

FROM :

FAX NO. : 414 444 7896

Jun. 26 2008 01:11PM P3

EASTERN DISTRICT OF WISCONSIN  
UNITED STATES OF AMERICA,)

Plaintiff,)

v.

Case No.05-C-0486

WILL J. SHERARD and)  
W.J. SHERARD REALTY)  
COMPANY,)

Defendants. )

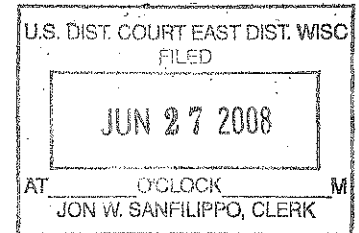
To: Honorable J. P. Stadtmueller  
United States District Judge

### RECONSIDERATION TO VACATE OR MODIFY CONSENT DECREE

I, Will J. Sherard, am a small business owner in the central city of Milwaukee providing housing for the low and middle income since 1963. I have been in this business for forty-four (44) years. I am sixty-seven (67) years of age. I had hoped to be retired at age sixty-five (65).

A Consent Decree was entered between the United States and Will J. Sherard and W.J. Sherard Realty Company (collectively") on August 3, 2005. The Consent Decree was entered into between the parties because the United States alleged that I, who owns a small number of rental properties in Milwaukee, violated Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, *et. Seq.* By signing this Consent Decree I have not admitted to any wrongdoing. As a small business person I had an option at that time of signing the Consent Decree or facing a legal battle with the EPA, HUD, and the United States of America that a one man company like myself has no way of surviving. I have already paid a civil penalty of \$15,000.00. As for as I am aware, I am the only person in Milwaukee for that matter in the state of Wisconsin that has this burden to bear. The Consent Decree requires me to perform lead-based paint risk assessments on my properties and to abate the lead-based paint hazards identified on these properties. In addition, the Consent Decree requires me to replace the windows on the subject properties. The City of Milwaukee has Federal Funding earmarked for the sole purpose of eradicating the lead base paint hazards that may exists in the City (see attached exhibit A invitation to apply for funding through the City). Most of the housing stock in the central city of Milwaukee was built before 1978, as are the properties that I own which would qualify to be a part of the programs funding.

The Consent Decree required me to submit the name address and credentials of the contractors that I may be considering to do the lead abatement work. As of this date I have submitted the names and credentials of two different lead abatement contractors to



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the U.S. Attorney's office. I submitted the name of Michael Barnes of MCM Enterprises and De Angelo Parks of Family Home Improvement.

The U.S. Attorney's office and HUD met with MCM contractors and discussed their views with him. The credentials of De Angelo Parks were submitted to the U.S. Attorney's office in person on December 10, 2007 to Attorney Stacy Gerber Ward (see attached exhibit B through BII credentials of Mr. Parks). Each time thereafter that the U.S. Attorneys' office has requested information on a contractor my attorney Stanley Lind has submitted Mr. Parks credentials. Despite repeated submissions by my attorney of Mr. Parks credentials the U. S. Attorney's office choose to ignore them and choose not to meet with Mr. Parks so that it can be determined that he is an acceptable candidate to perform the lead abatement work.

As a small businessperson I have to keep my options open for the most economical situation that is available to me. I am a small business, I am a minority business, and I am a senior citizen. At this time I have undergone major surgery. Being a small business means operating on the cash flow of your business operations. All these factors suggest that I have to be frugal in trying to compete and survive in business. Being forced into economical situations beyond my means would be my downfall. Most small businesses these days are on the brink of destruction. Mr. Barnes of MCM Enterprises has financial crisis of his own (see attached exhibit C, foreclosure action). As a small business owner I cannot pay the cost of contractors that give bids based on prices to absorb their personal issues. The U. S. Attorneys' office now want to have this court hold me in contempt in order to force me to use MCM enterprises as the contractor to do the lead abatement work on my properties. The U.S Attorneys' office has no intentions of interviewing any other contractor that I have submitted to them.

I have strived to comply with the court order; I have not willfully disobeyed the court order, In response to the concerns of the U.S., I am not in contempt of this court. I vow that I have worked diligently to meet the terms of the consent decree. I should not be held in contempt of court. I beg the court forgiveness for not being able to adhere to the terms of the consent decree. I have acted in good faith to carry out and perform the requirements of the consent decree. The consent decree is such a quagmire that it seems as though I am not allowed to progress and move forward. The consent decree is overly burdensome restrictive and extraneous because there is lead abatement funding available that I should be entitled to use as a taxpayer in the City of Milwaukee.

Significant new unexpected serious changes in my health have occurred. I am distraught and have been seriously handicapped by this turn of events in my medical circumstances. If the terms of the consent decree are not vacated or modified, it could very well cause irreparable injury to my mental and physical health. It is necessary to ensure that my health does not suffer long term and irredeemable harm.

There would be a grievous wrong brought about by new and unforeseen conditions by continued enforcement of the consent decree. My health issues are a demonstration of

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changed circumstances that are out of my control. Significant change and factual conditions of my health makes compliance of the consent decree substantially onerous.

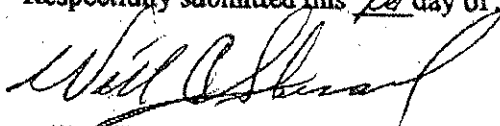
I propose to seek federal funding, abate the properties and sale them immediately. The consent decree unnecessarily constrains the production of progress and blocks my ability to receive the funding available for the purpose of eradicating lead base paint.

My health issues constitute a change in circumstances I believe sufficient to justify dissolution or modification of the consent decree. My declining health has caused extraordinary impact and imposes an unexpected oppression and hardship that increases long term inability to perform.

In conclusion there have been numerous significant changes since the consent decree was signed. Most importantly and foremost my health issues and the economy. Property values have drastically been reduced in the general market and especially in the inner city where the subject properties are located those values have decreased. The cost of complying with the present consent decree has increased. Some of the above mentioned things could be mitigated by the use of the city fundings that are earmarked for the eradication of lead based paint.

For all the reasons stated above, I humbly and respectfully pray that the court grants relief, enters an order to vacate or modify the consent decree to allow me to be able to seek the lead abatement funding available and dispose of the properties in an immediate manner and close this chapter of my life.

Respectfully submitted this 26 day of July 2008.



Will J. Sherard