

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.

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

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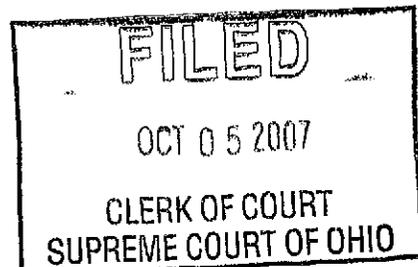
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**MOTION OF APPELLANT ABBRA WALKER AHMAD
TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT
OF APPELLEE AK STEEL CORPORATION**

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**

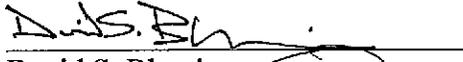
On September 11, 2007, AK Steel filed both a merit brief and S.Ct.Prac.R. VII supplement to that brief. Pages 26 through 33 of the Supplement consist of an internet news story, and an AK Steel company press release, neither of which was presented to the lower courts nor was included in the record of 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 2nd 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
F.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 003941

Date 10/19/20

Project No. 021132

LOCATION OF BUILDING	AT (LOCATION) <u>730 W. 1st St</u>	ADDRESS
	OWNER <u>A.K. Steel</u>	ADDRESS
	OCCUPANT	OFFICE USE ONLY Lot No.

THE CONTRACTOR LISTED BELOW IS HEREBY GRANTED A PERMIT FOR

relocate utility

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 (BTU/hr)	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	\$ <u>90.00</u>
PLAN REVIEW FEE	\$ _____
STATE SURCHARGE	\$ _____
TOTAL FEE	\$ <u>90.00</u>

CONTRACTOR Fort Development REC'D BY [Signature]

NAME _____ NO. _____ CHIEF BUILDING OFFICIAL [Signature]

INSPECTION REPORT

DATE

COMMENTS

11-9-02 4" Ductile iron water line
install REM

11-16-02 4" Water ser hooked up to
existing + app REM

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 TON 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. 940900
 1951 94

LOCATION OF BUILDING	AT (LOCATION)	103 Walnut St
OWNER	(GREEN)	AK Steel Co
OCCUPANT	ADDRESS	Office Use Only
	Lot No.	

THE CONTRACTOR LISTED BELOW IS HEREBY GRANTED A PERMIT TO
William W. DeWitt
 SIGN: *W. W. DeWitt*

BUILDING	ELECTRICAL	HVAC	PLUMBING
ZONING REQUIRED?	NEW CONSTRUCTION	FURNACES (Type/Model)	NO. OF FIXTURES
CONSTR. TYPE	CONSTRUCTION CODE	AIR CONDITIONERS	WATER SERVICE
USE/OCCUPANCY	SERVICE ENTRANCE	BOILERS	SEWER
LENGTH x WIDTH	ELEC. BASEBOARD HEAT	DUCTWORK	FIRE LINE (SIZE)
AREA (SQUARE FT.)	ROOM ADDITION	UNIT HEATERS	DETECTO METERS
CERTIFICATE OF OCCUPANCY APPROVA	ADDED WIRING	OTHER (DESCRIBE)	SPRINKLING METERS
OCCUPANTS/FAMILIES	SWIMMING POOL	GAS LINE	VENDING MACHINES
NO. OF STORES	GARAGE		METER SIZE
HEIGHT	HEATING/COOLING		METER LOCATION
VALUATION	OTHER (DESCRIBE)		OTHER (DESCRIBE)
OTHER (DESCRIBE)			GAS LINE

SIGN *William W. DeWitt* PERMIT EXPIRES SIX (6) MONTHS FROM DATE ISSUED OR IF THE WORK AUTHORIZED BY THIS SUSPENDED FOR ONE YEAR

DEMOLITION 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, and in accordance with the plans and specifications hereof submitted.

FIRE SUPPRESSION This permit is subject to revocation upon violation of any of its terms or conditions.

INSPECTION REQUEST: READY WILL CALL

CONTRACTOR: *AKG & Co* NAME: *AKG & Co* NO. *103*

Read By: *J. J. Collins* Chief Building Official

PLUMBING REVIEW: *175*

STATE SURCHARGE: *1.50*

TOTAL: *15.26*

INSPECTION REPORT

DATE

COMMENTS

9-9-94

ROUTE OK
NOT RECALLED

9-21-95

NO SIGNATURE
NO PERMIT

SIGNS

**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 1-21-84 PROJECT NUMBER _____

JOB ADDRESS 723 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 II 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 \$ 2002.00

A. TYPE OF SIGN:	1. Wall (TRANSOM) <u>X</u>	B. MATERIAL OF SIGN:	1. Metal <u>X</u>
	2. Ground _____		2. Plastic _____
	3. Roof _____		3. Wood _____
	4. Projecting _____		4. Other (Describe) _____
	5. Temporary/Portable _____		
	6. Marquee _____		

C. DIMENSIONS OF SIGN:

1. Length of Sign 124"

2. Height of Sign 37"

3. Elevation above ground 90"

4. No. of Sq. Ft. 3225 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

Signature Richard W. Schull RICHARD W. SCHULL

703 CURTIS ST

PROJECT NO.: 951197

PLAN DESC:

OWNER: A K STEEL

ADDRESS:

OCCUPANT: SAME

LQT:

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