

January 24, 2008

Sharon Greenberger
President & CEO
School Construction Authority
30-30 Thompson Avenue
Long Island City, NY 11101

Suzanne Mattei
Regional Director, Region 2
NYS Department of Environmental Conservation
47-20 21 Street
Long Island City, NY 11101

Dennis M. Walcott
Deputy Mayor for Education & Community Development
City Hall
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Daniel Walsh
Division of Environmental Remediation, Region 2
NYS Department of Environmental Conservation
47-20 21 Street
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Dear Ms. Greenberger, Ms. Mattei, Mr. Walcott and Mr. Walsh:

I write on behalf of the Information Technology High School (Info Tech) Parent Teacher Association (ITHS PTA) to request funds for an independent assessment of the recently released Site Management Plan (SMP) for the contaminated, leased Info Tech site. We have connected with three consultants willing to collectively review the SMP and issue a report at a cost of \$2,000. In addition, we write to request further information.

On September 17, 2007, Fox 5 News ran a story about increased levels of contamination found beneath Info Tech, which is located in Long Island City, Queens. The report raised concerns about the school's safety, noting that Info Tech is housed within a former metal plating factory leased by the Department of Education (DOE) in 2003 for use as an educational facility. On October 15, Lenny Siegel of the Center for Public Environmental Oversight and Peter M. Strauss of Peter M. Strauss & Associates issued an independent assessment report covering the known contamination issues for the school community. The report, entitled *INFO TECH: ENVIRONMENTAL CONCERNS*,

A Summary of Environmental Concerns Regarding Contamination at Information Technology High School (Q502), detailed concerns about contamination on- and off-site and provided several recommendations for ensuring the safety of site occupants in this and other leased educational facilities.

1) Need for Independent Assessment of the Site Management Plan

At the time the report was issued, the independent experts were clear that they believed the Info Tech site to be safe for occupancy. However, the report also stated that:

As long as contamination remains at a site above “safe” levels—that is, concentrations which would allow unrestricted use and unlimited access—it is essential to implement a site management plan that includes a mix of passive (membranes, caps, fences, etc.) and active engineering controls (sub-slab depressurization, for example); regular monitoring of all media (air, water, soil); and institutional controls (activity and use limitations, such as a requirement that no holes be drilled through a vapor membrane). It should also include periodic air monitoring for the life of the sub-surface contamination.

Following, was a recommendation stating, “Ideally, the DOE or DEC [Department of Environmental Conservation] should provide support for an independent technical consultant to review the plan on behalf of the community.” This recommendation is repeated throughout the report wherever it calls for technical data to be provided to the community.

We thank DEC for responding quickly to this recommendation by issuing a Draft SMP for Info Tech on December 18, 2007. The email accompanying the report, sent to my clients from Mr. Walsh at DEC, stated that the document was being offered to the school community for review and input. It was stated that the goal would be to “get all comments within about 6 weeks.” My clients very much appreciate this opportunity to comment, but they were disappointed that there was no mention in the email of a willingness to provide funds for independent expert review.

The Draft SMP emailed by DEC to my clients is a 250-page technical document detailing how environmental controls on-site will be maintained and monitored. The long-term effectiveness of those controls depends on the strength of this plan, as well as the ability of DEC and DOE to implement it. While DEC “strongly encourage[s]” my clients “to review and comment on this document,” it seems unreasonable to expect parents to comment in any meaningful way without independent expert guidance from experienced professionals. We hope DEC and DOE can appreciate that parents, students, teachers and community members (not to mention most lawyers and elected officials) are ill-equipped to fully analyze highly technical environmental data, and properly assess whether a proposed site management plan is sufficient to protect the health of children – the population most vulnerable to toxic chemicals. We believe the City and State have an obligation to provide funds to allow communities to *meaningfully* participate in public processes where the City and State place children in schools on contaminated sites.

As you know, the need to provide funding for communities for independent technical assistance is not a novel idea. Indeed, technical assistance grants are available to provide communities with funds to “obtain independent technical assistance in interpreting environmental and health information generated and/or evaluated under the State Superfund Program or Brownfield Cleanup Program about an eligible site”¹ – though it is not always so easy to secure such funding.

To supply affected communities with funds for independent expertise is justified even where merely to calm fears in environmentally-overburdened communities that are often justifiably wary. Yet, there is important additional value. NYLPI has witnessed oversights at contaminated school sites that might have placed children at risk had independent experts not drawn attention to them. At the Mott Haven Site, independent consultants who reviewed the City’s cleanup plan noted, “Cancer-causing compounds will remain on the property in concentrations well above Recommended Soil Cleanup Objectives.”² The experts went on to recommend removing those “hot spots,” which, thankfully, the City agreed to do.

In fact, past problems at this site (Info Tech) demonstrate the need for independent guidance. Initial air quality testing – the results of which were used by City officials to assure parents that the air inside the school was safe -- had employed inappropriate instrumentality incapable of detecting lower levels of contamination that could be harmful to occupants. Only after this error was pointed out by an independent consultant did the City retest the air. In both instances described above, had independent experts not been available, these flaws would almost certainly have gone unnoticed and unresolved.

Info Tech has experienced other problems, as well. Controls employed on-site were inexplicably shut down for a period, an oversight DEC officials told our clients was a simply a mistake. And, a recent gas leak at Info Tech required a full evacuation. Both demonstrate the need for vigilant monitoring of environmental dangers at schools.

The utmost precaution must be taken when dealing with the risk of toxic exposure to children – especially children from already overburdened communities. As explained above, there is precedent in both policy and past practice which justifies funding independent consultants. This funding is critical to our clients. **We urge DEC, DOE and SCA to secure funds for an independent evaluation of this Draft SMP.**

2) Off-Site Sampling & Cleanup

My clients would like an update on the progress of off-site sampling and any results to-date. The independent assessment raised the concern that “contaminated groundwater appears to be migrating onto the site.” The authors stated that they, “agree with the [the landlord’s] cleanup consultants that DEC should conduct off-site sampling to find the sources of contamination,” further stating that, “DEC agrees [with the

¹ See DER-14/ Technical Assistance Grants Guidebook, New York State Dept of Environmental Conservation, DEC Program Policy, 27 Mar 2006; see also NYS ECL §27-1417 and §27-1316.

² Lenny Siegel (Center for Public Environmental Oversight) and Peter Strauss (P.M. Strauss & Associates), *Independent Review of the Cleanup of the Mott Haven Schools Complex* January 24, 2007.

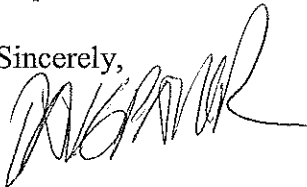
landlord's consultants] too. [DEC] has not only begun the process, but it promises to require or conduct cleanup at any other sources of groundwater VOCs in the area." My clients were pleased to see that this recommendation was already being followed, and would appreciate an update on any progress.

3) Leasing Toxic Schools

The independent assessment also recommended that "Schools on leased property should be subject to the same review as schools on City-owned property" noting that "Students and teachers on leased property inhale and ingest the same way as students and teachers on purchased property." Some of the issues my clients are facing at Info Tech now – over 4 years after the school's opening – may have been handled more effectively had there been community notice about plans to lease this site for a school, Council review of the site application and a full environmental impact statement and public review process. **DEC should require the SCA to produce an Environmental Impact Statement and subject it to public review whenever SCA seeks to lease contaminated properties for schools in the future – as is required by law. DEC, DOE and SCA should urge the Mayor to withdraw his opposition to a "same as" bill to A.8838 (Nolan) being passed in the State Senate. If law, A.8838 would require the same school siting process for leased facilities as is currently required for new school construction. Please respond in writing as to your respective positions on this matter.**

A response to this letter by January 31 would be greatly appreciated. Thank you again for the opportunity to comment on the recently released SMP and for your willingness to engage the ITHS PTA on these important concerns. I look forward to your response.

Sincerely,



Dave Palmer

New York Lawyers for the Public Interest

On behalf of the Information Technology High School Parent Teacher Association

Cc: Carol Cambell, Co-Chair, ITHS PTA Environmental Advisory Group
Hon. James Gennaro, NYC Council Member and Environmental Protection Committee Chair
Hon. Eric Gioia, NYC Council Member
John Googas, Chief of Staff, Office of Senator Frank Padavan
NoraLee Montemarano, Principal, ITHS
Hon. Catherine Nolan, NYS Assembly Member
Candice Propper, Office of State Senator George Onorato
Hon. Christine Quinn, NYC Council Speaker
Melody Jackson, President, ITHS PTA
Hon. Robert Jackson, NYC Council Member and Education Committee Chair
Ivan Valle, Co-Chair, ITHS PTA Environmental Advisory Group
James Vasquez, High School Representative, UFT