

# Communications



NEW JERSEY, LOCAL 1081



## Workers of America

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June 14, 2011

Hon. Joseph N. DiVincenzo, Jr.  
Essex County Executive  
Hall of Records, Room 405  
465 Dr. Martin Luther King, Jr. Blvd.  
Newark, NJ, 07102

**Re: *The Essex County Deathtrap*  
Notice of Unsafe or Unhealthful Working Conditions**

Dear Mr. DiVincenzo:

Attached, please find the New Jersey Department of Labor and Workforce Development (DOLWD) Office of Public Employees' Occupational Safety and Health (PEOSH) **Notice of Unsafe or Unhealthful Working Conditions** issued yesterday regarding the County-owned 50 South Clinton Street, East Orange building.

The State DOLWD, at the behest of CWA Local 1081, conducted inspections of the building on May 25, 2011 and June 1, 2011. Our Union filed the complaints with the State which precipitated the inspections based upon long-standing dangerous conditions within the site as highlighted by the May 18, 2011 area wide electrical blackout that left the 50 South Clinton Street facility totally without emergency lighting for its halls and exits due to a defective generator upon the roof.

Within its **Order to Comply**, the State cited five (5) "**Serious**" violations and three (3) "**Other Than Serious**" violations that, if not corrected before August 15, 2011, will cost the County's taxpayers a minimum of \$16,600.00. Much more importantly than the money, were these cited violations not expeditiously corrected the safety, and indeed the very lives, of the County and State employees assigned there as well as that, and those, of their clients consisting of men, women, children and those of them the disabled will be placed in further considerable jeopardy.

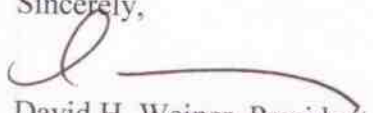
Our Union has oft asserted, only half jokingly, that were grass or Astroturf placed upon the surface of the roof of this direly decrepit edifice your administration would well declare it a "park" thus afford it the requisite attention and upkeep.

Instead, the employees and clients assigned to this deathtrap in disguise need depend upon their Unions and the State to compel your Administration to pay minimally significantly scantly attention and resources than you have historically paid upon the animals within your apparently far more precious zoo.

To paraphrase H.G. Wells from his 1896 novel *The Island of Doctor Moreau*, "What is the law? Are we not men (and women)?" The story explores different kinds of respect. Respect is defined: "To feel or show deferential regard for." The villagers respect their master, Moreau, but the respect is more based on fear than earned admiration or esteem. The villagers feared the "house of pain" and the "fire that kills" and obey Moreau to avoid these things.

The employees and clients assigned to the County-owned 50 South Clinton Street fear your "house of pain" and the potential "fire that kills" therein were conditions not immediately remediated. And we, as Moreau's creations, shall someday soon return to our true nature and shake off the feckless shackles of fear and intimidation.

Sincerely,



David H. Weiner, President  
CWA Local 1081

New Jersey Department of Labor and Workforce Development  
Office of Public Employees' Occupational Safety and Health  
1 John Fitch Way - 3rd Floor  
P.O. Box 386  
Trenton, NJ 08625  
Phone: (609) 984-1389



## NOTICE OF ORDER TO COMPLY

**To:**  
Joseph N. DiVincenzo Jr., County Executive  
County of Essex  
465 Dr. Martin Luther King Blvd Room 405  
Newark, NJ 07102

**Inspection Number:** 314624164  
**PEOSH Number:** C61-05-074  
**Inspection Date(s):** 05/25/2011 - 06/01/2011  
**Issuance Date:** 06/13/2011  
**Compliance Officer:** Robert E. Sexton  
**Reason:** Complaint Inspection

**Inspection Site:**  
Essex County Office Building  
50 South Clinton Street  
East Orange, NJ 07018

*The violation(s) cited in this citation was/were observed by an inspector of the County of Essex on 05/25/2011. The citation was issued on 06/13/2011. The inspection was conducted under the provisions of the Act and the citation was issued on 06/13/2011.*

The enclosed Order to Comply describes violations of the Public Employees' Occupational Safety and Health Act. The violations referred to in this Order must be abated by the dates listed unless within 15 working days (excluding weekends and State holidays) from the issuance of this Order to Comply you mail a notice of intent to contest to the Department of Labor at the address shown above. Please refer to the enclosed Public Employees' Occupational Safety and Health Act which outlines rights and responsibilities and which should be read in conjunction with this form. The Order will become the Final Order if no notice of intent to contest is filed as provided for in the Act or, if contested, the Order is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Notice and the Order to Comply be posted immediately in a prominent place at or near the location of each violation cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Order must remain posted until each violation cited herein has been abated, or for 15 working days (excluding weekends and State holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Office of Public Employees Occupational Safety and Health during the 15 working day contest period by contacting the office shown above. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s).

If you are considering a request for an informal conference to discuss any issues related to the Order to Comply, a written

A request to contest must be submitted to the Office Of Public Employees Occupational Safety and Health within 15 working days of issuance of the Order. The contest period is not interrupted by a request for an informal conference.

If you decide to request an informal conference, the Office of Public Employees Occupational Safety and Health will schedule the conference, which will be conducted within 30 days of receipt of the request. Employees and/or employee representatives will be noticed of their right to attend the conference. The Office of Public Employees Occupational Safety and Health will arrange for representatives of the Department of Health and Senior Services to conduct conferences requested from Orders to Comply issued pursuant to a certification from the Commissioner of Health and Senior Services that an employer violation has been determined to exist within the Department of Health and Senior Service's jurisdiction under the Act.

Any and all supporting documentation of existing conditions as well as any abatement steps taken thus far must be brought to the conference. If conditions warrant, an informal settlement agreement, which amicably resolves this matter without litigation or contest may be entered into.

**Right to Contest** - You have the right to contest this Order to Comply. You may contest all citation items or only individual items. You may also contest abatement dates without contesting the underlying violations. Unless you inform the Office of Public Employees Occupational Safety and Health in writing that you intend to contest the citation(s) and/or abatement dates within 15 working days of the issuance of this Order to Comply, then this Order to Comply shall become a final order.

**Penalties** - The Act provides that if the time for compliance with an order of the Commissioner elapses, and the employer has not made a good faith effort to comply, the Commissioner shall impose a civil administrative penalty of up to \$7,000 per day for each violation of a provision of N.J.S.A. 34:6A-25 et seq., or of a standard or regulation promulgated under that act, or of an order to comply. Any employer who willfully or repeatedly violates the requirements of this section or any standard, rule, order or regulation promulgated under that act shall be assessed a civil administrative penalty of up to \$70,000 for each violation. Penalties imposed under this section may be recovered with costs in a civil action commenced by the Commissioner by a summary proceeding under "the penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.) in the Superior Court or a municipal court, either of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given for compliance in accordance with the order of the Commissioner shall constitute an additional separate and distinct offense. If this penalty remains unpaid for more than 30 days, this order shall be recorded on the judgment docket of the Superior Court.

Penalties will be based upon factors such as gravity of the violation, the probability that an injury or illness would result from the hazard, the good faith efforts of the employer to comply, the presence of meaningful safety and health programs and the history of previous violations.

**Request to Delay Issuance of Penalty Order to Comply** - When an employer submits a request to delay the issuance of an Order to Comply establishing penalties, the employer shall submit such written request 10 calendar days prior to the abatement date(s) established in the original Order to Comply.

**Notification of Corrective Action**- For each violation which you do not contest, you are required by 29CFR 1903.19 to submit an Abatement Certification to the office issuing the citation identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful and Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate.

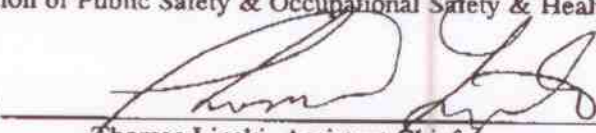
the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint, no later than 180 days after the employee first had knowledge that such discrimination occurred, with the Office of Public Employees Occupational Safety and Health at the address shown above.

**Employer Right and Responsibilities** - The enclosed copy of the Public Employees' Occupational Safety and Health Act outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Notice to Employees** - The law gives an employee or an employee representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Office of Public Employees Occupational Safety and Health at the address shown above and postmarked within 15 working days (excluding weekends and State holidays) of the issuance of this Order to Comply.

Howard Black, Acting Assistant Commissioner  
Division of Public Safety & Occupational Safety & Health

BY:   
Thomas Lipski, Assistant Chief  
Office of Public Employees Occupational Safety and Health

**New Jersey Department of Labor and Workforce Development**  
Office of Public Employees' Occupational Safety and Health



**NOTICE TO EMPLOYEES**

An informal conference has been scheduled with OPEOSH to discuss the Notice of Unsafe or Unhealthy Working Conditions(Notice) issued on 06/13/2011. The conference will be held at the OPEOSH office located at 1 John Fitch Way - 3rd Floor, P.O. Box 386, Trenton, NJ 08625 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**NJ Department of Labor and Workforce  
Development**

Office of Public Employees' Occupational  
Safety & Health

**Inspection Number:** 314624164

**Inspection Dates:** 05/25/2011 -  
06/01/2011

**Issuance Date:** 06/13/2011



**Notice of Unsafe or Unhealthful Working Conditions**

**Company Name:** Essex County Office Building

**Inspection Site:** 50 South Clinton Street, East Orange, NJ 07018

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**Citation 1 Item 1 Type of Violation: **Serious****

29 CFR 1910.22(b)(1): Aisle(s) or passageway(s) were not kept clear and in good repair with no obstruction across or in aisles that could create a hazard.

**LOC:** Northside Staircase, Fifth Floor to Roof, Landing Area's (2).

The landing area's had loose and broken tiles.

**Date By Which Violation Must be Abated:**

**08/15/2011**

**Per Diem Penalty Per Violation If Not Abated By 08/15/2011 :**

**\$3400.00**

**Citation 1 Item 2 Type of Violation: **Serious****

29 CFR 1910.24(f): The treads of fixed stairs were not reasonably slip-resistant with a nonslip finish on nosings:

**LOC:** a) Northside Staircase, Fifth Floor to Roof, Stairs #2, 4, and 8.  
b) Northside Staircase, Third Floor, Landing Stair #1.

The stairs at the above locations were not slip resistance.

**Date By Which Violation Must be Abated:**

**08/15/2011**

**Per Diem Penalty Per Violation If Not Abated By 08/15/2011 :**

**\$3400.00**

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See pages 1 through 3 of this notice for information on employer and employee rights and responsibilities

**NJ Department of Labor and Workforce  
Development**

Office of Public Employees' Occupational  
Safety & Health

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**Notice of Unsafe or Unhealthful Working Conditions**

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**Citation 1 Item 3 Type of Violation: **Serious****

29 CFR 1910.37(a)(4): Safeguards designed to protect employees during an emergency (e.g., sprinkler systems, alarm systems, fire doors, exit lighting) must be in proper working order at all times.

**LOC:** 50 South Clinton Street, Exit Lighting.

Backup Service Duty Standby Kohler Generator, Serial #364994, Model #80RZ72.

**Date By Which Violation Must be Abated: **Corrected Before Inspection****

**Citation 1 Item 4 Type of Violation: **Serious****

29 CFR 1910.132(d)(1): The employer shall assess the workplace to determine if hazards are present, or likely to be present, which necessitate the use of personal protective equipment (PPE).

**LOC:** Records, Hazard Assessment, Maintenance Department.

There were no records available on the day of inspection.

**Date By Which Violation Must be Abated: **08/15/2011****  
**Per Diem Penalty Per Violation If Not Abated By **08/15/2011** : **\$3400.00****

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**NJ Department of Labor and Workforce  
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**Notice of Unsafe or Unhealthful Working Conditions**

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**Citation 1 Item 5 Type of Violation: **Serious****

29 CFR 1910.144(a)(3): Yellow shall be the basic color to designating caution and for marking physical hazards such as: Striking against, stumbling, falling, tripping and "caught in between".

**LOC: a) Roof Area, Wire Holders.**

Walking into a non-visible wire.

**LOC: b) Roof Area, Perimeter of End**

There was no designated area indicating a falling hazard.

**Date By Which Violation Must be Abated:**

**08/15/2011**

**Per Diem Penalty Per Violation If Not Abated By 08/15/2011 :**

**\$3400.00**

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**NJ Department of Labor and Workforce  
Development**  
Office of Public Employees' Occupational  
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**Notice of Unsafe or Unhealthful Working Conditions**

**Company Name:** Essex County Office Building  
**Inspection Site:** 50 South Clinton Street, East Orange, NJ 07018

**Citation 2 Item 1 Type of Violation: **Other Than Serious****

29 CFR 1910.157(e)(2): Portable fire extinguishers were not visually inspected at least monthly:

**LOC:** Records, Portable Fire Extinguisher(s), Facility Wide.

There was no documentation to show that the portable fire extinguisher(s) were inspected monthly to ensure that they were in place, charged and ready for use in an emergency.

**Date By Which Violation Must be Abated:** 08/15/2011  
**Per Diem Penalty Per Violation If Not Abated By 08/15/2011 :** \$1000.00

**Citation 2 Item 2 Type of Violation: **Other Than Serious****

29 CFR 1910.157(c)(1): Portable fire extinguishers were not mounted, located and identified so that they were readily accessible without subjecting the employees to injuries:

**LOC:** Facility Wide, Portable Fire Extinguisher(s).

The portable fire extinguisher(s) at the above locations were not identified by a sign.

**Date By Which Violation Must be Abated:** 08/15/2011  
**Per Diem Penalty Per Violation If Not Abated By 08/15/2011 :** \$1000.00

See pages 1 through 3 of this notice for information on employer and employee rights and responsibilities

**NJ Department of Labor and Workforce  
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Office of Public Employees' Occupational  
Safety & Health

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06/01/2011

Issuance Date: 06/13/2011



**Notice of Unsafe or Unhealthful Working Conditions**

Company Name: Essex County Office Building

Inspection Site: 50 South Clinton Street, East Orange, NJ 07018

**Citation 2 Item 3 Type of Violation: Other Than Serious**

29 CFR 1910.160(b)(6): Fixed extinguishing systems were not inspected annually by a person knowledgeable in the design and function of the system to assure that the system is maintained in good operating condition:

LOC: Records, Standpipe Hose System.

The standpipe hose system inspection was expired.

**Date By Which Violation Must be Abated:**

**08/15/2011**

**Per Diem Penalty Per Violation If Not Abated By 08/15/2011 :**

**\$1000.00**

Howard Black, Acting Assistant Commissioner  
Division of Public Safety & Occupational Safety & Health

BY: \_\_\_\_\_

Thomas Lipski, Assistant Chief

Office of Public Employees Occupational Safety & Health

DISCRIMINATORY ACTS AGAINST EMPLOYEES ARE UNLAWFUL-N.J.S.A. 34:6A-45 - No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted any proceeding under or related to this section. Any employee who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of this section, may within 180 days after the employee first has knowledge such violation did occur, file a complaint with the Commissioner of Labor and workforce Development alleging that discrimination.

See pages 1 through 3 of this notice for information on employer and employee rights and responsibilities