



ENVIRONMENTAL RISK SERVICES CORPORATION

July 12, 2012

Via Electronic Mail Only:
psmith@insurlaw.com

Mr. Philip E. Smith
Smith Smith & Feeley LLP
16330 Bake Parkway
Irvine, California 92618

Dear Mr. Smith:

We received your letters dated May 8 and June 26, 2012 regarding the above-referenced claim.

In your correspondence, you requested copies of documents “tending to establish the existence and terms of the alleged Hanover policy.” The policy is identified in a memorandum to the City Attorney that lists the City’s comprehensive liability coverage. The memorandum has proven to be a reliable source of information about the City’s insurance coverage. The memorandum itself is privileged, but the information identifying the Hanover policy is:

INSURANCE PERIOD	INSURANCE CARRIER	INSURANCE AGENT	POLICY NUMBER	TERMS
JULY 1, 1963 JUNE 30, 1968	HANOVER INSURANCE COMPANY	VERNON H. ESTEY	1FP153187	FIRE, EXTENDED COVERAGE & VANDALISM ON A CITY PROPERTY UNDER THE PUBLIC AND INSTITUTIONAL FORM (5 YEARS).

The City is diligently searching its files to determine if there is more information about its insurance coverage. Meanwhile, we believe the insurance company also has an obligation to reconstruct the policy to the extent possible from its underwriting files. Please provide all information about the Hanover policy from those files.

You also asked if “DTSC issued any other orders or letters implicating the City?” I am not aware of any orders or letters from DTSC after the September 15, 2010 letter that implicate the City. The City has posted correspondence regarding the clean-up order on its website. I suggest you consult the website for information about the clean-up. Here is a link to the respective webpage:

http://www.ci.benicia.ca.us/index.asp?Type=B_BASIC&SEC={EE025B5A-169D-4F4D-87A9-F00C10B15CD5}

Mr. Philip E. Smith
July 12, 2012

The reference in our tender letter to “Atlanta International Insurance Company” was a typographical error for which we apologize. The sentence should have referred to Hanover Insurance Company.

We do not agree with your assertion that Hanover has the prerogative to contact private owners and businesses at the Benicia Arsenal about their insurance coverage. But for now we appreciate that “Hanover will not attempt to identify or contact other property owners at this point”, as promised in your letter. Hanover should contact us beforehand if it does decide to communicate with private owners and businesses at the Benicia Arsenal so the issue can be resolved before Hanover makes any contact with the private owners or businesses.

Sincerely,



Mark O'Brien

Cc: Heather McLaughlin, Benicia City Attorney