

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **UNDERGROUND STORAGE TANK
ENFORCEMENT**

MAYFAIR GARAGE, INC. : **MARCH 5, 2008**

FINAL DECISION

JURISDICION

Subdivision (2) of §22a-449(g) provides:

“Not later than two business days after placing a notice or disabling device on a nonresidential underground storage tank system pursuant to subdivision (1) of this subsection, the commissioner shall provide the owner or operator of the affected underground storage tank system with an opportunity for a hearing. Any such hearing shall be limited to whether the violation upon which the commissioner took action under subdivision (1) of this subsection occurred and whether such violation is continuing.”

FINDINGS OF FACT

1. This hearing was held on March 4, 2008 in the DEP Welch Meeting Room, 79 Elm Street in Hartford. The following persons were present and sworn: Frank Fuller for Mayfair Garage (facility); and Lori Saliby and David Keating (staff) for the DEP Storage Tank Enforcement Unit.
2. The Department disabled (“red tagged”) three underground fuel storage tanks at the facility on February 29, 2008. The red-tagged tanks include two, 10000-gallon motor fuel tanks and one, 550-gallon waste oil tank. DEP staff served a “Notice of Disabled UST Systems” on Mr. Fuller, and, without signing, he accepted service on behalf of the facility. General Statutes §22a-449(g). This Notice, which included the date, time and place of the hearing, was placed into evidence, along with copies of the facility summary

information on file with the DEP, the Department's UST Inspection Checklist, and other documents pertaining to the facility's compliance history. (Test. DEP staff.)

3. The DEP conducted a compliance inspection on February 29, 2008. The two motor fuel tanks were temporarily out of service due to a line failure that resulted in a discharge. In addition, the waste oil tank inventory reconciliation data collection has not been conducted in accordance with regulations. The facility does not contest that these violations occurred and are continuing and that it is out of compliance with relevant regulations. Regs., Conn. State Agencies §§22a-449(d)-1; 22a-449(d)-101 through 22a-449(d)-113. (Test. D. Keating, F. Fuller.)
4. The facility will work with the DEP to bring part of its system into compliance. Mr. Fuller will conduct a proper inventory of the waste oil tank contents and notify the DEP upon completion of the test. DEP staff indicated that as long as the inventory is conducted immediately and in accordance with applicable regulations, then the facility does not need to pump out the waste oil currently in the tank. The motor fuel tanks and dispensers will remain tagged until the system is brought into compliance or taken out of service permanently. (Test. L. Saliby, F. Fuller.)

CONCLUSION

There was probable cause to support and sustain this enforcement action taken by the DEP with regard to the three disabled tanks owned and operated by Mayfair Garage.

// Jean F. Dellamarggio
Jean F. Dellamarggio, Hearing Officer

March 5, 2008
Date

APPENDIX A
PARTY LIST

FINAL DECISION
In the Matter of Mayfair Garage

PARTY

Mayfair Garage
142 Main Street
Terryville, CT 06786

Department of Environmental Protection

UST Enforcement
79 Elm Street
Hartford, CT 06106

REPRESENTED BY

Frank Fuller

Lori Saliby
David Keating