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KIM GUADAGNO
Lt. Governor

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May 13, 2015

VIA E-MAIL AND OVERNIGHT MAIL

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Re: Revel A.C.

Dear Counsel:

Enclosed please find a copy of an Administrative Order which is being served on your clients, Polo North Country Club, Inc. and ACR Energy Partners, LLC today. The Order requires that



the level of power currently being supplied to the Revel Casino and Resort property remain adequate for the continued operation of all required fire prevention and suppression systems.

As set forth on the face of the Order, the parties have a right to appeal the Order by filing a request with the Commissioner within fifteen days of their receipt of the order. Any such administrative appeal would be without prejudice to the Department of Community Affairs' right to file a summary enforcement action, in accordance with N.J.S.A. 52:27D-207(b), in the event that the parties fail to comply with the Order.

Very truly yours,

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: 


Patricia Stern
Melanie Walter
Deputy Attorneys General

Cc: Polo North Country Club, Inc. c/o Lloyd Levenson
(via personal service, certified mail and overnight mail)
ACR Energy Partners, LLC c/o Michael D. Jingoli
(via personal service, certified mail and overnight mail)





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CHARLES A. RICHMAN
Acting Commissioner

State of New Jersey
Department of Community Affairs
Division of Fire Safety
P.O. Box 809
Trenton, New Jersey 08625-0809

In the Matter of: Revel A.C.

ACR Energy Partners, LLC
c/o Michael D. Jingoli
Registered Agent
3131 Princeton Pike
Lawrenceville, NJ 08648

Polo North Country Club, Inc.
11198 Polo Club Road
Wellington, FLA 33414

Administrative Order

AUTHORITY

This Administrative Order is issued pursuant to the authority vested in the Department of Community Affairs, Division of Fire Safety ("the Division"), by the Uniform Fire Safety Act ("the Act"), N.J.S.A. 52:27D-192, et seq., and its implementing regulations, set forth in the Uniform Fire Code ("the Code"), N.J.A.C. 5:70-1, et seq. Such authorization includes, without limitation, N.J.S.A. 52:27d-208 (authorizing the Commissioner to enforce the Act and prosecute violators), and N.J.S.A. 52:27D-204 (vesting the Department with concurrent jurisdiction to enforce the Act in municipalities such as Atlantic City which have opted to provide for local enforcement through the designation of a local enforcement agency).



PARTIES

Polo North Country Club, Inc. ("Polo North") is the owner of the building located at 500 Board Walk, Atlantic City, NJ 08401, known as the Revel Casino Hotel, or Revel A.C. (hereinafter, "the Revel").

ACR Energy Partners, LLC ("ACR") owns, or substantially owns, and operates a utility plant built and designed to provide energy services to the Revel, pursuant to a sales agreement with the building's owner. ACR further claims to own, and operate, an energy distribution network located within the Revel, which is indispensable to the distribution of power to the building.

FACTUAL BASIS

On May 8, 2015, the Division conducted an inspection of the Revel, a high-rise property located on the Atlantic City boardwalk. At the time of the inspection, a building walk-through and review of fire safety systems was conducted, and revealed that all systems were available, operating, and in good order. The parties, however, as the Division has learned, are involved in the litigation of a contract dispute over the fee for ACR's continued service. Service was discontinued as a result of the dispute on April 9, 2015, and then restored, with the understanding that it would again be terminated on or about May 13, 2015.

The provision of electrical service to the Revel is needed for the continued operation of the building's critical fire safety, detection, and suppression systems. The failure of any one of these systems is a violation of the Act, which, by its nature, constitutes an imminent hazard as defined by the Act. N.J.S.A. 52:27D-208; N.J.A.C. 5:70-2.16.

VIOLATIONS/IMMINENT HAZARD

The Act requires that "[f]ire protection systems shall be maintained in an operative condition at all times." U.F.C. 901.4.1. The Act thus requires the continued operation of numerous systems at the Revel without cessation. Specifically, the fire protection systems that would be compromised by a power shut-off include:

1. Fire Pump Systems N.J.A.C. 5:70-3, 913.2; N.F.P.A. 20, 25.
2. Sprinkler Systems, Ibid.
3. Exit Signs N.J.A.C. 5:70-3, 1011.1.
4. Automatic Fire Alarm System. N.J.A.C. 5:70-3, 901.4.1, 907.15.
5. Multiple avenues of egress N.J.A.C. 5:70-3, 1028.1.
6. Illumination Standards N.J.A.C. 5:70-3, 1006.1.
7. Emergency and Standby Power N.J.A.C. 5:70-3, 604.1.

The inadequacy or failure of any one of the above fire protection systems, due to the presently intended termination of the building's power supply, constitutes a violation which, by its very nature, presents an "imminent hazard" to the building's occupants, or intended occupants, fire fighters, or the general public. N.J.S.A. 52:27D-208; N.J.A.C. 5:70-2.16(b)(5).

Failure of these systems also carries an elevated risk to life, health, and safety as a result of the Revel's designation as a high-rise structure pursuant to the New Jersey Uniform Fire Code and the New Jersey Uniform Construction Code. N.J.A.C. 5:70-1.5. All high-rise structures are designated Life Hazard Use regulated properties pursuant to N.J.A.C. 5:70-2.4(b)(1) (defining a "type B1" Life Hazard Use as "Any high-rise structure of 30 stories or more").

Upon discovery of an "imminent hazard" to the safety or welfare of occupants, the general public, or firefighters, the enforcing agency shall require corrective action within a period not to exceed 24 hours. N.J.S.A. 52:27D-208; N.J.A.C. § 5:70-2.16(a). For the purposes of the Act, the "owner" is any person who owns, purports to own, manages, rents, leases, or exercises control over a building, structure, premises, or use of any portion thereof. N.J.A.C. 5:70-1.4. Owners are responsible for the safe and proper maintenance of the premises at all times. All owners have a concurrent responsibility for compliance with the Uniform Fire Code. N.J.A.C. 5:70-2.2.

ORDER

The parties are hereby ORDERED to:

1) Take all necessary steps to provide and maintain adequate power for the maintenance of all required fire protection systems;

2) Provide the Division with written confirmation of compliance within 24 hours of receipt of this Administrative Order.

RIGHT TO APPEAL

The parties have a right to appeal this Administrative Order by filing a request for a hearing, to be conducted by the Office of the Administrative Law pursuant to the "Administrative Procedure Act", N.J.S.A. 52:14F-1, et seq. Any such request must be filed with the Commissioner no later than the 15th day after receipt of this Administrative Order.

The parties' appeal rights are without prejudice to the Division's right to file a summary enforcement action, in accordance with N.J.S.A. 52:27D-207(b), in the event the parties fail to comply with this Administrative Order.



Charles A. Richman
Commissioner