

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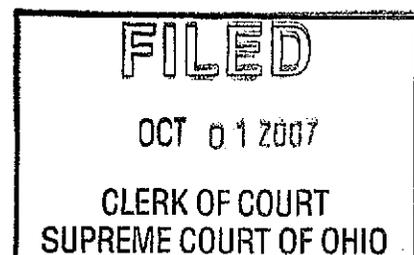
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**MOTION OF APPELLANT ABBRA WALKER AHMAD
TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT
OF APPELLEE AK STEEL CORPORATION**

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**

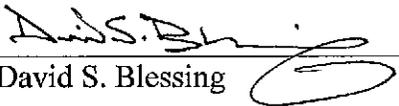
On September 11, 2007, AK Steel filed both a merit brief and S.Ct.Prac.R. VII supplement to that brief. Pages 26 through 33 of the Supplement consist of an internet news story, and an AK Steel company press release, neither of which was presented to the lower courts nor was included in the record of 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

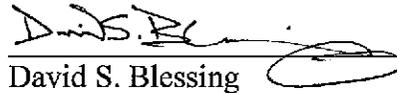
CERTIFICATE OF SERVICE

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

№ 083941

Date 10-14-20
Project No 021132

LOCATION OF BUILDING	AT (LOCATION) <u>703 Curtis St</u> <small>(NO.) (STREET)</small>
	OWNER <u>AK Steel</u> ADDRESS _____
	OCCUPANT _____ OFFICE USE ONLY Lot No. _____

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

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

CONTRACTOR: Ford Development
NAME NO.

INSPECTION REPORT

DATE

COMMENTS

11-9-09 4" ductile iron water line
install - RSM

11-16-09 4" water service hook-up to
existing + app RSM

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

<u>Contractor</u>	<u>Company</u>	<u>Type</u>	<u>Description</u>	<u>Permit</u>	<u>Issued</u>
BLAZLEY, JR, PAUL TOM RENOVATE 2ND FLOOR CORRIDOR	BLAZLEY 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

<u>Insp</u>	<u>Permit</u>	<u>Type</u>	<u>Codes</u>	<u>Comment</u>	<u>Date</u>
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 **7-27-92**
 Project No. **940960**

LOCATION OF BUILDING	ADDRESS	OFFICE USE ONLY	Lot No.
703 Winton St	AK Steel Co		
OWNER	OCCUPANT		
AK Steel Co	Price Entrance		

THE CONTRACTOR LISTED BELOW IS HEREBY GRANTED A PERMIT TO

BUILDING

ELECTRICAL

HVAC

PLUMBING

ZONING REQUIRED?	NEW CONSTRUCTION	FURNACES (Model)	NO. OF FIXTURES
CONSTR. TYPE	CONSTRUCTION POLE	AIR CONDITIONERS	WATER SERVICE
USE/OCCUPANCY	SERVICE ENTRANCE	BOILERS	SEWER
LENGTH X WIDTH	ELEC. BASEBOARD HEAT	DUCT WORK	FIRE LINE (SQ)
129' x 37'	ROOM ADDITION	UNIT HEATERS	DETECTO METER
AREA (SQUARE FT.)	ADDED WIRING	OTHER (DESCRIBE)	SPRINKLING METER
3825	SWIMMING POOL	GAS LINE	WENDING MACHINES
CERTIFICATE OF OCCUPANCY/APPROVAL	GARAGE		METER SIZE
OCCUPANTS/FAMILIES	HEATING/COOLING		METER LOCATION
	OTHER (DESCRIBE)		OTHER (DESCRIBE)
NO. OF STORES			GAS LINE
90'			
HEIGHT			
VALUATION \$ 76,000			
OTHER (DESCRIBE)			

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

SIGN *William Madanick*
 DEMOLITION
 FIRE SUPPRESSION

PERMIT

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

INSPECTION REQUEST: READY WILL CALL

CONTRACTOR: **AME Signs Co**
 NAME: **AME Signs Co**
 WHITE CITY: **pink** INSPECTOR: **yellow** APPLICANT: **yellow**

Rec'd By: *WJ Collins*
 Chief Building Official
 PLAN REVIEW FEE \$ **125**
 STATE SURCHARGE \$ **1.30**
 TOTAL FEE \$ **43.30**

INSPECTION REPORT

DATE	COMMENTS
9-9-94	Box truck at not installed
9-21-95	NO SIGNATURE VOID PERMIT not installed

SUBJECT NO:
 DATE:
 15 01511

THE REGISTRATION FEE WILL BE
 THE FOLLOWING TABLE BELOW

DEPARTMENT OF REVENUE
 DIVISION OF REVENUE
 150 EAST WASHINGTON STREET
 COLUMBUS, OHIO 43260-1199

SIGNS

TYPE 3

**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 7-21-94 PROJECT NUMBER _____
 JOB ADDRESS 703 CURTIS ST. MIDDLETOWN OHIO 45043-0001 (Office Use Only)
 OWNER A K STEEL OWNER ADDRESS SAME AS ABOVE
 OCCUPANT SIGN #10 - OFFICE ENTRANCE LOT _____ FT. LOT _____ WARD _____

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

C. CONTRACTOR (I.D. No. _____)
 NAME AMG SIGN CO. PHONE NUMBER (412) 391-9578
 ADDRESS 1028 FORBES AVE PEH 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 10'
 4. No. of Sq. Ft. 32.25 sq
 5. Design Wind Load NA
 6. Projection in feet NA

D. SIGN CIRCUITS 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

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

INSPECTION INFORMATION

<u>Insp</u>	<u>Permit</u>	<u>Type</u>	<u>Codes</u>	<u>Comment</u>	<u>Date</u>
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