

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of a Violation of Article 27 of the New York  
State Environmental Conservation Law and Title 6, Part 375  
of the Official Compilation of Codes, Rules, and Regulations  
of the State of New York,

by

FH 2BRO Builder Corp.

**ORDER ON CONSENT**

Index No. CO 2-20250710-114

Site No. C241250

Spill No. 2202139

Respondent.

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**WHEREAS:**

**JURISDICTION**

1. The New York State Department of Environmental Conservation (the “Department”) is responsible for the administration and enforcement of laws and regulations pursuant to Article 27, Titles 13 and 14 of the New York State Environmental Conservation Law (“ECL”), and the regulations at 6 NYCRR Part 375 and may issue orders thereunder.

2. This Order on Consent (the “Order”) is issued in accordance with the Department’s enforcement authority pursuant to ECL Articles 3 and 71.

**PARTIES**

3. Respondent FH 2BRO Builder Corp. is a domestic Business Corporation with a principal place of business at 40-39 27<sup>th</sup> Street, Long Island City, NY 11101 and is the owner of the property located at 37-42 30<sup>th</sup> Street, Long Island City, NY (Block 371, Lot 38) (the “Site”).

**PROVISIONS OF LAW**

5. The New York State Department of Environmental Conservation (“Department”) is responsible for remedial programs pursuant to Article 27, Title 13 and 14 of the ECL and 6 NYCRR Part 375 and may issues orders consistent with the authority granted to the Commissioner of the Department by such statute.

6. This Order is issued pursuant to the Department’s authority under, *inter alia*, ECL Article 27, Title 13 and ECL §3-0301.

7. The Department established 6 NYCRR Part 375 pursuant to Title 13, Article 27 to provide for the orderly and efficient administration of inactive hazardous waste disposal sites, including sites in the Brownfield Cleanup Program. *See* 6 NYCRR 375-1.1 (a).

8. The regulations state that it is a violation to undertake work as part of a remedial program for a site without a Department-approved detailed work plan. *See* 6 NYCRR 375-1.6(a) and 6 NYCRR 375-3.6(a).

9. Pursuant to ECL § 71-2705, any person who violates any of the provisions of, or who fails to perform any duty imposed by Article 27, Title 13 or any rule or regulation promulgated thereto, may be liable for penalties of up to \$37,500 per day per violation.

### **FACTS**

10. The Respondent entered the Site in the Brownfield Cleanup Program and is subject to the terms of a Brownfields Cleanup Agreement dated April 21, 2021, Index No. C241250-04-21, and any amendments thereto.

11. On or about April 25, 2022, a forklift delivering lumber discharged approximately 4 gallons of hydraulic oil to the surface soil at the Site. A contractor reportedly excavated and placed impacted soil in approximately six or seven one-gallon buckets and removed the impacted soil from the Site for disposal. Respondent did not submit a work plan to the Department prior to the cleanup of the impacted soil.

12. The cleanup contractor did not report a spill to the Department and did not submit disposal records for the impacted soil.

13. On June 8, 2022, Respondent's consultant reported the spill to the Department, and the Department assigned Spill No. 2202139 to the Site. Respondent has not submitted disposal records for the impacted soil, and Department has not closed Spill No. 2202139.

14. On May 26, 2023, the Department approved the Remedial Action Work Plan ("RAWP") for the Site submitted by Respondent's consultant on May 10, 2023. The remedy for the Site included in the RAWP included, among other things, the excavation and offsite disposal of all onsite soils.

### **VIOLATIONS**

15. Respondents violated 6 NYCRR 375-1.6(a) by undertaking work as part of a remedial program without a Department-approved work plan.

16. In settlement of Respondents' liability for the aforesaid violations, Respondent waives its right to a hearing as provided by law, and consents to the issuing and entering of this Order on Consent pursuant to the provisions of ECL Articles 27 and 71, and agrees to be bound by the provisions, terms, and conditions herein. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order and agrees

not to contest the validity of this Order or its terms.

**NOW**, having considered this matter and being duly advised, it is **ORDERED** that:

**I. PENALTY**

A. Respondent shall be liable for a total civil penalty in the amount of \$500 for the violations stated in this Consent Order. Payment shall be paid within 30 days of the Department's execution of this Order by electronic payment at <http://www.dec.ny.gov/about/61016.html#On-Line> or by check made payable to the order of the "New York State Department of Environmental Conservation," with the enclosed invoice and Index Number "CO 2-20250710-114" written in the memo section of the check, which shall be sent to the Department of Environmental Conservation, Division of Management and Budget Services, 625 Broadway, 10<sup>th</sup> Floor, Albany, NY 12233-4900.

B. This Order on Consent, along with any applicable submissions, shall be sent to:

Department of Environmental Conservation  
Office of General Counsel  
Attention: Michael C. Murphy, Remediation Section Chief  
625 Broadway, 14<sup>th</sup> Floor  
Albany, NY 12233-1500

**II. ENTIRETY OF ORDER**

The provisions of this Order constitute the complete and entire Order issued to the Respondent, concerning resolution of the violations identified in this Order. Terms, conditions, understandings or agreements purporting to modify or vary any term hereof shall not be binding unless made in writing and subscribed by the party to be bound, pursuant to the modification provisions of this Order. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by the Respondent shall be construed as relieving the Respondent of their obligations to obtain such formal approvals as may be required by this Order.

**III. RELEASE AND SPILL CLOSURE**

This Order shall be in full settlement of all claims for civil and administrative penalties that have been or could be asserted by the Department against Respondent, its trustees, officers, employees, successors and assigns for the above-referenced violations. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge, or which occur after the effective date of this Order.

Upon receipt of the penalty payable under Paragraph I, the Department shall administratively close Spill No. 2202139.

#### **IV. RESERVATION OF RIGHTS**

The Department reserves the right to require that the Respondent undertake any additional measures required to protect human health or the environment and shall reserve the Department's rights to exercise its authorities under law to protect human health and the environment or to otherwise require compliance with the law. This Order does not bar, diminish, adjudicate, or in any way affect the Department's rights or authorities, except as set forth in this Order, including but not limited to, exercising summary abatement powers.

#### **V. BINDING EFFECT**

The provisions, terms and conditions of this Order shall be deemed to bind Respondent and the Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors, and assigns, employees, and all persons, firms, and business entities acting under or for them.

#### **VI. FAILURE, DEFAULT, AND VIOLATION OF ORDER**

Respondents' failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to the Respondent by the Department.

#### **VII. DEFAULT OF PAYMENT**

The penalty assessed in this Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the terms of this Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order on Consent will constitute a debt owed to the State of New York when and if such penalty becomes due.

#### **VIII. MODIFICATION**

No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of the Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to the Respondent. The Respondent shall have the burden of proving entitlement to any modification requested.

#### **IX. INDEMNIFICATION**

The Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs resulting from the acts and/or omissions of the Respondent, intentional, negligent, or otherwise, of every nature and description, arising out of or resulting from the compliance or attempted

compliance with the provisions of this Order by the Respondent or its employees, servants, agents, successors, or assigns.

#### **X. NOT A PERMIT**

This Order is not a permit, or a modification of a permit, under any federal, State, or local laws or regulations. Unless otherwise allowed by statute or regulation, Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. Respondent's compliance with this Order on Consent shall be no defense to any action commenced pursuant to any laws, regulations, or permits, except as set forth herein. The Department does not warrant or aver that the Respondent's compliance with this Order will result in compliance with any laws, regulations or permits.

#### **XI. FORCE MAJEURE**

If Respondent cannot comply with a deadline or requirement of this Order, because of natural disaster, pandemic, war, terrorist attack, strike, riot, judicial injunction, or other similar unforeseeable event which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement. Respondent shall include in such application the measures taken by Respondent to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to a claim of non-compliance with this Order pursuant to this Article.

#### **XII. EFFECTIVE DATE AND TERMINATION**

This Order shall take effect when it is signed by the Commissioner of the Department of Environmental Conservation or her designee. This Order shall terminate when all requirements imposed by this Order are completed to the Department's satisfaction.

DATED: Albany, New York

July 18, 2025

AMANDA LEFTON  
Commissioner, NYSDEC

By: Andrew Guglielmi  
Andrew Guglielmi, Division Director  
Division of Environmental Remediation

**CONSENT BY RESPONDENT**

Respondent FH 2BRO Builder Corp. hereby consents to the issuing and entering of this Order on Consent without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order on Consent.

By (Signature):



Print Name: Jack Fang

Title: President, FH 2Bro Builder Corp

Date: 07/10/2025

**ACKNOWLEDGMENT**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF QUEENS    )

On this 10th day of July, 2025, before me personally came Jack Fang, who being properly identified and who being by me duly sworn did depose and say that s/he is the President of FH 2Bro Builder Corp., and did execute this Order on Consent on behalf of and as authorized by Board of Directors of FH 2Bro Builder Corp



Notary Public

**LU YUN YING**  
Notary Public, State of New York  
Registration No. 01LU6425776  
Qualified in Queens County  
Commission Expires November 29, 2025