

In the Supreme Court of Ohio

APPEAL FROM THE BUTLER COUNTY
COURTS OF APPEALS
TWELFTH APPELLATE DISTRICT
Case No. CA 2006 04 0089

ABBRA WALKER AHMAD,
Individually and as Special Administrator
of the Estate of Sheila A. Walker,
Appellant,

v.

AK STEEL CORP.,
Appellee.

**MOTION OF APPELLANT ABBRA WALKER AHMAD
TO STRIKE PAGES 26 THROUGH 30 OF SUPPLEMENT TO MERIT BRIEF
OF APPELLEE AK STEEL CORPORATION**

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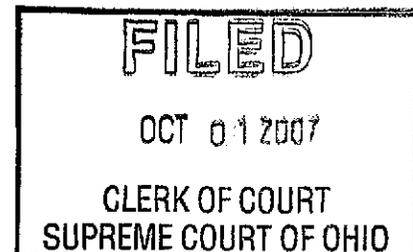
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**MOTION OF APPELLANT ABBRA WALKER AHMAD
TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT
OF APPELLEE AK STEEL CORPORATION**

Appellant Abbra Walker Ahmad hereby moves this Court to strike pages 26 through 33 of Supplement of Appellee AK Steel Corporation because it contains materials not in the record. Filings of these pages and the related argument on pages 2, 7 and 8 of AK Steel's merit brief violates S.Ct.Prac.R. VII as detailed in the memorandum in support, below. In the alternative, Appellant moves for leave to supplement the record to rebut the newly-presented materials.

**MEMORANDUM IN SUPPORT OF MOTION OF APPELLANT ABBRA WALKER
AHMAD TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT OF APPELLEE AK
STEEL CORPORATION**

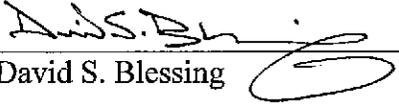
On September 11, 2007, AK Steel filed both a merit brief and S.Ct.Prac.R. VII supplement to that brief. Pages 26 through 33 of the Supplement consist of an internet news story, and an AK Steel company press release, neither of which was presented to the lower courts nor was included in the record of this matter. S.Ct.Prac.R. VII states that supplements should contain "only those portions **of the record** necessary to enable the Supreme Court to determine the questions presented." S.Ct.Prac.R. VII(1)(A) (emphasis added). There is no dispute that the material included in AK Steel's Supplement is not part of the record in this case. Accordingly, it is wholly improper for these documents to be included and they must be stricken from the Supplement to Merit Brief of Appellee AK Steel Corporation.

AK Steel presents these materials to support its contention that the Ohio Building Code should not apply to its Middletown, Ohio headquarters, *i.e.*, it is exempted because of age. However, other documents, such as documents attached to this motion, reveal that renovation and related construction to the building brings it under the scope of the building code. The Court

should not consider AK Steel's new materials, but if the Court elects to do so, it should grant Appellant Ahmad leave to supplement the record with rebuttal evidence.

It is not the function of this appellate body to make evidentiary determinations or to weigh the value of these newly-introduced documents. *State v. Ishmail* (1978), 54 Ohio St.2d 402, 8 Ohio Op.3d 405, 377 N.E.2d 500; *Orr v. Hays* (2002), 7th Dist. No. 02 CA 27, 2002-Ohio-7441 ("It is a fundamental principle of appellate review that an appellate court is limited to considering the evidence found within the record transmitted to it on appeal.") (citations omitted). Therefore, Appellant respectfully requests that this Court strike pages 26 through 33 of Supplement of Appellee AK Steel Corporation.

Respectfully submitted,


David S. Blessing

COUNSEL FOR APPELLANT,
ABBRA WALKER AHMAD

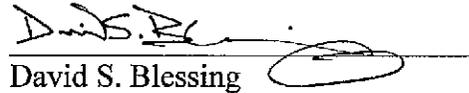
CERTIFICATE OF SERVICE

I certify that a copy of this Motion of Appellant Abbra Walker Ahmad to Strike Pages 26 Through 33 of Supplement to Merit Brief of Appellee AK Steel Corporation was sent by ordinary U.S. mail to counsel,

Monica H. McPeck, Attorney
Counsel for Appellee
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202-4182,

Paul W. Flowers, Attorney
Counsel for Amicus Curiae Ohio Association for Justice
Paul W. Flowers, Co. LPA
50 Public Square, Suite 3500
Cleveland, Ohio 44113,

on this 1st day of October, 2007.


David S. Blessing

COUNSEL FOR APPELLANT,
ABBRA WALKER AHMAD

703 CURTIS ST

Project.....: 021132
Plan Desc....:
Owner.....: ARMCO STEEL CO LP
Occupant.....:
Lot.....:
PT 1.....:
PT 2.....:
Status.....: I
Condition...:
Apt.....:
Units.....:
Comments.....:
Req Permits.:
Inactive Dt.: 11-19-2002

PERMIT INFORMATION

Contractor	Company	Type	Description	Permit	Issued
J.D.,CURRY, JR.	FORD DEVELOPMENT COR.	P	RELOCATE WATER SERVICE	083941	10-14-2002
RELOCATE WATER SERVICE					

INSPECTION INFORMATION

Insp	Permit	Type	Codes	Comment	Date
RM	083941	P	WS	4" DUCTILE IRON INSTALLED	11-09-2002
RM	083941	P	WS FI		11-16-2002

CITY OF MIDDLETOWN
DEPARTMENT OF DEVELOPMENT
DIVISION OF INSPECTION

PERMIT

Call For Inspection
513-425-7973

No 083941

Date 10-14-20
Project No. 021132

LOCATION OF BUILDING	AT (LOCATION) <u>703 Columbus St</u>		
	OWNER <u>AK Steel</u>	ADDRESS	OFFICE USE ONLY Lot No.
	OCCUPANT		

THE CONTRACTOR LISTED BELOW IS HEREBY GRANTED A PERMIT FOR:
relocate water service

BUILDING	ELECTRICAL	PLUMBING	HVAC	MISC
ZONING REQUIRED	NEW CONSTRUCTION	NO. OF FIXTURES	FURNACES (type fuel)	SIGN
CONSTR. TYPE	CONSTRUCTION POLE	WATER SERVICE <u>4"</u>	AIR CONDITIONERS	DEMOLITION
USE/OCCUPANCY	SERVICE ENTRANCE	SANITARY SEWER	BOILERS (BTUS)	FIRE SUPPRESSION
LENGTH X WIDTH	ELEC BASEBOARD HEAT	FIRE LINE (size)	DUCT WORK	ALARM SYSTEM
AREA (SQUARE FT.)	ROOM ADDITION	DETECTO METER	UNIT HEATERS	SPRINKLERS
CERTIFICATE OF OCCUPANCY/APPROVAL	ADDED WIRING	SPRINKLING METER <u>N/A</u>		TENT
OCCUPANTS/FAMILIES	SWIMMING POOL	VENDING MACHINES		USE OF STREET
NO. OF STORIES	GARAGE	METER SIZE <u>4"</u>		
HEIGHT	HEATING/COOLING	METER LOCATION <u>Basement</u>		
VALUATION \$		STORM SEWER		

PERMIT EXPIRES 180 DAYS FROM DATE ISSUED OR IF THE WORK IS SUSPENDED FOR 180 DAYS.

The work hereby authorized is to be done in accordance with the laws of the State of Ohio and the Ordinances of the City of Middletown where they apply (copies of which are on file in the office of the Division of Building Inspection) and in accordance with plans and specifications. Changes to the approved plans shall be submitted to the Chief Building Official for approval before commencing with the new work.

This Permit is subject to revocation upon violation of any of its terms or conditions.

PERMIT FEE \$ 90.00
PLAN REVIEW FEE \$ _____
STATE SURCHARGE \$ _____
TOTAL FEE \$ 90.00

(per SB 7350 effective 7-6-93)

REC'D BY [Signature]
Barbara L. Costello
CHIEF BUILDING OFFICIAL

CONTRACTOR: [Signature]
NAME NO.

PLUMBING

COMMERCIAL / INDUSTRIAL

(All other states or municipalities)

3/10/00
 10/2/00
 10/2/00
 10/2/00
 10/2/00

copies of plans must be submitted with application

Application Date: 10/2/00 Project No: 02132
 (Office Use Only)
 City Address: 703 Elm St Apt / Unit: _____
 City: Middletown State: _____
 County: Hartford Zip: _____

Service to be installed: Check Water Service
 New Addition Remodel Other _____
 District of City: _____ Section: _____

FIXTURES	TYPE	TYPE	TYPE	TYPE	LOCATION	INLET SIZE	OUTLET SIZE
Water Closet	DISHWASHER	WATER	WATER	WATER	Location	_____	_____
Bath	Riser/Seal	WATER	WATER	WATER	Type	_____	_____
Washing Machine	Floor Drain	WATER	WATER	WATER	Acid/Neutral/Alk	_____	Capacity _____
Sink	Washing Machine	WATER	WATER	WATER	Size	Inlet _____	Outlet _____
Shower Bath	WATER	WATER	WATER	WATER			
Water Heater	WATER	WATER	WATER	WATER			

WATER SERVICE
 Meter Size: _____ Service Size: _____
 Meter Location: _____
 Type of Meter: _____
 Standring Meter: _____ (Yes/No)
 Has Air Valve: _____

SEWER
 Sanitary Seal: _____
 Trap and Vent: _____
 No. of Cleanouts: _____
 No. of Manholes: _____
 Storage System: _____

STORM SEWER
 Size(s) of Pipe: _____
 Type of Material: _____
 Use of Catch Basin: _____
 Manhole Notes: _____
 Strength: _____

Contractor: ... Phone: ...
 License: ...
 City: ...

THIS IS A STATE-CONTROLLED INDUSTRY. ALL WORK IS SUBJECT TO THE SUPERVISION AND INSPECTION OF THE DIVISION OF BUILDING INSPECTION. THE DIVISION OF BUILDING INSPECTION IS NOT RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF THE PLUMBING SYSTEM. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR THE PROTECTION OF ALL EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.

703 CURTIS ST

PROJECT NO.: 940960

PLAN DESC:

OWNER: AK STEEL

ADDRESS: SAME

OCCUPANT: OFFICES

LOT:

PT 1:

PT 2:

STATUS: I

CNDTION:

APT:

UNITS:

COMMENTS:

PERMITS REQ.:

INACTIVE DT.: 08-21-95

PERMIT INFORMATION

Contractor	Company	Type	Description	Permit	Issued
BLAKLEY, JR, PAUL TOM RENOVATE 2ND FLOOR CORRIDOR	BLAKLEY CONSTRUCTION	E	RENOVATE 2ND FLOOR CORRIDOR	64756	10-10-94 ✓
ANG SIGN CO, TANSON SIGN, #10	ANG SIGN CO	S	TANSON SIGN, #10	64247	07-29-94 ✓

INSPECTION INFORMATION

Insp	Permit	Type	Codes	Comment	Date
WEC	64756	E	RO		11-07-94
WEC	64756	E	FI FI		03-07-95
RS	64247	S	RC	NOT INSTALLED	09-09-94
RS	64247	S	VO FI	NO SIGN INSTALLED	08-21-95

CITY OF MIDDLETOWN, OHIO
 DEPARTMENT OF PUBLIC SAFETY
 DIVISION OF INSPECTION

PERMIT

No. **64247**
 Date **7-27-94**
 Project No. **940960**

LOCATION: **703 Weston St** (SHEET)
 OF: **AK Steel Co**
 BUILDING: **Office Entrance**
 OWNER: **AK Steel Co**
 OCCUPANT: **Office Entrance**
 ADDRESS: **703 Weston St**
 OFFICE USE ONLY: **Lot No. _____**

BUILDING

ZONING REQUIREMENTS: _____
 CONSTR. TYPE: _____
 USE/OCCUPANCY: _____
 LENGTH X WIDTH: **199' x 37'**
 AREA (SQUARE FT): **3825**
 CERTIFICATE OF OCCUPANCY APPROVAL: _____
 OCCUPANTS/FAMILIES: _____
 NO. OF STORES: _____
 HEIGHT: **70'**
 VALUATION: **\$ 200,000**
 OTHER (DESCRIBE): _____

ELECTRICAL

HVAC

NEW CONSTRUCTION: _____
 CONSTRUCTION POLE: _____
 SERVICE ENTRANCE: _____
 ELEC. BASEBOARD HEAT: _____
 ROOM ADDITION: _____
 ADDED WIRING: _____
 SWIMMING POOL: _____
 GARAGE: _____
 HEATING/COOLING: _____
 OTHER (DESCRIBE): _____

PLUMBING

NO. OF FIXTURES: _____
 WATER SERVICE: _____
 SEWER: _____
 FIRE LINE (SIZE): _____
 DETECTOR METER: _____
 SPRINKLING METER: _____
 WELDING MACHINES: _____
 METER SIZE: _____
 METER LOCATION: _____
 OTHER (DESCRIBE): _____
 GAS LINE: _____

PERMIT EXPIRES SIX (6) MONTHS FROM DATE ISSUED OR IF THE WORK AUTHORIZED BY THIS SUSPENDED FOR ONE YEAR

SIGN *Thomas Mendenhall*
 DEMOLITION
 FIRE SUPPRESSION
 The work hereby authorized is to be done in accordance with the laws of the State of Ohio, the ordinances of the City of Middletown Ohio, pertaining to same, a copy of which is on file in the office of the Division of Inspection and in accordance with the plans and specifications heretofore submitted.

This Permit is subject to revocation upon violation of any of its terms or conditions.

INSPECTION REQUEST: **READY** WILL CALL:

CONTRACTOR: **AME Sign Co**
 NAME: _____ NO: _____
 WHITE-CITY: _____ PINK-INSPECTOR: _____ YELLOW-APPLICANT: _____

Read By: *John Collins*
 Chief Building Official
 PLAN REVIEW FEE: \$ _____
 STATE SURCHARGE \$: **1.36**
 TOTAL FEE: \$ **43.36**
 PERMIT FEE: \$ **42.00**

SIGNS

TYPE J

CITY OF MIDDLETOWN DEPARTMENT OF PUBLIC SAFETY DIVISION OF INSPECTION

APPLICATION FOR SIGN PERMITS

All Applicants: Please complete all sections below:

1. A. APPLICATION DATE 7-21-99 PROJECT NUMBER _____
 JOB ADDRESS 703 621 CURTIS ST MIDDLETOWN OHIO 45043-0001 (Office Use Only)
 OWNER A K STEEL OWNER ADDRESS SAME AS ABOVE
 OCCUPANT SIGN #10 - OFFICE ENTRANCE LOT _____ PT. LOT _____ WARD _____

B. APPLICATION (Describe IS MADE TO Project) TRANSOM MOUNTED SIGN
SEE SHEET III ON BLUEPRINTS

C. CONTRACTOR (I.D. No. _____)
 NAME AMG SIGN CO PHONE NUMBER (412) 391-9578
 ADDRESS 1928 FORBES AVE PGH PA 15219
 St. No. St. Name City State Zip Code

D. Estimated Cost \$ 2602.00

2. A. TYPE OF SIGN:
 1. wall (TRANSOM) X
 2. Ground _____
 3. Roof _____
 4. Projecting _____
 5. Temporary/portable _____
 6. Marquee _____

B. MATERIAL OF SIGN:
 1. Metal X
 2. Plastic _____
 Sq. Ft. _____
 3. Wood _____
 4. Other (describe) _____

C. DIMENSIONS OF SIGN:
 1. Length of sign 129"
 2. Height of sign 37"
 3. Elevation above ground 90"
 4. No. of Sq. Ft. 22.25 sq
 5. Design Wind Load NA
 6. Projection in feet NA

D. SIGN CIRCUIT REQUIRED?
 Yes _____ No X

UNDERWRITERS LABEL SHOWING VA RATING?
 Yes _____ No X

If yes, Give Number _____

E. APPLICATION MADE FOR LABELING OF SIGN?
 Yes _____ No X

F. OTHER _____

The above sign is to be secured and fastened by approved supports. It is hereby agreed that if this application is approved the sign will conform in every detail with the requirements of Ordinance No. 1446 of the City of Middletown relating to sign and outdoor display structures, and Section 1446.06, Codified Ordinances, which provides this permit may be revoked at any time by the City when public interest requires.

G. PLEASE READ AND SIGN

I, THE UNDERSIGNED DO HEREBY AFFIRM: THE ABOVE STATEMENTS ARE TRUE AND CORRECT AND ALSO AGREE TO COMPLY WITH THE PROVISIONS OF THE ORDINANCES OF THE CITY OF MIDDLETOWN. THE PROPOSED WORK IS AUTHORIZED BY THE OWNER IN FEE AND I HAVE THE AUTHORIZATION TO MAKE THIS APPLICATION. UPON NOTIFICATION OF APPROVAL PERMIT FEE MUST BE PAID AND PERMIT OBTAINED WITHIN THIRTY (30) DAYS, OR APPLICATION WILL BE CANCELLED.

OWNER
 OWNER REP
 CONTRACTOR Richard W. Schulz RICHARD W. SCHULZ
 Signature

Please note: All permits expire six (6) months from date issued or if the work authorized by it is suspended

703 CURTIS ST

PROJECT NO.: 951197

PLAN DESC:

OWNER: A K STEEL ADDRESS:
 OCCUPANT: SAME
 LOT:
 PT 1:
 PT 2:
 STATUS: I
 CNDTION:
 APT:
 UNITS:
 COMMENTS:
 PERMITS REQ.:
 INACTIVE DT.: 12-01-95

PERMIT INFORMATION

Contractor	Company	Type	Description	Permit	Issued
BLAKLEY, JR, PAUL TOM	BLA-CON INDUSTRIES	E	REMODEL 2ND FLOOR BOARDROOM	67247	09-13-95
REMODEL 2ND FLOOR BOARDROOM					

INSPECTION INFORMATION

Insp	Permit	Type	Codes	Comment	Date
RS	NONE	B	RC	SEE DENNY FEIX ON HANDRAILS	09-25-95
WEC	67247	E	RO		09-14-95
WEC	67247	E	FI FI		12-01-95