SUMMARY OF LSRP BOARD COMPLAINT No. 001-2012

LSRP

Keith Savel, #507614

Nature of Complaint

This complaint involves two sites in Morris County that are owned by the Complainant, Kings Highway Investment Company, hereinafter "the Complainant" or "Kings Highway." The two tenants at the sites assumed responsibility for their remediation and retained Mr. Savel. The Complainant retained its own consultant to monitor the remediation. In their Complaint, Kings Highway alleged that Mr. Savel is violating the LSRP Code of Conduct by refusing to share information relevant to the remediation with the Complainant's consultant and/or the Complainant, by refusing to communicate with the Complainant or their consultant, and by refusing to allow the Complainant and their consultant to review and advise upon his work product prior to its submission to the Department. The Complaint alleges that the foregoing constitutes violations of N.J.S.A. 58:10C-16(a); (b); (c); and (i) which are sections of the Site Remediation Reform Act related to protection of public health, safety and the environment; professional competency; and exercise of independent professional judgment.

Synopsis

The Board's investigation revealed the following:

A number of letters were submitted to the Board by counsel for the Complainant, counsel for the tenants and by the LSRP. It appears that the Complaint was the product of a long-term dispute between the Complainant and the tenants over the scope of the remediation of the two sites and the degree of remediation needed. The tenants have said that they intend to remediate to residential standards; however, according to the tenants, the Complainant is demanding remediation to "pristine" standards. The tenants allege that they have offered to provide the Complainant with copies of reports received by the LSRP, and they have arranged for the Complainant and their consultant to meet with the LSRP and to provide the LSRP with written comments concerning the remediation.

Prior to the retention of the LSRP, the two sites were being remediated by the tenants under Department oversight beginning in 2003. The tenants say that during this time, the input by the Complainant's consultant consisted mainly of highly critical and often inflammatory comments regarding the work being performed.

On August 15, 2012, the Board sent the Complainant a letter requesting specific factual information to support each alleged Code of Conduct violation. The Complainant responded in a letter dated September 6, 2012 describing the factual circumstances of the alleged violations. Upon reviewing this correspondence, the Board found that for all of the Code of Conduct

violations alleged by the Complainant, the factual allegations are the same: the LSRP will not provide copies of, or access to, work product communications between him and his client; the LSRP will not share drafts of reports before they are submitted to the Department; and the LSRP will not accept information and input from the Complainant's consultant on remediation decisions. The Complainant also claims that the LSRP is not exercising independent judgment but is allowing his clients to control what information and input he obtains.

Counsel for the tenants responded by letter dated September 12, 2012, denying that either they or the tenants have ever instructed the LSRP not to communicate with the Complainant or his consultant.

Finally, the LSRP sent a letter to the Board on September 21, 2012 in which he stated that 1) he has not received any new information concerning the remediation of one of the sites, which is being remediated pursuant to a Department-approved Remedial Action Workplan, and 2) the other site is under investigation, but he has not yet received either a Preliminary Assessment or a Site Investigation Report from his firm. He says that the claim that he refuses to accept information from the Complainant is incorrect, and that he spoke with the Complainant's counsel at length on June 28, 2012, and advised him that if the Complainant, the consultant or anyone else had any information about the site, they should submit that information to the LSRP. He also stated that he has never been instructed by the tenants or their counsel not to communicate with the Complainant or their counsel.

The Board's Decision

Based on the Board's evaluation of all the correspondence received regarding this Complaint, this is clearly a dispute between the Complainant and the tenants, and the Board found that the LSRP has not violated any provision of the LSRP Code of Conduct. Therefore, the Board has decided to dismiss this Complaint.