Signature: _____
Print Name: Laurice Averill

EXHIBIT A

Shana Pittman

From: Shannon D. Walker [swalker@foleymansfield.com]
Sent: Tuesday, April 26, 2016 11:47 AM
To: Ron Meyers; Matthew G. Johnson; Shana Pittman; Lena Ulschmid
Cc: Melissa K. Roeder; dan.lloyd@cityofvancouver.us; deborah.hartsoch@cityofvancouver.us
Subject: Murray v. City of Vancouver

Attached please find Defendant City of Vancouver's Objections and Responses to Plaintiff's First Interrogatories and Requests for Production. The original Verification page will be forwarded upon receipt. Please let us know if you have any questions.

ShareFile Attachments

Title	Size
COV's Ans to Pl's Rogs RFP_rev by DGL.pdf	86.5 KB
Fire Suppression Contract 1992-1994 Part 1.pdf	2.2 MB
Fire Suppression Contract 1992-1994 Part 2.pdf	517.8 KB
Fire Suppression Contract 1995-1997 Part 1.pdf	2.2 MB
Fire Suppression Contract 1995-1997 Part 2.pdf	72.8 KB
Fire Suppression Contract 1998-2000.pdf	189.1 KB
Fire Suppression Contract 2001-2002.pdf	137.6 KB
Fire Suppression Contract 2003-2005.pdf	163.6 KB
Fire Suppression Contract 2006-2008.pdf	200.2 KB
Fire Suppression Contract 2009.pdf	3.9 MB
Fire Suppression Contract 2010-2013.pdf	755.4 KB
No Station Number_1954-1968.PDF	36.5 MB
No Station Number_1967.PDF	131.7 MB
No Station Number_1968.PDF	37 MB
No Station Number_1969.PDF	53.2 MB
No Station Number_1970.PDF	56.2 MB
No Station Number_1972.PDF	53.7 MB
No Station Number_1975.PDF	36.7 MB
No Station Number_1976.PDF	47.2 MB
No Station Number_1977.PDF	57.4 MB
No Station Number_1979.PDF	21.6 MB

No Station Number_1994.PDF	7 MB
Station 1, 2, 3_1_1961.PDF	7.6 MB
Station 1, 2, 3_1957.PDF	7.6 MB
Station 1, 2, 3_1958.PDF	6.3 MB
Station 1, 2, 3_1959.PDF	5.7 MB
Station 1, 2, 3_1960.PDF	7.2 MB
Station 1, 2, 3_1962.PDF	7 MB
Station 1, 2, 3_2_1961.PDF	4 MB
Station 1_1956.PDF	11.4 MB
Station 1_1966.PDF	82.9 MB
Station 1_1971.PDF	64.8 MB
Station 1_1973.PDF	28.7 MB
Station 1_1974.PDF	32.3 MB
Station 1_1978.PDF	71.3 MB
Station 1_1980.PDF	58.8 MB
Station 1_1981.PDF	80.7 MB
Station 1_1982.PDF	18.6 MB
Station 1_1983.PDF	47.6 MB
Station 1_1984.PDF	19.1 MB
Station 1_1985.PDF	50.2 MB
Station 1_1986.PDF	40.7 MB
Station 1_1987.PDF	50.7 MB
Station 1_1998.PDF	93.1 MB
Station 1120_1954.PDF	24 MB
Station 1120_1957.PDF	5.5 MB
Station 1550_1954-1956.PDF	25 MB
Station 2_1978.PDF	122.2 MB
Station 2_1980.PDF	41.6 MB
Station 3_1979.PDF	52.3 MB
Station 3_1982.PDF	45.4 MB
Station 3_1983.PDF	54.4 MB
Station 3_1984.PDF	48.5 MB
Station 3_1985.PDF	40.5

	MB
Station 3_1986.PDF	30.7 MB
Station 3_1987.PDF	79 MB
Station 3_1988.PDF	46.5 MB
Station 5_1963.PDF	7.4 MB
Station 5_1967-1972.PDF	138.9 MB
Station 5_1981-1984.PDF	118 MB
Station 5_1984-1986.PDF	114.9 MB
Station 5_1988.PDF	69 MB
Station 51_1989.PDF	69.8 MB
Station 51_1990.PDF	68.4 MB
Station 51_1991.PDF	131.3 MB
Station 51_1992.PDF	93.4 MB
Station 51_1993.PDF	111.6 MB
Station 51_1994.PDF	142.4 MB
Station 512_1984-1985-1986.PDF	45.7 MB
Station 512_1987-1989.PDF	71 MB
Station 53_1989.PDF	99.4 MB
Station 53_1990.PDF	128.3 MB
Station 53_1991.PDF	62.4 MB
Station 53_1992.PDF	104.3 MB
Station 53_1993.PDF	69.5 MB
Station 53_1994.PDF	141.1 MB
Station 55_1989.PDF	126 MB
Station 55_1990.PDF	56.4 MB
Station 55_1991.PDF	58.5 MB
Station 55_1992.PDF	73.7 MB
Station 56_1991.PDF	59.4 MB
Station 56_1992.PDF	91.2 MB
Station 56_1993.PDF	76 MB
Station 58_1991.PDF	15.5 MB
Station 58_1992.PDF	62.8

	MB
Station 58_1993.PDF	60.3 MB
Station 6_1988.PDF	63.8 MB
Station 6_1989.PDF	78.5 MB
Station 6_1990.PDF	23 MB
Station 81_1998.PDF	3.5 MB
Station 81_1998.PDF	18.3 MB
Station 81_2000.PDF	32.5 MB
Station 81_2000.PDF	70 MB
Station 81_2000_1.PDF	24.2 MB
Station 81_2000_2.PDF	30.6 MB
Station 81_2001.PDF	17.9 MB
Station 81_2001-2002.PDF	120.7 MB
Station 81_2002-2003.PDF	105.2 MB
Station 81_2003.PDF	90 MB
Station 81_2003-2004.PDF	121 MB
Station 81_2004.PDF	121.3 MB
Station 81_2005.PDF	107.3 MB
Station 81_2005_1.PDF	98.2 MB
Station 81_2006.PDF	126.6 MB
Station 81_2007.PDF	84.5 MB
Station 82_1994.PDF	36.2 MB
Station 82_1998.PDF	5.5 MB
Station 82_1998.PDF	17.8 MB
Station 82_2000.PDF	32.4 MB
Station 82_2000.PDF	58.8 MB
Station 82_2000_1.PDF	23.4 MB
Station 82_2000_2.PDF	34.3 MB
Station 82_2001.PDF	27.9 MB
Station 82_2001-2002.PDF	123.5 MB
Station 82_2002-2003.PDF	104.3 MB
Station 82_2003.PDF	24.4

	MB
Station 82_2003-2004.PDF	105.1 MB
Station 82_2004.PDF	25.3 MB
Station 82_2005.PDF	93.2 MB
Station 82_2005.PDF	124.2 MB
Station 82_2006.PDF	112.8 MB
Station 82_2007.PDF	110.2 MB
Station 82_2007-2008.PDF	72.6 MB
Station 82_2008.PDF	21.9 MB
Station 83_1998.PDF	4.4 MB
Station 83_1998.PDF	11.4 MB
Station 83_2000.PDF	34.7 MB
Station 83_2000.PDF	33.7 MB
Station 83_2000_1.PDF	21.7 MB
Station 83_2001.PDF	80.2 MB
Station 83_2001.PDF	16 MB
Station 83_2002.PDF	79.7 MB
Station 83_2003.PDF	91.4 MB
Station 83_2003_1.PDF	98.2 MB
Station 83_2004.PDF	105 MB
Station 83_2005.PDF	95.6 MB
Station 83_2005.PDF	25.4 MB
Station 83_2006-2007.PDF	93.8 MB
Station 83_2007.PDF	79.4 MB
Station 84_1998.PDF	6.5 MB
Station 84_1998.PDF	16.4 MB
Station 84_2000.PDF	22.6 MB
Station 84_2000.PDF	115.2 MB
Station 84_2000_1.PDF	33.3 MB
Station 84_2001.PDF	58.1 MB
Station 84_2001_1.PDF	90.4 MB

Station 84_2002.PDF	54.3 MB
Station 84_2003.PDF	82.4 MB
Station 84_2003_1.PDF	95.1 MB
Station 84_2004.PDF	12.2 MB
Station 84_2005.PDF	129.2 MB
Station 84_2005.PDF	57.9 MB
Station 84_2006-2007.PDF	109.2 MB
Station 84_2007.PDF	79.6 MB
Station 84_2007-2008.PDF	74.2 MB
Station 85 #2_2003.PDF	79.5 MB
Station 85_1994.PDF	385.8 MB
Station 85_1998.PDF	4.7 MB
Station 85_2000.PDF	22.5 MB
Station 85_2000.PDF	46.4 MB
Station 85_2000_1.PDF	33.8 MB
Station 85_2001.PDF	116.9 MB
Station 85_2001.PDF	138 MB
Station 85_2002.PDF	116.7 MB
Station 85_2003.PDF	180.9 MB
Station 85_2004.PDF	133.2 MB
Station 85_2005.PDF	74.8 MB
Station 85_2005.PDF	113.2 MB
Station 85_2006.PDF	71.7 MB
Station 85_2006-2007.PDF	33.8 MB
Station 86_1994-1995.PDF	36.5 MB
Station 86_1998.PDF	5.3 MB
Station 86_1998.PDF	10.2 MB
Station 86_2000.PDF	22 MB
Station 86_2000.PDF	25.5 MB
Station 86_2000_1.PDF	29.5 MB
Station 86_2001.PDF	140.8 MB

Station 86_2001-2002.PDF	196.1 MB
Station 86_2002-2003.PDF	177.7 MB
Station 86_2003.PDF	137.7 MB
Station 86_2003-2004.PDF	210 MB
Station 86_2004.PDF	104.6 MB
Station 86_2005.PDF	92.3 MB
Station 86_2005.PDF	103.6 MB
Station 86_2005_1.PDF	97.1 MB
Station 86_2007.PDF	65.7 MB
Station 87_1999.PDF	10.7 MB
Station 87_2000.PDF	9.7 MB
Station 87_2006.PDF	63 MB
Station 88_1994.PDF	273.7 MB
Station 88_1998.PDF	12.2 MB
Station 88_1998_1.PDF	4 MB
Station 88_2000.PDF	28.4 MB
Station 88_2000.PDF	50.5 MB
Station 88_2000_1.PDF	21.8 MB
Station 88_2001.PDF	69.8 MB
Station 88_2001_1.PDF	55.7 MB
Station 88_2002-2003.PDF	193.9 MB
Station 88_2003.PDF	65.7 MB
Station 88_2003_1.PDF	87.3 MB
Station 88_2004.PDF	42.1 MB
Station 88_2005.PDF	67.4 MB
Station 88_2005.PDF	21.6 MB
Station 88_2006.PDF	90.8 MB
Station 88_2007.PDF	62.2 MB
Station 88_2008.PDF	14.5 MB
Station 89_1998.PDF	4.3 MB
Station 89_1998.PDF	8.5 MB

Station 89_2000.PDF	21.9 MB
Station 89_2000.PDF	49.8 MB
Station 89_2000_1.PDF	31 MB
Station 89_2001.PDF	148.7 MB
Station 89_2001-2002.PDF	101.5 MB
Station 89_2002-2003.PDF	74.4 MB
Station 89_2003.PDF	121 MB
Station 89_2003_1.PDF	107.5 MB
Station 89_2004.PDF	89.5 MB
Station 89_2005.PDF	88.9 MB
Station 89_2005.PDF	95.1 MB
Station 89_2006.PDF	69.1 MB
Station 89_2007.PDF	88.8 MB
Station 89_2007.PDF	67.2 MB
Station BC 81_2000.PDF	22.5 MB
Station BC 81-82_2005.PDF	86 MB
Station BC 82_2000.PDF	22.1 MB
Station BC_2000.PDF	23.7 MB
Station BC_2001.PDF	65.7 MB
Station BC_2002.PDF	36.7 MB
Station BC_2003.PDF	72 MB
Station BC_2004.PDF	76.1 MB
Station BC_2007.PDF	63.8 MB
Station BCs 81, 82_2000.PDF	19.9 MB

Download Attachments

Shannon Walker uses ShareFile to share documents securely. Learn More.

FOLEY & MANSFIELD

Shannon D. Walker | Paralegal | T: 206-456-5069 | F:206-456-5361
999 Third Avenue, Suite 3760 | Seattle, WA 98104 | foleymansfield.com

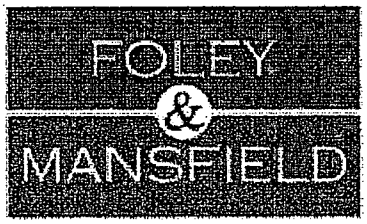
Chicago | Detroit | Kansas City | Los Angeles | Miami | Minneapolis | New York | Oakland | Portland | **Seattle** | St. Lc
NOTICE: Important disclaimers and limitations apply to this email. Please click HERE to view these disclaimers and limitations.

EXHIBIT B

Shana Pittman

From: Melissa K. Roeder [mroeder@foleymansfield.com]
Sent: Tuesday, May 10, 2016 9:57 AM
To: 'Lloyd, Dan'; Lena Ulschmid; Shannon D. Walker; Hartsoch, Deborah; Gennifer Holland
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

I am in my office and ready to discuss. M.



Melissa K. Roeder | Attorney - Of Counsel | T: 206-456-5068 | F:206-456-5361
999 Third Avenue, Suite 3760 | Seattle, WA 98104 | foleymansfield.com

Chicago | Detroit | Kansas City | Los Angeles | Miami | Minneapolis | New York | Oakland | Portland | **Seattle** | St.
NOTICE: Important disclaimers and limitations apply to this email. Please click HERE to view these disclaimers and limitations.

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Tuesday, May 10, 2016 9:57 AM
To: 'Lena Ulschmid'; Melissa K. Roeder; Shannon D. Walker; Hartsoch, Deborah; Gennifer Holland
Cc: 'Ron Meyers'; 'Shana Pittman'
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

Please direct the call to Melissa only. My wife just called and she is ill so I cannot be available.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lena Ulschmid [mailto:Lena.U@rm-law.us]
Sent: Monday, May 09, 2016 3:03 PM
To: Lloyd, Dan; 'mroeder@foleymansfield.com'; 'swalker@foleymansfield.com'; Hartsoch, Deborah; gholland@foleymansfield.com
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference Confirmation

Good afternoon,

The CR 26(i)conference tomorrow at 10am has been confirmed by all parties. Please call our office at 360-459-5600 and we will get everyone connected.

Thank you,

Lena Ulschmid

Lena Ulschmid

Legal Assistant
8765 Tallon Ln NE Ste A
Lacey WA 98516
Phone: 360-459-5600
Fax: 360-459-5622
E-mail: lena.u@rm-law.us
Web: www.vulnerableadultabuse.com
Web: www.olympiainjurylawyer.com

RON MEYERS
& ASSOCIATES PLLC

CONFIDENTIAL COMMUNICATION
This email and any attachments are intended only for the above-named addressee, and may contain information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the intended recipient or agent of the recipient, you are hereby notified that any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you received this message in error, please notify our office immediately. Thank you.

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Friday, May 06, 2016 3:03 PM
To: Lena Ulschmid; 'mroeder@foleymansfield.com'; 'swalker@foleymansfield.com'; Hartsoch, Deborah
Cc: Ron Meyers; Shana Pittman
Subject: RE: Murray v. City of Vancouver - CR 26(i) conference

May 10 at 10am works for us. Melissa Roeder is lead counsel so she will need to be on the call.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lena Ulschmid [mailto:Lena.U@rm-law.us]
Sent: Friday, May 06, 2016 2:33 PM
To: mroeder@foleymansfield.com; swalker@foleymansfield.com; Lloyd, Dan; Hartsoch, Deborah
Cc: Ron Meyers; Shana Pittman
Subject: Murray v. City of Vancouver - CR 26(i) conference
Importance: High

Good afternoon,

We request a CR 26(i) conference to discuss Defendant's responses to Plaintiff's First Interrogatories and Requests for Production propounded to Defendant City of Vancouver. In particular, we intend to discuss Defendant's inadequate answers to all Plaintiff's Interrogatories and inadequate responses to Plaintiff's Requests for Production Nos. 1, 2, 5, and 6 to Defendant City Of Vancouver.

With respect to RFP No. 1, wherein Plaintiff requested Defendant COV **state in detail** the **specific** times, **specific** dates, and **specific** fire station locations Carl Murray was assigned to work at during his entire career as a City of Vancouver Firefighter, Plaintiff received and was referred to over seventy thousand pages referencing all firefighters, in all fire stations. This is unacceptable.

Mr. Meyers is available on the following dates:

May 10, 2016 at 10am or 11am
May 12, 2016 at 10am or 11am

Please advise if one of these dates will work for your office. If not, please provide your available dates.

Thank you,

Lena Ulschmid

RON MEYERS
& ASSOCIATES PLLC

Lena Ulschmid
Legal Assistant
8765 Tallon Ln NE Ste A
Lacey WA 98516
Phone: 360-459-5600
Fax: 360-459-5622
E-mail: lena.u@rm-law.us
Web: www.vulnerableadultabuse.com
Web: www.olympiainjurylawyer.com

CONFIDENTIAL COMMUNICATION
This email and any attachments are intended only for the above-named addressee, and may contain information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the intended recipient or agent of the recipient, you are hereby notified that any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you received this message in error, please notify our office immediately. Thank you.

EXHIBIT C

TRANSACTION REPORT

OCT/04/2013/FRI 10:28 AM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	OCT/04	10:27AM	13604878719	0:00:45	4	MEMORY OK SG3	1717

Ron Meyers & Associates *PLLC*
8765 Tallon Lane NE, Suite A ❖ Lacey, WA 98516 ❖ 360-459-5600

FAX TRANSMITTAL FORM

To: Records Division
Company: City of Vancouver, WA
Fax: 360 487 8719

From: Amberle DuVal
Company: Ron Meyers & Associates PLLC
Fax: 360-459-5622

- ☐ For Your Information
- ☐ For Your Files
- ☐ For Your Review
- ☑ Please Reply

Date Sent: 10/04/2013
Time Sent: 10:15 am
Number of Pages Including Cover Page: 4

Re: Public Records Request

RON MEYERS & ASSOCIATES PLLC
By: Amberle DuVal
Receptionist / Legal Assistant
Email: amberle.d@rm-law.us

Ron Meyers & Associates *PLLC*

8765 Tallon Lane NE, Suite A ❖ Lacey, WA 98516 ❖ 360-459-5600

FAX TRANSMITTAL FORM

To: Records Division	From: Amberle DuVal
Company: City of Vancouver, WA	Company: Ron Meyers & Associates PLLC
Fax: 360 487 8719	Fax: 360-459-5622

- ☐ For Your Information
- ☐ For Your Files
- ☐ For Your Review
- ☑ Please Reply

Date Sent: 10/04/2013
Time Sent: 10:15 am
Number of Pages Including Cover Page: 4

Re: Public Records Request

RON MEYERS & ASSOCIATES PLLC
By: Amberle DuVal
Receptionist / Legal Assistant
Email: amberle.d@rm-law.us

The information in this fax message is privileged and confidential. It is intended only for the use of the recipient named above or the employee or agent responsible to deliver it to the intended recipient. If you received this in error, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us at 360-459-5600. Thank you.

CITY OF VANCOUVER, WASHINGTON
PUBLIC RECORDS ACT OFFICER

Public Records Act Request
Via Fax: (360) 487-8719

I. Public Disclosure Request

Please provide the following Public Records:

1. All **internal documents** and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations **from 1988 to the present.**

2. All **third party documents** received by the City of Vancouver regarding radon in any City of Vancouver fire stations **from 1988 to the present.**

3. All documents setting forth every **measurement** of radon levels in any City of Vancouver fire stations **from 1988 to the present.**

4. All documents, investigative reports and supporting data, findings, conclusions, and all other written or imaged material, not provided in the prior requests regarding the **presence** of radon in any City of Vancouver fire stations **from 1988 to the present.**

5. All documents regarding **implementation** of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations **from 1988 to the present.**

6. All emails to or from any City of Vancouver employee containing the word **"radon"** or **otherwise referencing the presence of radon** in any City of Vancouver fire station **from 1988 to the present.**

Ron Meyers & Associates PLLC will pay in advance upon receipt of invoice, or upon receipt of requested public records and invoice, the reasonable copying and mailing or delivery costs.

Wherever reasonably possible compliance with these requests should be by digital or

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

electronic reproduction in Adobe PDF or other PDF formats on CD or emailed to ron.m@rm-law.us in compressed email format.

II. Agency Decision Not To Comply With Public Disclosure Request

If the government agency refuses to timely and fully comply with this Public Record Act Request, the government agency is respectfully requested to provide the reason for withholding any such document and to identify each withheld document with enough specificity to allow judicial review of the government agency decision to withhold documents requested pursuant to the Public Record Act or Public Disclosure Act and other Washington law.

III. Authority Supporting Request

To fulfill its statutory purpose, courts are to liberally construe disclosure provisions of Public Disclosure Act (PDA), and narrowly construe its exemptions. It is the court, not the public agency seeking to avoid disclosure, which determines whether public record is exempt from disclosure under Public Disclosure Act.

In reviewing an agency's action with regard to a public disclosure request, a court must consider the public policy underlying the Public Disclosure Act: that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment.

Any person who prevails against a government agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that the maker of the request was denied the right to inspect or copy said public record.

See: RCW 42.56.001 et seq, Public Records Act; *O'Connor v. Washington State Dept. of Social and Health Services*, 143 Wn.2d 895, 25 P.3d 426 (2001); *Yousoufian v. Office of Ron Sims*,

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

114 Wn. App. 836, 60 P.3d 667 (2003); *Concerned Ratepayers Assoc v. Public Utility District No. 1 of Clark County*, 138 Wn. 2d 950, 983 P.2d 635 (1999); *Confederated Tribes of Chehalis Reservation v. Johnson*, 135 Wn. 2d 734, 958 P.2d 260 (1998); and *Amren v. The City of Kalama*, 131 Wash. 2d 25, 929 P.2d 389 (1997).

See also, RCW 51.32.185; WAC 296-305 Fire Fighting Safety Standards for the State of Washington; WAC 296-305-01001; WAC 296-305-01003, WAC 296-305-01509; WAC 296-305-01005; WAC 296-305-01501; WAC 296-305-01501; WAC 296-305-01505; WAC 296-305-01507; WAC 296-305-01513.

See also, Washington Industrial Safety and Heath Act (WISHA).

Dated this October 4, 2013 at Lacey, Washington.

RON MEYERS & ASSOCIATES PLLC

Ron Meyers

By: Ron Meyers, WSBA No. 13169
Matthew G. Johnson, WSBA 27976
Tim Friedman, WSBA No. 39058

RON MEYERS & ASSOCIATES PLLC
8765 Tallon Ln NE Ste A, Lacey, WA 98516
(360) 459-5600 / Fax (360) 459-5622

EXHIBIT D

Shana Pittman

From: Ron Meyers
Sent: Wednesday, October 09, 2013 11:01 AM
To: Shana Pittman
Subject: FW: Fire Station Records Request

fyi...

From: McJilton, Raelyn [mailto:Raelyn.McJilton@cityofvancouver.us]
Sent: Wednesday, October 09, 2013 10:26 AM
To: Amberle DuVal; Ron Meyers
Subject: Fire Station Records Request

Dear Mr. Meyers:

We are in receipt of your records request dated October 4, 2013, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.

4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.

5. All emails to or from any City of Vancouver employee containing the word "radon: or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

The City of Vancouver is in the process of gathering documentation related to your request. We anticipate being able to fulfill your request by November 1, 2013. If the materials are available sooner than anticipated or if we have an unforeseen delay, you will be notified promptly.

Sincerely

Raelyn McJilton
Records Officer
City of Vancouver
360.487.8711

EXHIBIT E

Shana Pittman

From: Ron Meyers
Sent: Monday, October 28, 2013 4:23 PM
To: Shana Pittman
Subject: MURRAY: 10/4/13 Public Records Request
Attachments: Meyers - Radon-Fire Station.pdf

Importance: High

fyi..

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Monday, October 28, 2013 2:41 PM
To: Ron Meyers
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: 10/4/13 Public Records Request
Importance: High

Dear Mr. Meyers:

On October 4, 2013, you submitted a request for public records, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.
4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.
5. All emails to or from any City of Vancouver employee containing the word "radon" or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

You requested that the records be made available by digital or electronic reproduction.

For category #5 (emails), the City searched its email vault using the terms "radon" and "fire station". As such, any email in the system containing both search terms sent and/or received on or before the date of your request (October 4, 2013) is produced. **If you desired different search terms, please advise promptly.** No exemptions are claimed, so there are no redactions and no email has been withheld. At your request, emails have been converted to PDF and are all text searchable. I am attaching all emails responsive to these parameters in a single *.pdf file, which has been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626."

What is not attached here, though, are the various attachments to the emails. The aggregate size of all attachments exceeds 6 MB, which often bounces back as undeliverable. This is also true of the records responsive to Categories 1-4, which are also now in *.pdf format, but exceed 6 MB. I will attempt to send these files in separate emails, but if they do not go through, you will need to pay for them to be burned to a CD-ROM for a fee of $5 ($10 if you want the disc mailed to you).

I point out, however, that a few emails reference "image" attachments. For example, please refer to page 000001 (referencing an attachment named "image001.jpg"). These files are either logos that appear in a user's signature block (such as the City of Vancouver logo), or are background themes to a user's Outlook account, so that the user can send emails with a colorful background (i.e., blue with clouds). If you want those *.jpg files, we will need to produce the emails in a format other than *.pdf. Given that you appear to be looking for the substance of emails rather than what type of background was used, and because you specifically requested that emails be produced in *.pdf format, we are assuming you do not want those "image" attachments here. **Please clarify if this assumption is incorrect.** If you do not notify us that you would like the emails produced in a different format, the City will assume that the method of production is acceptable.

As to the scope of the emails, I have asked the Information Technologies Department to ensure that there are no emails stored locally on any user's desktop or on any network drive. I have been advised that when the City converted to its current email system in 2008, all Personal Storage Table (*.pst) files that existed were absorbed into the system (i.e., vault), and the ability to create *.pst files was disabled. In other words, the attached results should encompass any and all emails in the custody and control of the City. The search for any remaining *.pst files may take a few days, but given that the City does not expect to find additional emails, and that the current results are ready, I am sending those now. However, if any are found, they will be disclosed and produced subject to any possible exemption.

If the emails containing the attachments are able to go through, it will conclude the City's response to your 10/4/13 request. If the emails do not go through, then production will occur upon receipt of your payment. Thank you and please contact me if you have any questions, concerns, or clarifications to your request as discussed above.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

EXHIBIT F

Shana Pittman

From: Ron Meyers
Sent: Thursday, March 20, 2014 2:58 PM
To: Shana Pittman; Mindy Leach
Subject: FW: 10/4/13 Public Records Request
Attachments: Vancouver Fire 6 Radon canister test 06-10-13.pdf; 2006 VFD RADON REPORT.PDF

From: Lloyd, Dan [mailto:Dan.Lloyd@cityofvancouver.us]
Sent: Thursday, March 20, 2014 12:26 PM
To: Ron Meyers
Cc: McJilton, Raelyn; Norfleet, Dan
Subject: RE: 10/4/13 Public Records Request

Mr. Meyers:

This email responds to your office's letter dated March 19, 2014, which the City's Records Officer received yesterday by fax. There are only two records (aside from emails) that reference radon and Fire Station 6 (formerly known as Fire Station 85). One record was attached to the email below which I sent on October 28, 2013 (2006 VFD RADON REPORT.pdf) (refer to page 1 of the table that is on page 8 of the report). It is attached again for convenience.

A second search did confirm that one other record (two pages) did exist (Vancouver Fire 6 Radon canister test 06-10-13.pdf), which I attach to this email. Your paralegal did not provide an email address in her letter of yesterday's date, so we are sending this to your address. If this is incorrect, please advise. We are attempting to discern why the document was inadvertently omitted from the October 28 batch of production, but it was inadvertent. Nevertheless, we are sending this record now well in advance of the April 25, 2014, deadline established by your paralegal's letter of yesterday.

There is no charge for this production. I hope this alleviates any concerns you have had. If not, please do not hesitate to contact me.

Daniel G. Lloyd | Assistant City Attorney
City Attorney's Office / Civil Division
P: (360) 487-8500 | **D:** (360) 487-8520 | **F:** (360) 487-8501 | **TTY:** (360) 487-8602

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:44 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: RE: 10/4/13 Public Records Request
Importance: High

Mr. Meyers:

Attached are the files responsive to categories 1-4. Please confirm receipt of this and the other emails.

This completes the City's response to your request. Thank you.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:43 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: RE: 10/4/13 Public Records Request

Mr. Meyers:

Attached are the "attachments" to the emails that were sent in my previous emails.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Lloyd, Dan
Sent: Monday, October 28, 2013 2:41 PM
To: 'ron.m@rm-law.us'
Cc: McJilton, Raelyn; Gilbride, Patrick
Subject: 10/4/13 Public Records Request
Importance: High

Dear Mr. Meyers:

On October 4, 2013, you submitted a request for public records, for the following:

1. All internal documents and reports by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.
2. All third party documents received by the City of Vancouver regarding radon in any City of Vancouver fire stations from 1988 to the present.

3. All documents setting forth every measurement of radon levels in any City of Vancouver fire stations from 1988 to the present.
4. All documents regarding implementation of any recommendations, plans of correction, proposals, contracts, redistribution or containment, repair or maintenance performed, billings, payment vouchers or checks, involving radon detection, investigation, or mitigation not provided in the prior requests in any City of Vancouver fire stations from 1988 to the present.
5. All emails to or from any City of Vancouver employee containing the word "radon" or otherwise referencing the presence of radon in any City of Vancouver fire station from 1988 to the present.

You requested that the records be made available by digital or electronic reproduction.

For category #5 (emails), the City searched its email vault using the terms "radon" and "fire station". As such, any email in the system containing both search terms sent and/or received on or before the date of your request (October 4, 2013) is produced. **If you desired different search terms, please advise promptly.** No exemptions are claimed, so there are no redactions and no email has been withheld. At your request, emails have been converted to PDF and are all text searchable. I am attaching all emails responsive to these parameters in a single *.pdf file, which has been Bates Numbered "MEYERS-RADON/FIRE STATION 000001-626."

What is not attached here, though, are the various attachments to the emails. The aggregate size of all attachments exceeds 6 MB, which often bounces back as undeliverable. This is also true of the records responsive to Categories 1-4, which are also now in *.pdf format, but exceed 6 MB. I will attempt to send these files in separate emails, but if they do not go through, you will need to pay for them to be burned to a CD-ROM for a fee of $5 ($10 if you want the disc mailed to you).

I point out, however, that a few emails reference "image" attachments. For example, please refer to page 000001 (referencing an attachment named "image001.jpg"). These files are either logos that appear in a user's signature block (such as the City of Vancouver logo), or are background themes to a user's Outlook account, so that the user can send emails with a colorful background (i.e., blue with clouds). If you want those *.jpg files, we will need to produce the emails in a format other than *.pdf. Given that you appear to be looking for the substance of emails rather than what type of background was used, and because you specifically requested that emails be produced in *.pdf format, we are assuming you do not want those "image" attachments here. **Please clarify if this assumption is incorrect.** If you do not notify us that you would like the emails produced in a different format, the City will assume that the method of production is acceptable.

As to the scope of the emails, I have asked the Information Technologies Department to ensure that there are no emails stored locally on any user's desktop or on any network drive. I have been advised that when the City converted to its current email system in 2008, all Personal Storage Table (*.pst) files that existed were absorbed into the system (i.e., vault), and the ability to create *.pst files was disabled. In other words, the attached results should encompass any and all emails in the custody and control of the City. The search for any remaining *.pst files may take a few days, but given that the City does not expect to find additional emails, and that the current results are ready, I am sending those now. However, if any are found, they will be disclosed and produced subject to any possible exemption.

If the emails containing the attachments are able to go through, it will conclude the City's response to your 10/4/13 request. If the emails do not go through, then production will occur upon receipt of your payment. Thank you and please contact me if you have any questions, concerns, or clarifications to your request as discussed above.

Daniel G. Lloyd
Assistant City Attorney
Physical Address: 415 W. 6th St., Vancouver, WA 98660
Mailing Address: P.O. Box 1995 Vancouver, WA 98668-1995
Tel: (360) 487-8520 (direct)
Main: (360) 487-8500 / **Fax:** (360) 487-8501
dan.lloyd@cityofvancouver.us

CONFIDENTIALITY NOTICE: This email message may be protected by the attorney/client privilege, work product doctrine or other confidentiality protection. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

EXHIBIT G

PBS ENVIRONMENTAL

17 September, 2001

Post-It® Fax Note 7671	Date	# of pages ▸ 2
To Ernie Nutt	From BC	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

Ernie Schraener
City of Vancouver
Vancouver, WA 98668
Ph: (360) 892-4323 ext. 4306
Fax: (360) 892-4801

RE: RADON SCREENING RESULTS FROM TWO CITY OF VANCOUVER FIRE DEPARTMENT BUILDINGS

Dear Mr. Schraener:

On September 13, 2001, PBS Environmental performed radon-screening tests at two City of Vancouver Fire Department Buildings located in Vancouver, Washington. A total of 6 radon test kits were deployed using Air Chek, Inc., Pro Chek devices for duration of approximately four days. Sample locations were determined at each site through building construction regarding areas of the buildings that may represent a worse-case scenario. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. Laboratory analysis reported elevated levels of radon gas in 3 of the 6 samples collected. The following is a summary of the radon sample locations and analysis results.

Building	Sample Location	Building Level	Sample No.	Analysis (pCi/l)
STA 1				
Station 82	Weight Room	Basement	2098266	11.2
	SE Corner – Compressor Rm.	1st Level	2098273	<0.3
	Westside – Bureau Annex	1st Level	2098268	2.7
STA 2				
Station 86	Crawlspace (Weight Room)	Basement	2098269	172.1
	Power Room	Basement	2098270	9.0
	TV Room	1st Level	2098276	3.8

Based upon review of EPA protocol, we recommend that further testing be conducted. If an initial test result reported between 4 and 10 pCi/L, you have the choice of testing again with a short-term device (Typically 2-7 days) or a long-term device (Typically 3-12 months). If the result was greater than 10 pCi/L, you should retest with another short-term measurement. PBS makes this recommendation based on the understanding that radon levels fluctuate naturally and that it is important to know if the initial tests were an accurate assessment of each building's average radon level or whether the high levels could have been caused by outside factors including drafts and humidity.

Document SerialID: 02XXXXX17671112008XX231627635

Ernie Schraener
City of Vancouver
Re: Radon Screening Results From City of Vancouver Fire Department Buildings
17 September, 2001
Page 2

The Air Chek, Inc. 4-7 day sampling kit and the 90-day Alpha Track long-term test kit are primarily recommended for further testing. Additional testing areas should consist of the lowest occupied areas of each building that are used on a regular basis. Please feel free to call me at 503-417-7680, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Evelyn Cummings
Prime Inspector

REVIEWED BY:

EXHIBIT H

FAX

Date 10/23/01

Number of pages including cover sheet 1

TO: Ernie Schraner

Vancouver Fire Department

RE Fire Station 82

Phone 360 418-5402

Fax Phone 360 892-4801

FROM: Brian Schain

Encompass Mechanical Services, Portland

5711 SW Hood

Portland, OR 97201

Phone (503) 736-0522

Fax Phone (503) 736-0523

CC:

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

Ernie,

I just spoke with Doug Hancock with PBS Environmental regarding Fire Station 82 and 86. I understand 86 was retested and we achieved a level a success. I would like to get a copy of the most recent test for my records.

Regarding 82, the issue is to introduce outside air into the mechanical room and Doug is in agreement with that concept. I have visited the site with my concrete saw cutter and we are prepared to begin the work. As you know there is also the issue of negative pressure in the building. I believe we can solve this problem as well. The issues I see at this point involve introducing adequate outside air to cure the higher levels of Radon, alleviate the negative pressure and allow some sort of relief so we do not over pressurize the space. The design consists of cutting hole in the outside wall and ducting to the mechanical room. We will install a duct heater to temper the air. We will also cut an additional hole and install a barometric damper for pressure relief if no relief exists.

I understand the level of importance of this site and the need to begin the work immediately, but I want to make sure that we only cut the appropriate size holes once. With that in mind, I am reviewing the equipment list for size and capacity to determine the osa penetration and will review as-builts of the space.

Thanks for your patience,

Brian

Document SerialID: 02XXXXX17671112008XX231627635

PBS ENVIRONMENTAL

27 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT, BUILDING 82

Dear Mr. Schraner:

On November 8-12, and 19-21, 2001, PBS Environmental performed radon testing at the Fire Department Building located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two to four days for each testing cycle. November 8-12, 2001 sample locations were tested with the Basement Mechanical Room door and wall return grills sealed to determine if radon levels could be reduced by this effort. November 19-21, 2001 sample locations were tested after the two underground ducts had been permanently sealed to determine if these radon mitigation efforts have decreased building radon levels. This testing was part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in the all four of the November 8-12 samples collected, however, they were reduced compared to earlier tests. Laboratory analysis reported elevated levels of radon gas in all five of the November 19-21 samples collected, however, the Dorm, Dayroom, Weight Room and Mechanical Room results were reduced by as much as 50% compared to the original October 3-5, 2001 tests. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results. Table One summarizes test results from November 8-12, 2001. Table Two summarizes test results from November 19-21, 2001.

TABLE ONE

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Right Return Duct, Mech. Room	Basement	2476377	11/08/01	37.2
	Tunnel Vent Duct, Mech. Room	Basement	2476385	11/08/01	26.1
	Mechanical Room	Basement	2476396	11/08/01	33.5
	Weight Room	Basement	2476387	11/08/01	25.1

ENGINEERING AND ENVIRONMENTAL SOLUTIONS

1220 SW Morrison Street, Suite 600 Portland, OR 97205 503/248-1939 Fax 503/248-0223

BOISE EUGENE PORTLAND SEATTLE TRI-CITIES VANCOUVER

TABLE TWO

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Tunnel Vent Duct, Mech. Room	Basement	2476376	11/19/01	32.3
	Weight Room	Basement	2476383	11/19/01	17.0
	Day Room	Basement	2476386	11/19/01	10.4
	Mechanical Room	Basement	2476394	11/19/01	31.8
	Dorm Room	2nd Floor	2476399	11/19/01	13.2

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

reviewed by: dh

Document SerialID: 02XXXXX17671112008XX231627635

PBS
ENVIRONMENTAL

12 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 3-5, 2001, PBS Environmental performed radon-screening tests at one Fire Department Building located in Vancouver, Washington. A total of four radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two days each testing cycle. Sample locations were selected to determine if there are elevated levels of radon in the return ductwork located beneath the building. This is part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in all four samples collected. Samples 2476380 and 2476382 were collected with the return ductwork uncovered and Samples 2476390 and 2476392 were collected with the return ductwork covered. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 82	S.E. Return Duct, Mech. Room	Basement	2476380	**16.5**
	W. Return Duct, Mech. Room	Basement	2476382	**20.7**
	S.E. Return Duct, Mech. Room	Basement	2476390	**23.4**
	W. Return Duct, Mech. Room	Basement	2476392	**84.1**

COVERT

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

REVIEWED BY:

ENGINEERING AND ENVIRONMENTAL SOLUTIONS

1220 SW Morrison Street, Suite 600 Portland, OR 97205 503/248-1939 Fax 503/248-0223

BEND EUGENE PORTLAND SEATTLE TRI-CITIES VANCOUVER

Document SerialID: 02XXXXX17671112008XX231627635

November 9, 2001 **** LABORATORY ANALYSIS REPORT ****

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	M.ST%
2476390	23.4	70	11/05/01 @ 12 pm	11/08/01 @ 10 am	11/09/01		8.1%
2476392	84.1	69	11/05/01 @ 12 pm	11/08/01 @ 9 am	11/09/01		6.8%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0693 Fax: (828) 684-8498

November 6, 2001 **** LABORATORY ANALYSIS REPORT ****

P2445 / DOUG HANCOCK / PBS ENVIRONMENTAL

ICII #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MOIST%
2476380	18.5	48	11/03/01 @ 1 pm	11/05/01 @ 1 pm	11/06/01		14.8%
2476382	20.7	48	11/03/01 @ 1 pm	11/05/01 @ 1 pm	11/06/01		11.3%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Document SerialID: 02XXXXX17671112008XX231627635

PBS ENVIRONMENTAL

RECEIVED NOV 28 2001

27 November 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

#1

RE: RADON SCREENING RESULTS FROM FIRE DEPARMENT. BUILDING 82

Dear Mr. Schraner:

On November 8-12, and 19-21, 2001, PBS Environmental performed radon testing at the Fire Department Building located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of nine radon test kits were deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately two to four days for each testing cycle. November 8-12, 2001 sample locations were tested with the Basement Mechanical Room door and wall return grills sealed to determine if radon levels could be reduced by this effort. November 19-21, 2001 sample locations were tested after the two underground ducts had been permanently sealed to determine if these radon mitigation efforts have decreased building radon levels. This testing was part of the ongoing investigation and mitigation efforts at the building. Laboratory analysis reported elevated levels of radon gas in the all four of the November 8-12 samples collected, however, they were reduced compared to earlier tests. Laboratory analysis reported elevated levels of radon gas in all five of the November 19-21 samples collected, however, the Dorm, Dayroom, Weight Room and Mechanical Room results were reduced by as much as 50% compared to the original October 3-5, 2001 tests. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results. Table One summarizes test results from November 8-12, 2001. Table Two summarizes test results from November 19-21, 2001.

TABLE ONE

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Right Return Duct, Mech. Room	Basement	2476377	11/08/01	37.2
	Tunnel Vent Duct, Mech. Room	Basement	2476385	11/08/01	26.1
	Mechanical Room	Basement	2476396	11/08/01	33.5
	Weight Room	Basement	2476387	11/08/01	25.1

TABLE TWO

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Tunnel Vent Duct, Mech. Room	Basement	2476376	11/19/01	32.3
	Weight Room	Basement	2476383	11/19/01	17.0
	Day Room	Basement	2476386	11/19/01	10.4
	Mechanical Room	Basement	2476394	11/19/01	31.8
	Dorm Room	2nd Floor	2476399	11/19/01	13.2

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

reviewed by: dh

November 23, 2001

** LABORATORY ANALYSIS REPORT **

P2445 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	N.S.T.
2476376	32.3	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	TUNNEL [illegible]	8.8%
2476383	17.0	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Lt. Room (30.9)	6.1%
2476386	10.4	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DAY Room (31.8)	6.8%
2476394	31.8	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	MECH Room	10.0%
2476399	13.2	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Dorm (from [illegible])	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

4th testing Cycle

- ~~Tested w/ [illegible] Room door return & wall return covered~~
- To determine if levels can be reduced
- Tested w/ ductwork sealed (underground) NO returns covered

November 23, 2001 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476376	32.3	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	TUNNEL [illegible]	8.8%
2476383	17.0	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Lt. Room (30.9)	6.1%
2476386	10.4	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	DAY Room (24.8)	6.8%
2476394	31.8	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	MECH Room	10.0%
2476399	13.2	49	11/19/01 @ 3 pm	11/21/01 @ 4 pm	11/23/01	Dorm (From 26.4)	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Schraner, Ernie

From: Connie Latour [connie_latour@pbsenv.com]
Sent: Monday, May 13, 2002 1:50 PM
To: 'ernie.schraner@ci.vancouver.wa.us'
Subject: FW: report.18122.pdf

report.18122.pdf
(3 KB)

Ernie,
Attached is the radon report. STA 1 2
Locations are as follows:
2491265 - Mechanical Room
2491282 - Dorm
2491290 - Cptns Office 1st floor
2491291 - workout room
2491292 - conference room
2491300 - reception
2491301 - kitchen
2491310 - dayroom

Report to follow.

Connie L.

May 13, 2002 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2491265	1.3	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	MECHANICAL	4.7%
2491282	0.5	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	DORM	4.2%
2491290	1.3	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	CAPTAINS OFFICE	4.0%
2491291	4.7	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	WORKOUT ROOM	4.0%
2491292	0.7	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Conference Room	4.0%
2491300	1.4	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Reception	4.0%
2491301	1.1	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	Kitchen	4.8%
2491310	1.5	64	05/03/02 @ 4 pm	05/06/02 @ 8 am	05/07/02	DAY ROOM	5.5%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

Document SerialID: 02XXXXX17671112008XX231627635

PBS

PORTLAND
SEATTLE
VANCOUVER
EUGENE
BEND
TRI-CITIES

May 22, 2002

Mr. Ernie Schraner
Facilities/Maintenance Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Re: Radon Screening Results From Fire Department Building #82
PBS Project #15801.000

Dear Mr. Schraner:

On May 17, 2002, PBS Environmental performed radon testing at Fire Department Building #82 located at 900 W. Evergreen Blvd, in Vancouver, Washington. A total of one radon test kit was deployed using Air Chek, Inc., Pro Chek devices for a duration of approximately three days for the test. The test was performed to determine the radon level in the workout room after recent mitigation efforts were completed. Laboratory analysis indicated there was not an elevated level of radon gas in the one sample collected. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Sample Date	Analysis (pCi/l)
Station 82	Workout Room	Basement	2476470	5/17/02	0.9

Please feel free to call me at 503-417-7589, should you have any questions regarding this report.

Sincerely,

Connie LaTour
Prime Inspector

Rev:

4412 SW Corbett
Portland, OR 97201
503.248.1939 MAIN
503.248.0223 FAX
888.248.1939 TOLLFREE

ENGINEERING AND ENVIRONMENTAL

www.pbsenv.com

Document SerialID: 02XXXXX17671112008XX231627635

May 21, 2002 **** LABORATORY ANALYSIS REPORT **** Pg 1 of 1

P2446 / DOUG HANCOCK / PBS ENVIRONMENTAL

Kit #	pCi/L	Hours	Started	Ended	Analyzed	NOTES	MST%
2476470	0.9	68	05/17/02 @ 12 pm	05/20/02 @ 8 am	05/21/02		7.4%

Air Chek, Inc. 1936 Butler Bridge Rd, Fletcher, NC 28732 Phone: (828) 684-0893 Fax: (828) 684-8498

PBS
ENVIRONMENTAL

19 October, 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM FIRE DEPT. BUILDING 86

Dear Mr. Schraner:

On October 15, 2001, PBS Environmental performed radon-screening tests at one Fire Department Building located in Vancouver, Washington. A total of three radon test kits were deployed using Air Chek, Inc., Pro Chek devices for duration of approximately two days. Sample locations were selected to determine if recent mitigation efforts were successful. Laboratory analysis reported elevated levels of radon gas in one of the three samples collected. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 86	Crawlspace	Basement	2474973	5.1
	Weight Room	Basement	2474993	1.3
	Hose Tower	Basement	2474975	1.4

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour

Connie LaTour
Prime Inspector

REVIEWED BY: DH

ENGINEERING AND ENVIRONMENTAL SOLUTIONS

1220 SW Morrison Street, Suite 600 Portland, OR 97205 503/248-1939 Fax 503/248-0223

PBS
ENVIRONMENTAL

18 October, 2001

Ernie Schraner
Facilities Coordinator
Vancouver Fire Department
7110 NE 63rd Street
Vancouver, WA 98668

RE: RADON SCREENING RESULTS FROM 25 CITY OF VANCOUVER BUILDINGS

Dear Mr. Schraner:

On October 5, 2001, PBS Environmental performed an additional radon-screening test at Fire Station 81 located in Vancouver, Washington. One radon test kit was deployed using Air Chek, Inc., Pro Chek device for a duration of approximately two days. The sample location was selected per Fire Department personnel's request. The US EPA action level for an acceptable level of radon is 4.0 pCi/L. The following is a summary of the radon sample locations and analysis results.

Building	Area Sampled	Building Level	Sample No.	Analysis (pCi/l)
Station 81	Equipment Services	1st Floor	2174998	0.6

Please feel free to call me at 503-417-7589, or Doug Hancock at 503-417-7597 should you have any questions or concerns regarding this report summary.

Sincerely,

Connie LaTour
Prime Inspector

REVIEWED BY: DH

EXHIBIT I

Document SerialID: 02XXXXX17671112008XX231627635

February 21, 2006

Mr. Ernest Schraner, Jr.
Facilities / Maintenance Coordinator
CITY OF VANCOUVER FIRE DEPARTMENT
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Project No. 65-06052.00

Subject: Radon Testing at 10 Fire Stations

Dear Ernie:

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, is pleased to present the radon testing survey of the 10 fire stations specified by you located throughout the Vancouver, Washington area.

Please find the enclosed original and copy of the report.

Thank you for the opportunity to work with you on this project. We look forward to assisting you in future environmental and industrial hygiene projects.

Sincerely,

Ed Gay
Senior Project Manager
Occupational Health and Safety

EG/eg

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street, Suite 440
Portland, OR 97232

Main: (971) 244-1200
Fax: (971) 244-1209
www.us.bureauveritas.com

Document SerialID: 02XXXXX17671112008XX231627635

Radon Testing in Ten Fire Stations

February 21, 2006

Clayton Project Number 65-06052.00

Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street
Suite 440
Portland, Oregon 97232
971.244.1200
www.us.bureauveritas.com

BUREAU VERITAS

Section	Page
1.0 INTRODUCTION	**1**
2.0 BACKGROUND	**1**
3.0 METHODS	**1**
4.0 RESULTS AND DISCUSSION	**2**
4.1 INITIAL RESULTS BELOW 4.0 PCI/L	2
4.2 STATION 82	2
5.0 RECOMMENDATIONS	**3**
6.0 LIMITATIONS	**4**

Table

Results of Radon Testing

Appendices

Laboratory Sample Results

1.0 INTRODUCTION

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, was retained by Mr. Ernest Schraner, Jr., Facilities Coordinator for the City of Vancouver Fire Department, to conduct radon testing at ten fire station buildings within Vancouver, Washington.

Clayton's scope of services is described in the proposal letter to Mr. Schraner, which also included the terms and conditions under which the work was performed (Clayton Proposal Number PR-65OH06.076) dated October 18, 2005.

Mr. Ed Gay, Senior Project Manager with Clayton, performed the three month long term testing between the initial placement date of November 7, 2005 and the final pick up date of February 13, 2006. Mr. Schraner provided background information and accompanied Mr. Gay to provide access for the placement of the AirChek Radon samplers for the current monitoring session.

2.0 BACKGROUND

Radon is a colorless and odorless gas produced by the radioactive decay of the element radium, which results from the natural radioactive breakdown of uranium in soil, rock, and water. Radon is naturally found in the outdoor and indoor air, soil air, and in ground water. Radon typically moves up through soil pore spaces and rock fractures near the surface of the earth and escapes into the atmosphere. Soil air often flows toward building foundations where radon can seep through cracks and other holes in the foundation. Once inside, the radon can become trapped and concentrated. Openings which commonly allow easy inflow of the gas include: cracks in floors and walls, gaps in suspended floors, openings around sump pumps and drains, cavities in wall, joints in construction materials, gaps around utility penetrations (pipes and wires), and crawl spaces that open directly into the building.

The US Environmental Protection Agency (EPA) ranks indoor radon among the most serious environmental health problems. It is the second leading cause of lung cancer in the United States.

PBS Environmental conducted baseline radon testing within the ten fire stations in October 2001. Clayton followed up with sampling exercises in April and May of 2003.

3.0 METHODS

Clayton performed long term radon testing (three months) by deploying AirChek Alpha Track Radon Devices. Alpha Track detectors are passive devices that allow continual adsorption and desorption of radon. The radon testing was conducted, to the extent reasonable, under normal operating building conditions. The testing was performed using EPA approved sampling methodology. Thirty-three long term radon detectors were placed in locations designated by Mr. Schraner and Mr. Gay within the ten fire stations during this three month radon testing session.

4.0 RESULTS AND DISCUSSION

The average indoor radon level, according to the EPA, is estimated to be about 1.3 picoCuries per liter (pCi/L). If radon test results are at or above the action level of 4.0 pCi/L, the EPA recommends that follow-up long-term testing be performed.

Analytical results indicated only Fire Stations 82 had radon concentrations at or above the EPA recommended action level. The remaining nine (9) fire stations had radon concentrations below the EPA action level.

The results for the radon testing and sampling information are provided in the attached Table. Brief descriptions of the buildings are also included in the table, such as the buildings being built over basements, or slabs on grade, and how many floors. For example, Station 82 has all three descriptions, basement, some slab portions and a second floor. Also stated are the perceived activity levels in the stations. Most stations are active with personnel coming and going. Two stations, 810 and 87, are unmanned and used primarily for storage. Cracks in slabs, basement floors, and walls, or unsealed foundations, provide entry for the radon gas

Laboratory analytical results are provided in the Appendix.

4.1 INITIAL RESULTS BELOW 4.0 PCI/L

Analytical laboratory results indicated nine (9) fire stations had radon concentrations below the EPA recommended action level. No additional action or retesting is required at this time. The City of Vancouver Fire Department should retest for radon when occupancy patterns change.

Refer to the attached Table for test details including location and results.

4.2 STATION 82

Clayton conducted long-term (3 months) radon testing in seven locations within Station 82 from November 7, 2005 through February 13, 2006. Five (5) radon results were above the EPA action level. One test canister could not be located and is presumed missing in Station 82 from the Day Room. (Two other canisters are also missing, one in Station 84, the exercise room and one in Station 81, the chief's office.)

The heating, ventilation, and air conditioning (HVAC) system in Station 82 services all areas within the two-story building and basement except the Fire Prevention Office, which is served by a local air-handling unit. Of prime importance would be incoming fresh air and continuous operation.

In a prior short-term sampling episode (April 22 through 25, 2003) some results were above the EPA action level for radon particularly in the Fire Prevention Office.

This is a very active station with a large group of rotating personnel but there are definite results which illustrate that the HVAC in the building needs an investigation.

BUREAU VERITAS

5.0 RECOMMENDATIONS

Based on the sampling results and observations made during the survey, Clayton offers the following recommendations:

- A full investigation of the air handling equipment in Station 82 should be undertaken to determine adequate air flow. Perhaps a study performed by a qualified engineer in the radon/HVAC field.
- Unauthorized personnel should not attempt to adjust the ventilation parameters, because in the past some electric breakers were found to be in the "off" position and fresh air vents have been closed. The City of Vancouver Fire Department Facilities Department should establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.
- After some reforms are instituted the Vancouver Fire Department should perform short-term radon testing as soon as possible in Station 82 to determine if the air handling system has been improved.
- Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year.

BUREAU VERITAS

6.0 LIMITATIONS

Clayton prepared this report to aid the City of Vancouver Fire Department in evaluating ten fire stations for indoor radon concentrations. This report is for the exclusive use of the client, applies only to the specific subject property detailed above, and shall not be relied upon by any other party without the prior consent of the undersigned.

Within the limitations of scope, schedule, and budget, our services have been executed in accordance with generally accepted practices in this area at the time this letter was prepared. No other hazardous materials/wastes were investigated. No other conditions, expressed or implied, should be understood.

Thank you for the opportunity to continue providing our services to the City of Vancouver Fire Department.

Report prepared by: Ed Gay

Ed Gay
Senior Project Manager
Portland Regional Office

Report reviewed by: Scott Turkle

Scott Turkle, CIH
Senior Consultant
Portland Regional Office

February 21, 2006

BUREAU VERITAS

TABLE

BUREAU VERITAS

Table
Results of Long Term Radon Testing
at various
City of Vancouver Fire Stations
Vancouver, Washington
Clayton Project No. 65-06052.00
Sampling Date: November 7, 2005 through February 13, 2006

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
89	1st	Community Room on a slab – active building	169643	2.2
89	1st	Day Room on a slab – active building	169651	2.2
810	1st	Kitchen on a slab – inactive building	169642	0.6
810	1st	Storage room on a slab – inactive building	169641	0.5
88	1st	Day Room on a slab – active building	169650	1.1
88	1st	Capitan's office on a slab – active building	169645	1.4
88	1st	Community Room on a slab – active building	169644	1.0
87	1st	Kitchen on a slab – inactive building	169646	0.5
86	1st	Dorm Room – basement building – active building	169662	0.8
86	1st	Day Room – basement building – active building	169664	0.8
86	1st	Kitchen basement building active building	169663	0.8
86	Basement	Machine Room – active building	169661	2.7
85	1st	Exercise room on a slab – active building	169648	1.6
85	1st	Captain's office on a slab – active building	169647	1.5
85	1st	Day Room – on a slab – active building	169649	1.7
84	1st	Day Room – basement building – active building	169654	1.7

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
84	1st	Captain's office – basement building – active building	169658	1.5
84	1st	Dormitory – basement building – active building	169660	1.8
84	1st	Exercise room	**MISSING CANISTER**	
83	1st	Dormitory – on a slab – active building	169652	1.3
83	1st	Day Room – on a slab - active building	169659	1.2
82	Basement	Machine room – active building	169672	**7.6**
82	Basement	Exercise room – active building	169671	**6.1**
82	1st	File room on a slab – active building	169670	0.8
82	1st	Front office – on a slab – active building	169667	**4.8**
82	1st	Day room office – over basement – active building	169669	**7.5**
82	2nd	Dormitory – active building	169673	**7.5**
82	1st	Day Room	**MISSING CANISTER**	
81	1st	Administration office – on a slab – active building	**81-X1** Original number 169653	0.4
81	1st	Dormitory – on a slab- active building	169666	0.4
81	1st	Conference room – on a slab – active building	169665	0.3
81	1st	Service Shop office – on a slab – active building	169657	0.4
81	1st	Chief's office	**MISSING CANISTER**	
EPA Recommended Indoor Radon Concentration Action Level				4.0

Notes:
pCi/L: picoCuries per Liter
EPA: United States Environmental Protection Agency
Bold: radon levels above the EPA Action Level

APPENDIX

LABORATORY ANALYTICAL RESULTS

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

February 16, 2006

CLAYTON GROUP SERVICES
ATTN: ED GAY
1500 NE IRVING STREET
SUITE 440
PORTLAND, OR 97232

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
169641	0.5	STATION 810-STORAGE ROOM	11/07/05	02/13/06	
169642	0.6	STATION 810-KITCHEN	11/07/05	02/13/06	
169643	2.2	STATION 89-COMMUNITY ROOM	11/07/05	02/13/06	
169644	1.0	STATION 88-COMMUNITY ROOM	11/07/05	02/13/06	
169645	1.4	STATION 88-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169646	0.5	STATION 87-KITCHEN	11/07/05	02/13/06	
169647	1.5	STATION 85-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169648	1.6	STATION 85-EXERCISE ROOM	11/07/05	02/13/06	
169649	1.7	STATION 85-DAY ROOM	11/07/05	02/13/06	
169650	1.1	STATION 88-DAY ROOM	11/07/05	02/13/06	
169651	2.2	STATION 89-DAY ROOM	11/07/05	02/13/06	
169652	1.3	STATION 83-DORM	11/07/05	02/13/06	
169653	0.4	STATION 81-ADMIN OFFICE	11/07/05	02/13/06	
169654	1.7	STATION 84-DAY ROOM	11/07/05	02/13/06	
169657	0.4	STATION 81-SERVICE SHOP OFFICE	11/07/05	02/13/06	
169658	1.5	STATION 84-CAPTAIN'S OFFICE	11/07/05	02/13/06	
169659	1.2	STATION 83-DAY ROOM	11/07/05	02/13/06	
169660	1.8	STATION 84-DORM	11/07/05	02/13/06	

Continued

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
169661	2.7	STATION 86-MACHINE ROOM	11/07/05	02/13/06	
169662	0.8	STATION 86-DORM	11/07/05	02/13/06	
169663	0.8	STATION 86-KITCHEN	11/07/05	02/13/06	
169664	0.8	STATION 86-DAY ROOM	11/07/05	02/13/06	
169665	0.3	STATION 81-CONFERENCE ROOM	11/07/05	02/13/06	
169666	0.4	STATION 81-DORM	11/07/05	02/13/06	
169667	4.8	STAION 82-OFFICE FRONT	11/07/05	02/13/06	
169669	7.5	STATION 82-OFFICE BY DAY ROOM	11/07/05	02/13/06	
169670	0.8	STATION 82-FILE ROOM	11/07/05	02/13/06	
169671	6.1	STATION 82-EXERCISE ROOM	11/07/05	02/13/06	
169672	7.6	STATION 82-MACHINE ROOM	11/07/05	02/13/06	
169673	7.5	STATION 82-DORMITORY	11/07/05	02/13/06	

EXHIBIT J

Document SerialID: 02XXXXX17671112008XX231627635

Long Term Radon Testing
Fire Station 82

COPY

July 18, 2006

Clayton Project Number 34006-006130.00

Vancouver Fire Department
7110 NE 63rd Street
Vancouver, Washington 98661

Clayton Group Services, Inc.
A Bureau Veritas Company
1500 NE Irving Street
Suite 440
Portland, Oregon 97232
971.244.1200
www.us.bureauveritas.com

Section Page

1.0 INTRODUCTION 1

2.0 BACKGROUND 1

3.0 METHODS 1

4.0 RESULTS AND DISCUSSION 2

4.1 INITIAL RESULTS BELOW 4.0 PCI/L 2

4.2 STATION 82 HISTORY 2

5.0 RECOMMENDATIONS 2

LIMITATIONS 3

Table

Results of Radon Testing

Appendices

Laboratory Sample Results

1.0 INTRODUCTION

Clayton Group Services, Inc. (Clayton), a Bureau Veritas Company, was retained by Mr. Ernest Schraner, Jr., Facilities Coordinator for the City of Vancouver Fire Department, to conduct follow-up long term radon testing at Station 82 in Vancouver, Washington.

Clayton's scope of services is described in the proposal letter to Mr. Schraner via Mr. Tim Haldeman with the City of Vancouver, which also included the terms and conditions under which the work was performed (Clayton Proposal Number PR-65OH06.20-7) dated March 31, 2006.

Mr. Ed Gay, Senior Project Manager with Clayton, performed this episode of follow-up testing at Station 82 (between April 3, 2006 and July 10, 2006) based on the prior three month long term testing between November 7, 2005 and February 13, 2006. Mr. Schraner provided background information and accompanied Mr. Gay to provide access for the placement of the AirChek Radon samplers for the current monitoring session.

2.0 BACKGROUND

Radon is a colorless and odorless gas produced by the radioactive decay of the element radium, which results from the natural radioactive breakdown of uranium in soil, rock, and water. Radon is naturally found in the outdoor and indoor air, soil air, and in ground water. Radon typically moves up through soil pore spaces and rock fractures near the surface of the earth and escapes into the atmosphere. Soil air often flows toward building foundations where radon can seep through cracks and other holes in the foundation. Once inside, the radon can become trapped and concentrated. Openings which commonly allow easy inflow of the gas include: cracks in floors and walls, gaps in suspended floors, openings around sump pumps and drains, cavities in wall, joints in construction materials, gaps around utility penetrations (pipes and wires), and crawl spaces that open directly into the building.

The US Environmental Protection Agency (EPA) ranks indoor radon among the most serious environmental health problems. It is the second leading cause of lung cancer in the United States.

PBS Environmental conducted baseline radon testing within the ten fire stations in October 2001. Clayton followed up with sampling exercises in April and May of 2003.

3.0 METHODS

Clayton performed long term radon testing (three months) by deploying AirChek Alpha Track Radon Devices. Alpha Track detectors are passive devices that allow continual adsorption and desorption of radon. The radon testing was conducted, to the extent reasonable, under normal operating building conditions. The testing was performed using EPA approved sampling methodology. Ten (10) long term radon detectors were placed in locations designated by Mr. Schraner and Mr. Gay within Station 82 during this three month radon testing session, lasting from April 3, 2006 until July 10, 2006.

BUREAU VERITAS

4.0 RESULTS AND DISCUSSION

The average indoor radon level, according to the EPA, is estimated to be about 1.3 picoCuries per liter (pCi/L). If radon test results are at or above the action level of 4.0 pCi/L, the EPA recommends that follow-up long-term testing be performed.

Current analytical results indicated that Fire Stations 82 had radon concentrations well below the EPA recommended action level.

The results for the radon testing and sampling information are provided in the attached Table. Brief descriptions of the building are also included in the table, such as the building being built over basements, or slabs on grade, and how many floors. For example, Station 82 has all three descriptions, basement, some slab portions and a second floor. Also stated are the perceived activity levels in the stations. Station 82 is a very active station with crews and office personnel coming and going. Cracks in slabs, basement floors, and walls, or unsealed foundations, provide entry for the radon gas

Laboratory analytical results are provided in the Appendix.

4.1 INITIAL RESULTS BELOW 4.0 PCI/L

Analytical laboratory results indicated that in Station 82 had radon concentrations below the EPA recommended action level. No additional action or retesting is required at this time. The City of Vancouver Fire Department should retest for radon when occupancy patterns change.

Refer to the attached Table for test details including location and results.

4.2 STATION 82 HISTORY

Clayton conducted **prior** long-term (3 months) radon testing in seven locations within Station 82 from November 7, 2005 through February 13, 2006. Five (5) radon results, **at that time,** were above the EPA action level.

Mr. Schraner commented to Mr. Gay that there have been upgrades and added efficiencies to the HVAC system. These improvements in the air handling system are corroborated by the current very low level radon readings

5.0 RECOMMENDATIONS

Based on the sampling results and observations made during the survey, Clayton offers the following recommendations:

- Periodic radon sampling should be undertaken at Station 82 to insure the proper utilization of the air handling system.
- Unauthorized personnel should not attempt to adjust the ventilation parameters, because in the past some electric breakers were found to be in the "off" position and fresh air vents have been closed. The City of Vancouver Fire Department Facilities Department should

establish a schedule for routine maintenance of HVAC equipment and maintain records of all maintenance activities.

- Long-term testing of ninety days to one year, depending on type of detector utilized, would better represent a building's average radon concentration during the year.

LIMITATIONS

Clayton prepared this report to aid the City of Vancouver Fire Department in evaluating Fire Station 82 for indoor radon concentrations. This report is for the exclusive use of the client, applies only to the specific subject property detailed above, and shall not be relied upon by any other party without the prior consent of the undersigned.

Within the limitations of scope, schedule, and budget, our services have been executed in accordance with generally accepted practices in this area at the time this letter was prepared. No other hazardous materials/wastes were investigated. No other conditions, expressed or implied, should be understood.

Thank you for the opportunity to continue providing our services to the City of Vancouver Fire Department.

Report prepared by:

Ed Gay
Senior Project Manager
Portland Regional Office

Report reviewed by:

Scott Turkle, CIH
Senior Consultant
Portland Regional Office

July 18, 2006

BUREAU VERITAS

TABLE

BUREAU VERITAS

Table
Results of Long Term Radon Testing
at Station 82
City of Vancouver Fire Station
Vancouver, Washington
Clayton Project No. 34006-006130.00
Sampling Date: April 3, 2006 through July 10, 2006

Fire Station	Floor	Location	Serial Number	Result (pCi/L)
82	Basement	Exercise Room – active room-personnel	174241	1.4
82	Basement	Machine Room- inactive room-	174242	1.6
82	Main floor	File/Conference Room – active room - personnel	174243	1.3
82	Main floor	Fire Prevention Office – active room - personnel	174244	0.4
82	2nd floor	Large classroom – active room-personnel	174245	1.9
82	2nd floor	Dormitory – back partition – active room - personnel	174246	1.6
82	2nd floor	Dormitory – bookcase – active room - personnel	174247	1.4
82	Main floor	Day Room by TV – active room – personnel	174248	1.6
82	Main floor	Day Room Office – active room-personnel	174249	1.6
82	Main floor	Front office by reception – active area – personnel and citizens	174250	1.9
EPA Recommended Indoor Radon Concentration Action Level				4.0

Notes:
pCi/L: picoCuries per Liter
EPA: United States Environmental Protection Agency
Bold: radon levels above the EPA Action Level

BUREAU VERITAS

APPENDIX

LABORATORY ANALYTICAL RESULTS

RSSI

6312 West Oakton Street
Morton Grove, IL 60053-2723
847-965-1999
Fax 847-965-1991

July 14, 2006

CLAYTON GROUP SERVICES
ATTN: ED GAY
1500 NE IRVING STREET
SUITE 440
PORTLAND, OR 97232

Monitor Number	pCi/l	Test Location	Exposure Start	Exposure End Date	Reprint from
174241	1.4	STATION 82, EVERGREEN BLVD,EXERCISE ROOM	04/03/06	07/10/06	
174242	1.6	STATION 82, EVERGREEN BLVD,MACHINE ROOM	04/03/06	07/10/06	
174243	1.3	STATION 82, EVERGREEN BLVD, FILE ROOM	04/03/06	07/10/06	
174244	0.4	STATION 82,EVERGREEN BLVD,FIRE PREVENT	04/03/06	07/10/06	
174245	1.9	STATION 82, EVERGREEN BLVD,CLASSROOM	04/03/06	07/10/06	
174246	1.6	STATION 82,EVERGREEN BLVD,DORM BACK	04/03/06	07/10/06	
174247	1.4	STATION 82,EVERGREEN BLVD, DORM BOOK	04/03/06	07/10/06	
174248	1.6	STATION 82,EVERGREEN BLVD,DAYROOM	04/03/06	07/10/06	
174249	1.6	STATION 82,EVERGREEN BLVD,DAY RM OFFICE	04/03/06	07/10/06	
174250	1.9	STATION 82,EVERGREEN BLVD, MAIN OFFICE	04/03/06	07/10/06	

WHAT YOUR TEST RESULTS MEAN

The average indoor radon level in homes is estimated by the US EPA to be below 2 pCi/l. About 0.4 pCi/l is normally found in outside air. Congress has set a long-term goal that indoor radon levels be no more than outdoor levels. While this goal is not yet technologically achievable in all cases, the radon concentration in most homes with elevated concentrations can be reduced to below 2 pCi/l. However, US EPA believes that any radon exposure carries some risk. No level of radon is safe and you can reduce your risk of lung cancer by lowering your radon exposure. If your living patterns change and you begin occupying a level of your home lower than the level on which you have tested, you should retest your home on that lower level. Also, radon concentrations fluctuate daily, seasonally, and with weather conditions. This alpha track monitor provides the best averaging for these fluctuations. Therefore, you may wish to test again for a full year to average seasonal fluctuations or if exposure was for less than 90 days.

EXHIBIT K

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA BASEMENT PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 3tajy160

EXPOSURE START DATE/TIME	3/ 9/2011	12:18	
END	3/11/2011	12:17	EXPOSURE HOURS = 48.0
ANALYSIS	3/18/2011	13:44	DECAY HOURS = 169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN685L
WATER GAIN = 3.4 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 5.4

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FLOOR TV
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 1tajy155

EXPOSURE START DATE/TIME	3/ 9/2011	12:22		
END	3/11/2011	12: 6	EXPOSURE HOURS =	47.7
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN847L
WATER GAIN = 3.2 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.6

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FLOOR CAPT
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tajy156

EXPOSURE START DATE/TIME	3/ 9/2011	12:20		
END	3/11/2011	12: 7	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN206L
WATER GAIN = 3.1 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.4

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA FIRST FL N LOBBY
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 3tajy157

EXPOSURE START DATE/TIME	3/ 9/2011	12:33		
END	3/11/2011	12:10	EXPOSURE HOURS =	47.6
ANALYSIS	3/18/2011	13:33	DECAY HOURS =	169.4

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN377B
WATER GAIN = 3.5 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.9

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FLOOR DORM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 1tajy158

EXPOSURE START DATE/TIME	3/ 9/2011	12:25		
END	3/11/2011	12:13	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.5

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN232B
WATER GAIN = 3.7 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 3.2

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOURTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASSROOM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tajy159

EXPOSURE START DATE/TIME	3/ 9/2011	12:26		
END	3/11/2011	12:14	EXPOSURE HOURS =	47.8
ANALYSIS	3/18/2011	13:44	DECAY HOURS =	169.5

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: SGN705G
WATER GAIN = 3.2 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 4.3

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

EXHIBIT L

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOUTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASS RM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tali053

EXPOSURE START DATE/TIME	1/23/2013	11:18	
END	1/25/2013	12:41	EXPOSURE HOURS = 49.4
ANALYSIS	2/ 4/2013	14:17	DECAY HOURS = 241.6

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: DB428I
WATER GAIN = 1.6 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 11.8

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

EXHIBIT L

Document SerialID: 02XXXXX17671112008XX231627635

radondetek@comcast.net
(717) 657-7032
www.radondetek.com

TCS INDUSTRIES, INC.

RADON GAS DETECTION

4326 Crestview Road, Harrisburg, PA 17112

CITY OF VANCOUVER
4711 E FOUTH PLAIN BLVD
VANCOUVER WA 98668

****

TESTED AREA SECOND FL CLASS RM
PADEP ID = 0182; NYS ELAP ID = 11960
FLOPPY IDENTIFIER 2tali053

EXPOSURE START DATE/TIME	1/23/2013	11:18		
END	1/25/2013	12:41	EXPOSURE HOURS =	49.4
ANALYSIS	2/ 4/2013	14:17	DECAY HOURS =	241.6

CANISTER ANALYZED FOR: WELLS
CANISTER NUMBER: DB428I
WATER GAIN = 1.6 grams

****

RADON CONCENTRATION (WEIGHTED AVG) IN pCi/L = 11.8

****

RADON HEALTH RISK INFORMATION

Radon is the second cause of lung cancer, after smoking. The U.S. Enviromental Protection Agency (EPA) and the Surgeon General strongly recommend taking further action when the home's radon test results are 4.0 pCi/L or greater. The national average indoor radon level is about 1.3 pCi/L. The higher the home's radon level the larger the health risk to you and your family. Reducing radon levels can be done easily, effectively and fairly inexpensively. Even homes with very high radon levels can be reduced below 4.0 pCi/L. For further information about reducing elevated radon levels please refer to the EPA's CONSUMER'S GUIDE TO RADON REDUCTION or PA's Guide for Pennsylvania residents.

****

POLICY AND LIMITATIONS OF LIABILITY

TCS holds all data and information confidential. We will not release it to other parties without written permission, except where required by law Data may be used in reports without disclosure of customers name or address. TCS does not accept responsibility for financial or health consequences of actions taken by the customer or his agents as a result of this analysis or sampling, or for any and all loss, charge, cost, claim, demand, fee, expense, or damage of any nature arising out of, connected with, resulting from or sustained as a result of any radon sampling requested. TCS makes no warranty of any kind, expressed or implied for the consequences of erroneous test results. Detector was analyzed as received using a modification of HP Vol. 46, No. 4 pp 867-872.

EXHIBIT M

McCann Engineering LLC
1335 NW 23rd Ave., Suite 100
Portland, OR 97210-2687
PH. (503)243-2242 FAX (503)243-2448
Email: engineer@mellc.pro

27 February 2013

Mr. Daniel E. Norfleet
Superintendent Facilities
Facilities - General Services
4711 E. Fourth Plain Blvd.
Vancouver, WA 98668-1005

RE: City of Vancouver; Fire Station #1
Subject: Radon Investigation

Dear Dan,

On 4 February 2013 we met at Fire Station #1 on 900 W. Evergreen Blvd. We observed the site, reviewed recent radon test data, and met with maintenance technician and fire department staff. Radon readings that had previously been marginally high had recently become very high.

The Basement Weight Room consistently has the highest readings and it was a bit of a surprise to find high readings in the second floor classroom. Since radon emanates from the soil, I would expect lower level rooms to have higher concentrations. And the Basement does in fact have the highest readings. The Basement walls and floor are concrete in contact with soil.

The Basement Mechanical Room (BMR) also has walls and floor in contact with soil. Outside air is pulled into the BMR by the supply air fan for the main heating and cooling system. The outside air ducts open to the BMR and the supply air fan exerts negative pressure on the room to pull air through the BMR to the inlet of the main HVAC system. The rate of radon coming through the walls and floors is accelerated by this negative pressure exerted on the room by the supply air fan. And this air is circulated throughout most of the building where this main HVAC system distributes its airflow.

The reason for the outside air drawn into the BMR in the manner described above is apparently to cool the electrical switchgear in the room. Having the system open to the mechanical and electrical room like this is likely the reason for the fire damper discussed below.

We discussed the lack of airflow we noted in all but the sleeping room served by the rooftop unit. I recommended that we look for a fire damper that might be closed since that is the most common reason for sudden loss of airflow. The maintenance

technician, Dave Adkins, did not think there were fire dampers in this system but later found one and opened it. Following is his report:

- After examining the mechanical systems at Fire Station #1 we found that a fire/smoke damper installed in the main return air duct had failed, closing off all return air movement in the building. This damper appears to have been installed during a relatively recent redesign of the return air duct system. During the redesign, return air was eliminated from the basement limiting the ability to exchange air in that area of the building. I have added some return air to the basement and corrected the faulty damper position. I placed two radon test canisters to verify if this will correct the high Radon levels recently seen in the building. The samples will be collected and sent to the testing lab on 2/8/13. We should have results within 10 days of that.

With the air damper opened, the readings reverted back to the previous moderately high range. The latest 48-hour reading was 5.7 pCi/L. It is likely that the reason for the louvers in the doors to the Basement Mechanical Room (BMR) being sealed shut was to cause more outside air to be drawn into the BMR through the 2 ducts connecting outside openings to the BMR. By opening the BMR to the Basement, the amount of outside air intake was reduced and more radon laden air was recirculated throughout the building.

The Vancouver area is noted for Radon issues with readings in basements ranging from 1 to 20 pCi/L common.

The following is provided to educate the readers of this report as to the significance of these readings. This table was produced by the EPA, 2002; as a risk assessment for smokers and non-smokers.

The following is an updated chart of the lifetime risk of lung cancer death per person from radon exposure in homes (excerpted from the updated radon risk assessment).

Radon Level [a]	*Lifetime Risk of Lung Cancer Death (per person) from Radon Exposure in Homes* [b]		
pCi/L	*Never Smokers*	*Current Smokers* [c]	*General Population*
20	*36 out of 1,000*	*260 out of 1,000*	*110 out of 1,000*
10	*18 out of 1,000*	*150 out of 1,000*	*56 out of 1,000*
8	*15 out of 1,000*	*120 out of 1,000*	*45 out of 1,000*
4	*7.3 out of 1000*	*62 out of 1,000*	*23 out of 1,000*
2	*3.7 out of 1000*	*32 out of 1,000*	*12 out of 1,000*
1.25	*2.3 out of 1000*	*20 out of 1,000*	*7.3 out of 1,000*
0.4	*0.73 out of 1000*	*6.4 out of 1000*	*2.3 out of 1,000*

a Assumes constant lifetime exposure in homes at these levels.
b Estimates are subject to uncertainties as discussed in Chapter VIII of

the risk assessment.

Recommendations

(Note that the following recommendations are subject to verification of site layout, space availability, and various systems functions and parameters.)

1. A three-fold strategy is recommended:
    a. Seal floors and walls in contact with soil.
    b. Provide positive pressurization in all areas where radon could be introduced through walls or floors.
    c. Seal the HVAC system against radon intrusion.
2. Provide a cabinet fan to draw outside air through existing ducts rather than using the existing supply air fan to draw air through the ducts by negatively pressurizing the Basement Mechanical Room (BMR).

    a. Modular Section Cabinet Fan with a backward inclined fan – Greenheck MSCF-BI
        i. Inlet plenum will connect to 2 round ducts embedded in concrete ceiling. If one is a return and the other OSA, they need to be individually dampered.
        ii. Outlet to be ducted into return air side of main air handler.
        iii. MSCF factory equipped with insulated cabinet.
        iv. All ductwork to be insulated per code.
        v. OSA ducts drawing from below grade locations need to be ducted to min 3' above grade and goose-necked or louvered to preclude water penetration.
3. Provide opening in supply air duct in BMR and provide 200 cfm to positively pressurize BMR. Adjust airflow as necessary to cool electrical switchgear.
4. Close and seal the opening recently made by maintenance technician from Basement to BMR except as required for cooling electrical switchgear.
    a. An alternative would be to alternately discharge outside air directly into the BMR when building is in heating mode and mechanically cooled air when building is in cooling mode. This would be preferred as lower airflow and less energy would be required most of the year when the building is in heating mode.
5. Do not return air from Basement to the building HVAC system. Provide sidewall exhaust fan in Basement wall to negatively pressurize Basement.
    a. Greenheck CW fan.
6. Thoroughly seal all negatively pressurized ductwork in BMR – nickel-thick duct mastic on all seams and joints.

7. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to all concrete floors and walls that are in contact with ground.

8. Retest all areas previously tested for radon two weeks after completion of above work.

Sincerely,

T. Jeff O'Neal II

T. Jeff O'Neal II, P.E.

10339

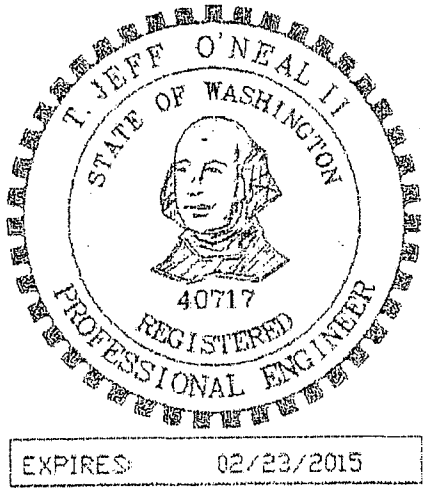


EXHIBIT N

McCann Engineering LLC
1335 NW 23rd Ave., Suite 100
Portland, OR 97210-2687
PH. (503)243-2242 FAX (503)243-2448
Email: engineer@mellc.pro

23 April 2013

Mr. Daniel E. Norfleet
Superintendent Facilities
Facilities - General Services
4711 E. Fourth Plain Blvd.
Vancouver, WA 98668-1005

RE: City of Vancouver; Fire Stations #3,8,9 & 4
Subject: Radon Investigation

Dear Dan,

On 25 April 2013 Chief Knable and I met with you at your office and traveled to fire stations 3, 8, 9, and 4, respectively. We observed the conditions at each site and assessed each building relative to elevated radon levels. Following are my observations and recommendations:

Lab results from canisters placed between 26 and 28 February 2013 are as follows:

LOCATION	BSMT /	1ST /	2ND	RESULT	CANISTER# (DB)
#3 DORM		X		3.2	304I
" WORKOUT		X		1.6	392I
" TV		X		3.4	412I
#4 DORM		X		3.0	783C
" TV		X		2.0	006B
#5 TV			X	1.0*	903F
" DORM		X		1.0*	310B
" INSPECTOR		X		1.0*	390I
" ADMIN		X		1.0*	293I
#8 DORM		X		3.2	660F
" TV		X		2.8	333I

* minimum detectable value

The Vancouver area is noted for Radon issues with readings in basements ranging from 1 to 20 pCi/L common.

The following is provided to educate the readers of this report as to the significance of these readings. This table was produced by the EPA, 2002; as a risk assessment for smokers and non-smokers.

The following is an updated chart of the lifetime risk of lung cancer death per person from radon exposure in homes (excerpted from the updated radon risk assessment).

Radon Level [a]	*Lifetime Risk of Lung Cancer Death (per person) from Radon Exposure in Homes* [b]		
pCi/L	*Never Smokers*	*Current Smokers* [c]	*General Population*
20	*36 out of 1,000*	*260 out of 1,000*	*110 out of 1,000*
10	*18 out of 1,000*	*150 out of 1,000*	*56 out of 1,000*
8	*15 out of 1,000*	*120 out of 1,000*	*45 out of 1,000*
4	*7.3 out of 1000*	*62 out of 1,000*	*23 out of 1,000*
2	*3.7 out of 1000*	*32 out of 1,000*	*12 out of 1,000*
1.25	*2.3 out of 1000*	*20 out of 1,000*	*7.3 out of 1,000*
0.4	*0.73 out of 1000*	*6.4 out of 1000*	*2.3 out of 1,000*

a Assumes constant lifetime exposure in homes at these levels.
b Estimates are subject to uncertainties as discussed in Chapter VIII of the risk assessment.

From the EPA's "A Citizen's Guide to Radon"(2004) and "Home Buyer's and Seller's Guide" (2005).

Your short term radon test result is	**What to do after the first test**	**What to do after second test or 2 cans at same time & place**
Greater than 20 pCi/L	Perform short term follow-up test immediately	Fix your home*
10 pCi/L to 20 pCi/L	Perform short term follow-up test immediately	Fix your home*
4 pCi/L to about 10 pCi/L	Perform follow-up test short or long term	Fix your home*
Less than 4 pCi/L	Perform follow-up test if bedroom or living area is in the basement	Consider fixing if between 2 and 4 pCi/L.

EPA AND TCS RECOMMEND YOU TAKE FOLLOW-UP MEASUREMENTS BEFORE YOU UNDERTAKE MAJOR EFFORTS TO CORRECT THE PROBLEM.

If your first or second test was a long term test: Fix your home if the result is 4 pCi/L or more.

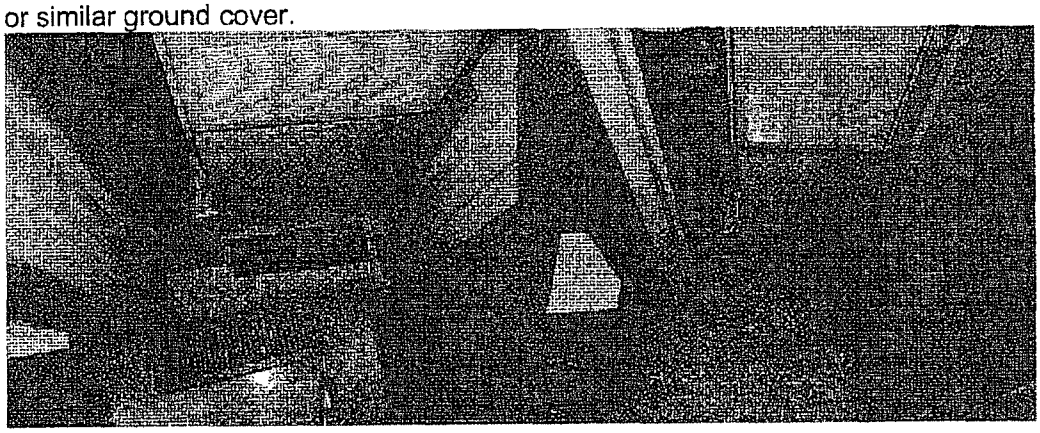
If you used a second short term test: Consider fixing your home is the average of the first and second tests is 4 pCi/L or higher.

Even radon levels below 4 pCi/L pose some risk, and you can reduce your risk of lung cancer by lowering your radon level. Most homes today can be reduced to 2 pCi/L or below.

If you smoke and your home has high radon levels, your risk of lung cancer is especially high.

Fire Station 3:

There was a digital radon meter in the Day/TV Room indicating a level of 4.2 pCi/L. This is higher than the recent lab analyzed canister test result of 3.2 in the TV Room and 3.4 in the Dorm Room. The furnace serving the building was located in the same room. There was a floor grille located in the furnace enclosure. I removed this grille to find it opened directly to the crawl space and the crawl space had poor or no visqueen or similar ground cover.



The crawl space conditions are the likely reason for the elevated radon levels and this opening to the crawl space in the furnace enclosure is a key cause of the elevated radon levels. The furnace draws air from this enclosure, through the louvered door and floor grille, and distributes it throughout the building. There is a moderately large sidewall exhaust fan in the sleeping room and ceiling exhaust in the bathroom that provide ventilation by drawing air from outside through various cracks and crevices in the ceilings, walls, and floors.

The programmable thermostat that controls the furnace was set to circulate air continuously – the fan was in the "On" rather than the "Auto" position. This is the correct setting – we want the fan to continuously circulate air.

There was a piece of plywood stashed in the furnace enclosure, so I laid it over the floor opening to substantially reduce the air transfer from the crawl space in this location.

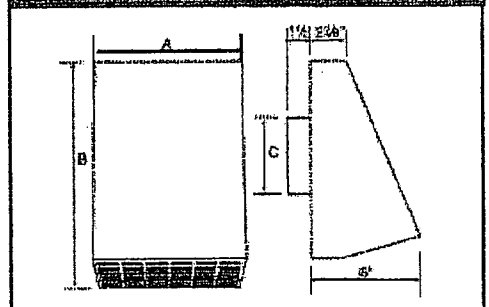
The Exercise Room was on the other side of the Truck Bay, its foundation is slab on grade, and it has a separate through-the-wall, PTAC unit for heating and cooling. Its reading in the recent lab test was 1.6 pCi/L. No work required.

Recommendations

(Note that all recommendations are subject to verification of site layout, space availability, and various systems functions and parameters.)

1. Make sure all thermostats remain in the Fan-On setting at all times.
2. A four-fold strategy is recommended:
   a. Seal the floor penetration in the furnace enclosure and any other floor penetrations to the crawl space.
   b. Provide positive pressurization to the occupied space by bringing outside air into the furnace enclosure by running a 10-inch duct from a screened gooseneck air inlet above the roof to a point inside the furnace enclosure.
   c. Cover the ground in the crawl space with soil-gas retarder membrane. Minimum 6-mil polyethylene or similar sheeting, continuously applied, 12-inch lap at joints, and any rips, punctures, or tears covered by additional sheets.
   d. Provide negative pressurization to the crawl space by closing and sealing all but two foundation/crawl space vents at one end of the building and

DIMENSIONAL DATA



MODEL	A	B	C	SHIP WT.
XMV-A4	10½"	13"	4"	9 lbs.
XMV-A4HP	10½"	13"	4"	10
XMV-A6	10½"	13"	6"	11
XMV-A6HP	14½"	17"	6"	14
XMV-A8HP	14½"	17"	8"	16

ORDERING INFORMATION

P/N	MODEL
99 070	XMV - A4
99 071	XMV - A4HP
99 072	XMV - A6
99 073	XMV - A6HP
99 074	XMV - A8HP

		AIRFLOW			FLEXIBLE DUCTLENGHTS	
FAN	PACKAGE	TOTAL CFM	GRILLE CFM	DUCT DIAM.	A	B
XMV - A4	Single	60	60	4"	40'	—
XMV - A4HP	Single	60	60	4"	100'	—
XMV - A4HP	Dual	120	60	4"	60'	10'
XMV - A6	Dual	200	100	6"	30'	10'
XMV - A6HP*	Dual	300	150	6"	100'	50'
*Speed control recommended for shorter duct lengths.						
XMV - A8HP	Triple	300	100	8"/5"	50'	20'

installing a fan in a vent in the other end of the building. American Aldes XMV-A4HP; 120 cfm. Johnson Air in Portland is the local American Aldes rep.

Fire Station 8:

There was a digital radon meter in the TV Room. It was reading 2.9 pCi/L The latest lab canister analysis results are 2.8 for the TV Room and 3.2 for the Dorm Room.

Rooftop HVAC units heat and cool these areas. Separate units serve the TV Room and Dorm Room. The Dorm Room had its thermostat set to continuously circulate air, which is the proper setting. The floors are slab on grade and the Dorm Room has under-floor ductwork in the slab.

The TV Room thermostat was set to only operate the fan when heating or cooling was required. This is not the proper setting for a continuously occupied space.

Recommendations

1. Make sure all thermostats remain in the Fan-On setting at all times.
2. Verify that outside air dampers are open in the rooftop HVAC units and about 10% of the airflow is outside air.
3. Place a digital radon meter in the Dormitory.
4. For the Dormitory HVAC system, increase the outside air intake and test to determine how much this improves the radon levels.
5. If increasing outside air to the Dormitory Room up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Apply epoxy lining to the ductwork embedded in the floor slab.
    c. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

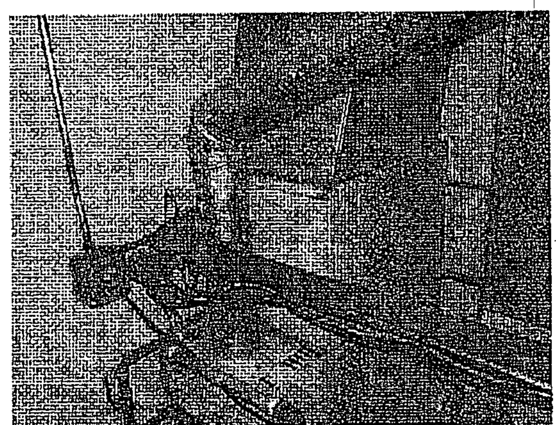
Fire Station 9:

There was a digital radon meter in the Kitchen. It was reading 2.5 pCi/L. Note that instructions with the meters indicate the Kitchen is not the appropriate place to place the meter. The latest lab canister analysis results are 2.9 for the TV Room and 2.4 for the Dorm Room.

There are three HVAC systems at Station 9, Main areas to include TV Room, Dorm Room, and Classroom. The Classroom and Main/TV Room thermostats were in the Fan-Auto setting rather than Fan-On as they should have been.

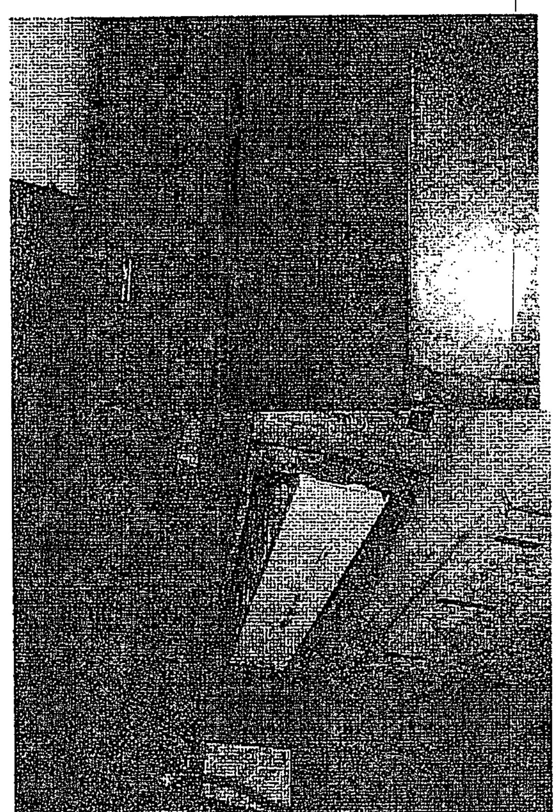
The furnaces for the TV Room and Dorm Room were collocated in a mechanical room next to the Kitchen and TV Room. Several issues were noted with this installation:

- The most immediate concern is that the Armaflex foam rubber insulation on the refrigeration lineset is too close to the flue for Furnace #1. The flue appears to be a single-wall B-vent type flue and a 1-inch separation from combustible materials is required. ***This is a fire hazard and needs to be verified and corrections made as soon as possible.***



- Second, the outside air (OSA) ductwork for the furnaces appeared to be dampered off. The OSA ductwork is uninsulated and it may have been dampered off because it had condensation forming on it and dripping onto the floor and getting the ceiling wet where it penetrates the drywall. I turned the handles to what appeared to be the fully open position as seen in the photo at right. The damper position needs to be verified.

- There are electrostatic filter housings for the furnaces that have been converted to standard pleated filters. However, undersized filters are being used. 4-inch filters that are not tall enough to fully engage the filter frame are being used rather than the proper 5-inch, full-height filters. They are allowing significant amounts of unfiltered air to bypass the filters.



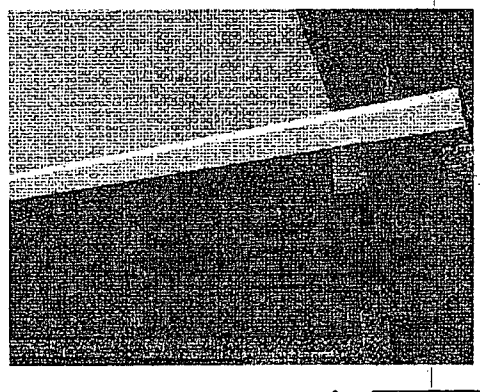
The Classroom HVAC unit is apparently on the roof. Radon readings should be taken in the Classroom to see if mitigation in this area is necessary.

For the Dorm Room and Main areas, both supply and return air grilles are located in the ceilings. Heating occurs most of the year and warm buoyant air in heating mode tends to stay along the ceiling and short circuit between supply and return grilles unless steps are taken to intentionally prevent this. This is critical for both thermal comfort and for proper ventilation to mitigate radon especially but other contaminants as well.

Recommendations

1. Verify/Provide adequate clearance between furnace flues and all combustibles.
2. Provide properly sized pleated replacement filters for furnace filter units.
3. Make sure all thermostats remain in the Fan-On setting at all times.
4. Verify that outside air dampers are open in the rooftop HVAC units and at least 10% of the airflow is outside air. Increase percentage of outside air as necessary (an as possible) to decrease radon levels.
5. Place a digital radon meter in the Dormitory.
6. Move the existing radon meter out of the Kitchen and into the TV Room.
7. If canisters in the Classroom record elevated radon levels, place digital radon meter in Classroom to monitor mitigation results.
8. For the HVAC systems, increase the outside air intake and test to determine how much this improved the radon levels. Additional and/or larger ductwork may be required for the Dorm and TV Room furnaces.
9. If increasing outside air up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Fire Station 4:

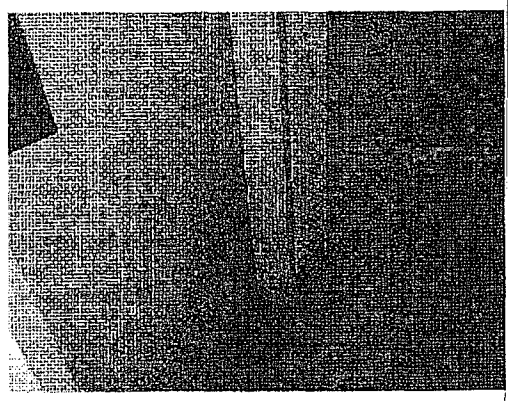


There was a digital radon meter in the TV Room. It was reading 5.7 pCi/L. The latest lab canister analysis results are 2.0 for the TV Room and 3.0 for the Dorm Room.

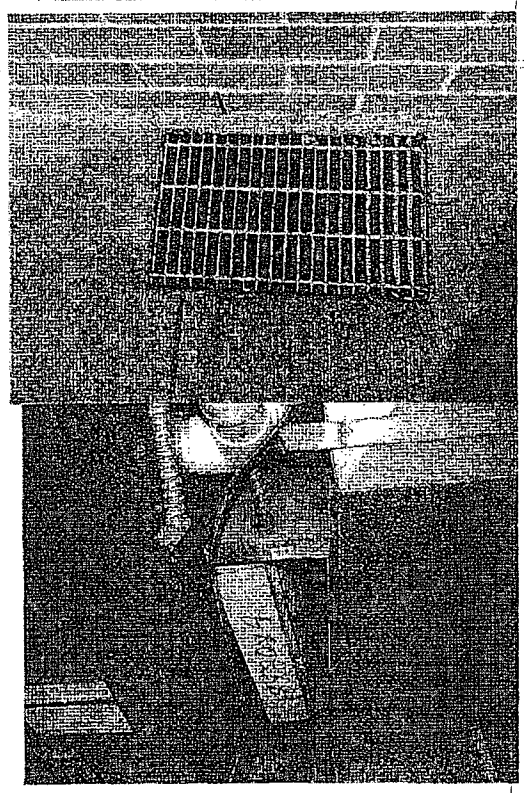
The HVAC system appears not to have outside air provided directly to it. There are not roof penetrations for OSA, but there is a possibility

Document SerialID: 02XXXXX17671112008XX231627635

POOR QUALITY ORIGINAL



OSA ducts extend from vents in the soffit soffit to return air ducts in the attic. Note that the attic is conditioned (the insulation is in the roof assembly, above the attic), so there is no reason to vent the soffit, other than moisture protection for the soffit, alone. Unless there is a good air-seal at the bird-blocking between rafters and joists at the wall top plates, there will be air leakage into the conditioned attic and significant heat loss (wasted energy) will result.



There are exhaust fans in the bathroom that could potentially mitigate the elevated radon levels. However, there is very little undercut under the bathroom doors. So very little exhaust is drawn from other spaces outside the bathrooms.

There are two Jenn-Air cook-tops in the Kitchen. They have downdraft exhaust systems that convey air through under-slab ducts to a well outside the building. This is a potential source of entry of radon into the space. We turned on one of the cook-top fans onto low speed and asked the firefighters to leave it on continuously to provide more fresh air and see if this helped lower the radon level measured by the meter nearby.

Furnace filters have the same issue described above for FS#9:

Thermostats for the Dorm Room and Classroom were set to Fan-Auto and the TV Room thermostat was set to Fan-On. We changed the Dorm and Classroom stats to Fan-On and they should stay that way.

Recommendations

1. Provide properly sized pleated replacement filters for furnace filter units.
2. Make sure all thermostats remain in the Fan-On setting at all times.
3. Run both Jenn-Air fans on low until other measures are taken to insure radon is not entering through their ductwork.

4. Provide Ruskin CDRS-25 round control dampers with blade seals in the Jenn_air exhaust ducts. Provide normally closed Belimo damper controller, connected to the damper for each range exhaust that opens when the fan turns on.
5. Verify that there is outside air to furnaces outside air dampers are open such that at least 10% of the airflow is outside air. Increase percentage of outside air as necessary (an as possible) to decrease radon levels.
6. Provide 22" x 14" Price STG, steel transfer door grilles with completely sight-proof core in each bathroom door.
7. Verify exhaust ductwork serving the Jenn-Air cook-tops is completely sealed with approved "nickel-thick" mastic, particularly between the floor and the new dampers.
8. Verify all floor penetrations for ductwork and other purposes are completely sealed.
9. Place a digital radon meter in the Dormitory.
10. For the HVAC systems, verify outside air is supplied to the furnaces, increase the outside air intake and test to determine how much this improved the radon levels. Additional and/or larger ductwork may be required for the Dorm and TV Room furnaces.
11. If increasing outside air up to 25% does not bring the radon level below 2.0 pCi/L, implement the following measures in steps:
    a. Apply RadonSeal (http://www.radonseal.com/radonseal-mitigation.htm) or similar sealant per manufacturer's instructions to the concrete floor.
    b. Increase outside air intake further and consider steps to maintain adequate heating and cooling capability and conserve energy. Sensible heat exchangers should be considered.

Sincerely,

T. Jeff O'Neal II

T. Jeff O'Neal II, P.E.

10339

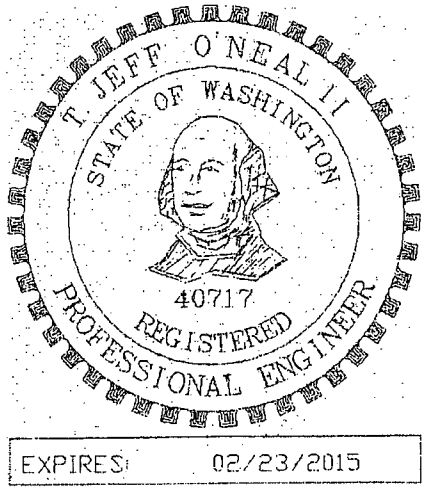


EXHIBIT O

6/12/2013

TO: **The City of Vancouver**
ATTN: **Mike Shrum**
Facilities Contract Services Supervisor

Proposal for Architectural Services
Fire Station 1
Radon Mitigation / HVAC Upgrade Review

Dear Mike:

This proposal for work is prepared by Wilson Associates Architects and Planners (Architecture and Engineering), for the use of The City of Vancouver (Client). Unless otherwise noted, the fees proposed in the work order are firm. This proposal is valid for 90 days after the posted date.

The project consists of reviewing original construction documents and recent mechanical drawings for an upgrade of the HVAC system at the existing City of Vancouver Fire Station 1 located at 990 West Evergreen Boulevard. The purpose of the review is to determine existing fire separation locations and assist with resolving code questions with respect to fire damper requirements. Wilson Associates will also investigate possible inadequacies related to existing fire separations and associated opening protection.

Project Understanding
Wilson Associates will visit the existing Fire Station 1 and review Client-provided construction documents to determine probable fire separation locations. Following the site visit and existing construction document review, Wilson Associates will generate a report outlining the existing conditions and probable fire separation upgrade requirements. Wilson Associates will also review their findings, and probable solution(s) with the City of Vancouver Building Department. Following final resolution of the fire separation issues, Wilson Associates will provide the Mechanical Engineer-of-Record, McCann Engineering LLC, with information necessary for them to revise their system design for compliance with IBC requirements.

Work Proposed:

• Review of Existing Conditions	**$ 440.00**
• Architectural Code Research / Coordinate with Building Official(s)	**$ 460.00**
• Generate / Issue Report	**$ 200.00**
TOTAL:	**$ 1,100.00**

REIMBURSABLE EXPENSES
Reimbursable expenses shall be charged according to the attached rate sheet. For this project, we can provide a Not-To-Exceed reimbursable allowance of $50.

TOTAL (NOT-TO-EXCEED) **$ 1,150.00**

BILLING:
Billing shall be monthly based on a percentage of work completed.

Respectfully,

Andy Jacobson

Signed: _____

Dated: _____

EXHIBIT P

Risk Management
415 W. 6th Street, 3rd Floor, P.O. Box 1995, Vancouver, WA 98668-1995
Phone: 360-487-8494 Fax: 360-487-8496

CLAIM FOR DAMAGES FORM

IMPORTANT: Please complete this form as completely as possible. Attach separate sheets if necessary.

PERSONAL INFORMATION

Name Wendy Ann Murray as Personal Representative of the Estate of Carl Murray Date of Birth 3/20/1962 Social Security No. _____ (Optional)
Current Address 13832 NW 10th Ct - Unit C City Vancouveer State WA Zip code 98685
Home phone no. 360-909-9271 Work phone no. _____ Mobile phone no. _____
Employer _____ If minor, name of parent or guardian: _____
Address at time claim arose (if different than above): 910 NW 92nd St, Vancouver, WA 98665

INCIDENT (TIME AND PLACE INJURY OR DAMAGE OCCURRED)

Date of Incident 1993 through 2013 Time of Incident When on duty during those years. ☐ a.m. ☐ p.m.

Exact location of occurrence: Fire stations 1, 2, 6 , and other City of Vancouver Fire Stations

Describe nature of incident (i.e., the conduct and circumstances that brought about the injury or damage)
(Be as detailed as possible)

See attached.

INJURY/DAMAGES

Describe the injury or property damage.

Wrongful death, survival, economic and non-economic damages from occupation radon exposures in City of Vancouver fire stations causing injury and death.

Medical treatment received? ☒ Yes ☐ No Name of doctor See attached.
Hospital treatment received? ☒ Yes ☐ No Name of hospital See attached.

Are you covered by insurance? Please list your agent or carrier and policy #:
This is a firefighter line of duty tort claim against the City of Vancouver. The City of Vancouver is insured for liability claims.
This is not required by statute.

What is the amount of damages claimed? (Please include copies of receipts or estimates)
For tortious conduct of the City of Vancouver including outrage, gross negligence, negligence, survival and wrongful death.

Have you filed a claim with anybody else? If so, with whom?
This is a firefighter line of duty tort claim against the City of Vancouver. This is not required by the statute.

AUTOMOBILE CLAIMS ONLY

Name, address and telephone number of the owner of the vehicle involved, if different from operator:

WITNESSES (if any)

Please list the names of all persons involved and contact information, if known.
(Attach separate sheets if necessary)

Name See attached.
Address
Phone No.

Name See attached.
Address
Phone No.

OTHER HELPFUL INFORMATION

It is helpful for us to know as much as possible about the incident and what we might be able to do to help. Please include: who you talked to at the City and why you believe the City may be responsible.

The City of Vancouver has admitted that Carl Murray's death was caused by his line of duty exposures to smoke, fumes and toxic substances.
Carl Murray's death was caused by career exposure to radon in City of Vancouver fire stations resulting in terminal cancer.
See attached.

VERIFICATION

This claim form must be signed either by: (a) the claimant, verifying the claim, (b) pursuant to a written power of attorney, by the attorney in fact for the claimant, (c) by an attorney admitted to practice in Washington state on the claimant's behalf; or (d) by a court-approved guardian or guardian ad litem on behalf of the claimant.

(COMPLETE ONLY ONE SECTION)

CLAIMANT

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct..

Date _____ Place signed: _____ Signature _____

ATTORNEY IN FACT

I declare under penalty of perjury under the laws of the State of Washington that I am an attorney in fact for the claimant and that I am authorized to present this claim on his/her behalf. (Attach copy of documentation supporting attorney in fact relationship).

Date _____ Place signed: _____

Print Name _____ Signature _____

ATTORNEY AT LAW

I declare under penalty of perjury under the laws of the State of Washington that I am an attorney admitted to practice in the State of Washington, am in good standing, and am authorized by the claimant, who is my client, to file this claim on his/her behalf.

Date FEB 4, 15 Place signed: Olympia, Washington Signature Ron Meyers

Print Name Ronald G. Meyers ; WSBA No. 13169

COURT APPROVED GUARDIAN OR GUARDIAN AD LITEM

I declare under penalty of perjury under the laws of the State of Washington that I am a court-approved guardian or guardian ad litem for the claimant and am authorized to present this claim on his/her behalf. (Attach court documentation showing court approval of guardian/guardian ad litem appointment).

Date _____ Place signed: _____

Print Name _____ Signature _____

HOW TO SUBMIT THIS FORM

This form must be submitted to the City Risk Manager, Tim Haldeman. It may be mailed to Tim Haldeman, City of Vancouver Risk Manager, P.O. Box 1995, Vancouver, WA 98668-1995. The form may also be delivered to the City Risk Manager, 415 W. 6th Street, Vancouver, WA 98660; business hours are Monday through Friday 8:00 a.m. to 5:00 p.m. If the Risk Manager is not present, the following people are authorized to accept the claim in his absence: Liability Administrator (Susan Lindahl) or Risk Analyst (Jackie McGee).

This Tort Notice conforms with RCW 4.96.020

Wendy Ann Murray as Personal Representative of the Estate of Carl Murray
Claim for Tort Damages - City of Vancouver
Attachment to Notice of Tort Claim

Nature of Incident:

The City of Vancouver has known of the excessive radon levels in its fire stations at least since conducting radon testing at ten City of Vancouver fire stations in October of 2001. Carl Murray, a career firefighter and Fire Caption for the City of Vancouver, died on July 30, 2013 from lung cancer caused by radon gas poisoning after 19 years in various City of Vancouver fire stations. The City of Vancouver is liable for damages from its tortious conduct up to and including the death of firefigher Murray. *RCW 41.26.281.*

The City of Vancouver knew that radon level in the basements and other locations of its fire stations was above the permissible level. In buildings radon levels are usually highest in the basement. The City of Vancouver had its fitness equipment in the basements of fire stations where radon levels were beyond the permissible limit.

Radon gas in the air breaks down to other radioactive elements (radon progeny). Radon progeny are tiny radioactive particles that can lodge in the lining of the lungs, where they continue to break down into other radioactive elements by releasing radiation. The radiation released in this "radioactive decay" process can damage lung cells and eventually lead to lung cancer.

Because radon and its progeny are absorbed mainly by inhaling, and because the alpha particles they give off travel only a short distance, damage is concentrated in the lungs.

The evidence that radon causes lung cancer comes from studies in people and studies done in the lab.

The International Agency for Research on Cancer (IARC) is part of the World Health Organization (WHO). Its major goal is to identify causes of cancer. Based on the data available, IARC classifies radon and its progeny as "carcinogenic to humans."

The National Toxicology Program (NTP) is formed from parts of several different US government agencies, including the National Institutes of Health (NIH), the Centers for Disease Control and Prevention (CDC), and the Food and Drug Administration (FDA). The NTP has classified radon as "known to be a human carcinogen."

The US Environmental Protection Agency (EPA) monitors the human health effects from exposure to various substances in the environment. The EPA lists radon as the second leading cause of lung cancer and the number one cause of lung cancer among non-smokers.

The City of Vancouver failed in its duties to protect its firefighters from Radon gas poisoning. The failure in its duties occurred at times when the City of Vancouver knew of excessive levels of radon gas in its fire stations, failed to warn firefighters of the toxic levels of radon, and failed to property mitigate high-levels of radon gas in the City's fire stations, all of which led to the early, tragic, and unnecessary death of firefighter Carl Murray. *WAC 296-305.*

The City of Vancouver had a non-delegable duty to provide a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to its employees.

RCW 49.17.060 Employer — General safety standard — Compliance.
Each employer:
(1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees: PROVIDED, That no citation or order assessing a penalty shall be issued to any employer solely under the authority of this subsection except where no applicable rule or regulation has been adopted by the department covering the unsafe or unhealthful condition of employment at the workplace; and
(2) Shall comply with the rules, regulations, and orders promulgated under this chapter.

At all time material to Plaintiff's claims it was law that WAC 296-305 "shall" be considered as the firefighter safety standards for the state of Washington. *WAC 296-305-01003(3).*

City of Vancouver had a duty to provide a safe work place and to comply with the safety and health standards to achieve the safest workplace reasonably attainable under the conditions to which firefighters will be exposed. *WAC 296-305-01001.*

WAC 296-305-01509 Management's responsibility.
(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:
(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.

City of Vancouver was required to furnish and require the use of appropriate safety devices and safeguards. All work methods, and operations are required to be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the safety and health of employees. *WAC 296-305-01513.*

City of Vancouver duty to comply with the safety and health standards to achieve the safest workplace reasonably attainable under the conditions to which firefighters will be exposed applied to "any and all activities, operations and equipment." *WAC 296-305-01003.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver knew that radon gases in the basements of fire stations created a "hazardous atmosphere" for firefighters such as Carl Murray, deceased, by being in the basements, by working out strenuously in the basements, by direct contact, by inhalation and by ingestion. *WAC 296-305-01005.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver knew that radon gases in the basements of fire stations were being transferred to firefighters such as Carl Murray by being in the basements, by working out strenuously in the basements, by direct contact, by inhalation and by ingestion. *WAC 296-305-01005.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material and had a duty to report any injury or illness that firefighters such as Carl Murray experienced within eight hours of an incident related hospitalization or fatality. *WAC 296-305-01501.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material and had a duty to identify the hazardous gases, chemicals or materials involved. *WAC 296-305-01505.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal levels of radon gases and had a duty to provide good record keeping and safety training to identify and correct safety and health hazards including radon gas exposures in the basements of City of Vancouver fire stations. *WAC 296-305-01507.*

City of Vancouver knew that the fire stations were contaminated with toxic, cancerous, and illegal hazardous material. Defendant City of Vancouver failed to comply with it mandated Hazard Communication Program – a procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees, including exposures that cause cancer. *WAC 296-305-01005; WAC 296-800-170.*

City of Vancouver failed to provide a safe work place. City of Vancouver failed to properly train command personnel. City of Vancouver failed to comply with the Washington Industrial Safety and Health Act, including but not limited to RCW 49.17.060.

City of Vancouver failed to comply with the Washington Administrative Code, including but not limited to Chapter 296-305 Safety Standards for Fire Fighters, thereby causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver failed to comply with its own regulations and policies, thereby causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care to Carl Murray, now deceased, thereby causing his radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care by acting negligently, recklessly and outrageously, thereby causing his radon exposures, lung cancer, pain, suffering and wrongful death.

City of Vancouver breached its duty of care by causing Carl Murray's radon exposures, lung cancer, pain, suffering and wrongful death caused economic and non-economic damages including loss of consortium damages of Wendy Ann Murray his spouse at the time of his death and damages to other statutory beneficiaries.

Carl Murray's name has been engraved on the Fallen Fire Fighter Memorial in Colorado along with his IAFF Local #452 and July 30, 2013 date of death. His memory was honored at the Washington State Fallen Firefighters Memorial Service on June 1, 2014. The City of Vancouver has admitted that his lung cancer death occurred in the line of duty.

Medical and Hospital Providers:

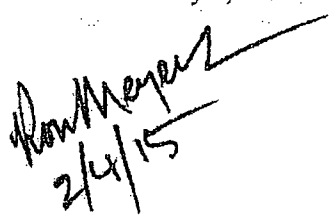
1. Urgent Care on Hwy 99 in Hazel Dell, Vancouver
2. Dr. Levine-Wellness doctor for the VFD
3. Vancouver Clinic-Salmon Creek
4. Shawn He-Salmon Creek Medical Center Oncologist.
5. Dr. Alan Sandler-OHSU
6. Dr. Lopez Chavez-OHSU
7. Dr. Paul Schipper-OHSU Surgeon
8. Dr. Charles Thomas-Radiation Oncology
9. Dr. John Holland-Radiation Oncology-OHSU
10. Dr. Martin Fuss-Radiation Oncology-OHSU
11. Emergency Room-OHSU
12. Knight Cancer Center for Chemotherapy
13. Dr. Hank Kaplan-Swedish Hospital Seattle
14. Dr. Naou Kim-Surgeon-Swedish
15. Chemotherapy
16. Seattle Radiology
17. Dr. Kaplan had an infectious disease specialist work with Carl for quite some time.
18. Dr Louise Tolzmann- Primary care physician
19. Dr. Dwight McKee.
20. Dr. Grunburg- Final Oncologist Compass Oncology over in Portland at Peterkort Location
21. Hospice prescribed by Dr. Grunburg
22. Legacy Salmon Creek Hospital
23. District Six Fire Department
24. American Medical Response
25. The Weisenthal Clinic in California

Witnesses:

Wendy Ann Murray
Madeleine Bloom
Olivia Bloom
Sophie Murray
Seth Minor
City of Vancouver Employees
City of Vancouver Fire Department Personnel, current and former
City of Vancouver Independent Contractors and Agents
Expert witnesses for liability and damages

Spoliation:

See letter dated February 4, 2015.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON, IN AND FOR THE COUNTY OF CLARK

WENDY ANN MURRAY as PERSONAL REPRESENTATIVE OF THE ESTATE OF CARL MURRAY a deceased career professional firefighter, for and on behalf of the Estate and RCW 4.20.020	No. 15-2-04119-7
Plaintiff/Petitioner	
VS.	DECLARATION PURSUANT TO GR 17(a)(2)
CITY OF VANCOUVER, a municipal subdivision of the State of Washington	
Defendant/Respondent	

I declare as follows:

1. I am the party who received the foregoing email transmission for filing.
2. My address is: 310 SW 4th Avenue, Suite 440 Portland, Oregon 97204.
3. My phone number is 503-727-3100.
4. I have examined the foregoing document, determined that it consists of 111 pages, including the signature page and this Declaration page, and that it is complete and legible.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated:,05/16/2016 at Portland, Oregon.

Signature: _____
Print Name: Laurice Averill

Wednesday, June 07, 2017
Time: 14:23:04 PST
Digitally Certified By: Kathy Croft, Deputy Clerk,Clark, Washington State

I, Scott Weber Clark County Clerk **and ex-officio clerk of the** Clark County Superior Court **in the State of Washington, certify that the document** SerialID: 02XXXXX17671112008XX231627635 **containing** 132 **pages that was transmitted is a true and correct copy of the original that is of record in my office and that this image of the original has been transmitted pursuant to statutory authority under RCW 5.52.050. In Testimony whereof, I have electronically certified and attached the Seal of said Court on this date.**

Scott Weber
County Clerk

Kathy Croft

Kathy Croft

Date: Wednesday, June 07, 2017

Instructions to recipient:
If you wish to verify the authenticity of the certified document that was transmitted electronically by the Court, Sign on to www.ClerkePass.com, and Login As "User" & enter SerialID: 02XXXXX17671112008XX231627635 **. If you want to present this document to others, please ask them to Register & Login as "Viewer". The copy associated with this number will be displayed by the Court.**

FILED
COURT OF APPEALS
DIVISION II
2017 JUL 24 AM 9:44
STATE OF WASHINGTON
BY DEPUTY

No. **49899-5-II**

WASHINGTON STATE COURT OF APPEALS

DIVISION II

ESTATE OF CARL MURRAY, WENDY MURRAY, Appellant, v. CITY OF VANCOUVER, Respondent.	DECLARATION OF SERVICE OF APPELLANT'S OPENING BRIEF

I declare under penalty of perjury under the laws of the State of Washington that on the date stated below I caused the documents referenced below to be served in the manners indicated below on the following:

DOCUMENTS:
1. Appellant's Opening Brief
2. Declaration of Service.

ORIGINALS TO:

David C. Ponzoha, Court Clerk
Washington State Court of Appeals Division II
950 Broadway, Ste 300
Tacoma, WA 98402

[✓]Via ABC Legal Messenger

COPIES TO:

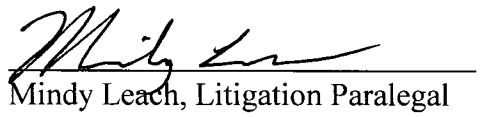
Melissa Kay Roeder
Foley & Mansfield
999 3rd Ave., Ste 3760
Seattle, WA 98104-4009

[✓]Via ABC Legal Messenger

Daniel G. Lloyd
Vancouver City Attorney's Office
415 W. 6th St.
Vancouver, WA 98668

[✓]Via ABC Legal Messenger

DATED this 21st day of July, 2017, at Olympia, Washington.



Mindy Leach, Litigation Paralegal