

2023

House Bill 110 Audit

GEAUGA PUBLIC HEALTH HOUSE BILL 110 PROGRAM AUDIT
BRYAN KOSTURA

MCDONALD HOPKINS LLC | 600 Superior Ave, East, Suite 200, Cleveland, OH 44114

Geauga County Board of Health
Attention: Adam Litke Administrator
12611 Ravenwood Dr. Suite 300
Room A301
Chardon, OH 44024

Re: Geauga Public Health House Bill 110 Program Audit

Health Commissioner:

By and through Geauga Public Health (hereinafter “GPH”) Administrator Adam Litke, the law firm of McDonald Hopkins was asked to examine the financial records, inspections forms, various electronic databases and public records of GPH, and provide information on the implementation of the House Bill 110 (“HB110”) program, which was implemented to investigate and manage small, commercial sanitary treatment or disposal systems in Geauga County.

By making this audit request, GPH does not intend to waive the attorney-client privilege with respect to any information that GPH furnished to McDonald Hopkins. Moreover, our response should not be construed in any way to constitute a waiver of the attorney work-product doctrine with respect to any of our files involving GPH.

During the past year, this firm has represented GPH in multiple matters and all information pertinent to those matters also remain privileged. Any action on this matter should not be construed in any way to constitute a waiver of the attorney client or attorney work-product doctrines of those cases if information in this matter is released.

Finally, to preserve the confidentiality of our communications with GPH, we request that the information provided herein be used by GPH solely in connection with the examination of HB110 issues.

FACTS

In 1984, the Ohio General Assembly adopted HB110 which created the framework for a partnership between the Ohio Environmental Protection Agency (Ohio EPA) and Local Health Districts (“LHDs”) to oversee and inspect small, commercial sanitary treatment or disposal systems. The program allows Ohio EPA to enter into a contractual partnership with LHDs, whereby LHDs conduct, on behalf of the Ohio EPA, inspection and enforcement services for commercial sanitary waste treatment/disposal systems discharging less than 25,000 gallons per day (semipublics). This program commonly became referred to as the HB110 program.

Pursuant to O.R.C. 3709.085 (B)(1)(a) a “semipublic disposal system” means: “a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F) (6) of that section; or a disposal system for the treatment of industrial waste.”

There are various examples of semipublic systems which include those that serve restaurants, small mobile home parks, businesses, industrial parks, housing subdivisions, apartment complexes, markets, and shopping centers (this is not a fully inclusive list). There are two main types of systems, off lot discharge systems and on-site disposal/treatment systems. LHDs provide inspections services every 3 years for non-discharging systems and yearly for discharging systems. LHDs are also tasked with investigating complaints and working with the Ohio EPA regarding the issuance of permits for new systems. LHDs also help with identifying systems that were not issued permits during the installation process. Violations and other issues are handled by either the Ohio EPA or the county prosecutor

To offset costs of local oversight of the HB110 program, Ohio Revised Code §3709.085 authorizes LHDs to charge fees for inspection services to be paid by semipublics. These fees are established at the local level and are intended to provide enough funding to operate on a day-to-day basis.

On or about October of 2004 GPH entered into an agreement with Ohio EPA to conduct the HB110 program locally. It is believed that the program appeared to function as designed up until on or around 2008 through 2009 when there was a reduction in staff due to budget cuts. Late in the third quarter of 2022, during an internal review of services, contracts, and staffing, GPH staff discovered that inspections were not being completed. During this review, it was determined that no Registered Environmental Health Specialists (REHS, aka Sanitarians) were consistently working on this program. GPH staff immediately identified those businesses and entities that had submitted their 2022 applications with payment and then completed the necessary inspections.

PURPOSE OF REVIEW

Based upon the internal review of the HB110 program, the GPH Administrator determined a more inclusive review of the program was necessary in order to remediate any shortfalls. GPH recognized that the impact of the potential oversight required a complete review of the program to determine payments received and number of inspections conducted in order to address any deficiencies.

This audit provides the GPH Board of Health a full picture of the number of fees paid for HB110 applications, and the number of inspections documented within the three informational repositories maintained by GPH from 2010 through 2022. This information can be used by the Administrator and the GPH Board of Health to assess any deficiencies and remediate any program issues.

SCOPE OF REVIEW

The audit consisted of five primary phases:

Phase 1 – Auditors performed a manual review of approximately 1000 physical files located at 12611 Ravenwood Drive, Chardon, Ohio concerning the properties in the HB110 program. The file review focused on obtaining evidence of inspection applications, fees paid, and documentation substantiating completed inspections for FY2010 through FY2022. The findings from the physical file review were incorporated into the GPH HB110 Master Spreadsheet.

Example of Master Spreadsheet

	R	S	T	U	V	W	X	Y	Z	AA
	2010 Fee Paid	2011	2012	2013	2014	2015	2016	2017	2018	2019
	\$ 80.00	\$ 100.00	\$ 80.00	\$ 80.00	\$ 80.00	\$ 80.00	\$ 80.00		\$ 100.00	

Phase 2 –The auditors cross-checked the HB110 program property information located in the physical files against the onsite database (“DB1”) for additional information related to inspection applications, fees paid, and inspection reports. The auditors next reviewed all information in DB1 related to HB110 properties with a focus on additional evidence related to inspection applications, fees paid, and documentation substantiating completed inspections. The findings from the crosscheck of the physical file findings and DB1 review were incorporated into the GPH HB110 Master Spreadsheet.

Phase 3 – The auditors reviewed a second remote database (“DB2”). The focus of the review was to obtain additional evidence of inspection applications, fees paid and documentation substantiating completed inspections for FY2010 through FY2022 as part of the HB110 program. DB2 contained electronic images for 870 property addresses containing thousands of pages of uncategorized material related to the program. The findings from the DB2 review were incorporated in the GPH HB110 Master Spreadsheet.

Example of database 2

Displaying 870 of 870 records.

Document Type: Semi-Public Files

Street Number: [] to []

Street Name: []

ID Number: [] to []

OCR Search: []

Clear Edit Search

Drag a column header here to group by that column

Street Number Street Name

GEAUGA COUNTY HEALTH DISTRICT
470 CENTER ST. BUILDING #8
CHARDON, OH 44024
1-440-279-1900 Fax:1-440-286-1290

RECEIVED
JUL 11 2011

GEAUGA COUNTY HEALTH DISTRICT

**Application to Operate a
Semi-Public Sewage Treatment System**

Inspection Program SEPTEMBER 1, 2011 to AUGUST 31, 2012

Today's Date: 04/13/2011

Directions: Correct any inaccurate information in numbers 1 through 6 below. Sign and date application and remit fee by []

Phase 4 – The auditors aggregated and summarized the findings related to evidence of completed inspections, inspection applications and confirmed fees paid from the three primary sources and crosschecked all data.

Phase 5 – The auditors reviewed GPH HB110 Fee Sheet which was derived from GPH’s general ledger for confirmation of application inspection fees and late fees collected by GPH under

the program by property address. This spreadsheet confirmed the amounts collected per address which may or may not have been included in the prior information repositories controlled by GPH. The information was cross-checked with the GPH HB110 Master Spreadsheet including the data from Phases 1-4 and the additional fee data from the GPH Fee Sheet was incorporated into the HB110 Master Spreadsheet.

Example of Fee Spreadsheet

date	comment	fees amnt
28-Mar-20		144
11-Jan-10		80
12-Jan-10		280
12-Jan-10		80
13-Jan-10		80
14-Jan-10		80
14-Jan-10		80
14-Jan-10		80

How did we verify the findings?

The auditors cross-checked the information from the five primary phases of the audit and aggregated the data. Duplicate addresses, transpositions, and incorrect address information from the primary and secondary sources were reviewed, researched, and refined.¹

FINDINGS

What we found.

Based on the source documentation and information provided by GPH:

- For the period of 2010 through 2022, \$791,084.00 in application fees (including late fees) were collected under the HB110 program.
- The HB110 fees collected involve 566 individual property addresses.

The chart below includes the number of properties and fee amounts collected by GPH per year under the program:

¹ See also "Section V. Deficiencies"

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
No. of Property Addresses	501	506	494	499	486	480	479	473	464	452	466	468	474
Application Fees	\$ 63,734.00	\$ 63,025.00	\$ 64,028.75	\$ 64,572.50	\$ 61,327.50	\$ 61,493.75	\$ 60,520.00	\$ 60,717.50	\$ 57,036.25	\$56,576.25	\$ 58,777.50	\$ 58,816.25	\$60,458.75

The chart below includes the number of properties with verified inspections by year under the program:

2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
3	25	12	4	2	6	1	11	3	37	2	0	97

Credits to GPH for the documented inspections performed under the program and the net total collected are summarized below:

Inspection Application Fees:	\$791,084.00
Credits for Inspections:	<u>(\$33,172.00)</u>
Total HB110 Net Fees:	<u>\$757,912.00</u>

IDENTIFIED DEFICIENCIES

Physical files

The physical files located at 12611 Ravenwood Drive, Chardon, Ohio concerning the properties in the HB110 program lack any discernable type of organization. The contents of the files are not categorized or kept in chronological order. Many files contained documentation relating to multiple property addresses despite being labeled as a specific address. Some files contained only one document, while others had many, including site plans and administrative hearing information. The auditors noted that certain addresses had multiple file folders with different information in each. Many files contained applications though did not have correlating inspection reports. Where original inspection applications were found, the file lacked evidence verifying receipt of payment (e.g. check, etc.) or inspection reports that coincided with the inspection applications.

In one instance the auditor returned to continue the review and noticed a section of previously reviewed files were missing and not returned during the audit period. The auditors also noted a row of miscellaneous documents and files, which contained a stack of applications for various addresses and random files in no particular order. In addition to the physical files, the site contained multiple loose stacks of unfiled documents relating to the HB110 program.

Databases

Two databases contain information related to the program. The onsite database (“DB1”) was categorized and searchable for property addresses involved in the program. DB1 included fillable fields for addresses, inspector, inspection types, dates, and notes. However, DB1 lacked corresponding images of supporting documentation (e.g. completed inspection report, etc.).

The second remote database (“DB2”) contained OCR’d scanned images of 870 records categorized by property address in the “semi-public” HB110 program. DB2 did not include the “fillable fields” that were described in DB1. The number of document in each record varied from 1 page in some records, to 100-200+ pages with a variety of documents including, site plans, administrative hearing information, duplicates of applications and blank, unsigned applications. Multiple records contained transposed, duplicated records, and information related to incorrect addresses.

Displaying 870 of 870 records.

Document Type: Semi-Public Files

Street Number: [] to []

Street Name: []

ID Number: [] to []

OCR Search: []

Clear Edit Search

Drag a column header here to group by that column

Street Number	Street Name
	STATE ROUTE 306 & FAIRMOUN
1000	EDWARDS LANE
10000	EDWARDS LANE

DB2 See example records:
1000 Edwards Lane
10000 Edwards Lane

In the example above, there are two records in DB2, both containing unorganized scanned documents for a property address on Edwards Lane. 10000 Edwards Lane was determined via research to be the correct address at issue.

The scanned images in DB2 lack any type of uniformity of organization. It appeared in many instances that instead of searching for a record, a duplicate record, sometimes multiple records for an address would be created and additional documentation filed in that record.

Displaying 870 of 870 records.

Document Type

Street Number to

Street Name

ID Number to

OCR Search

Drag a column header here to group by that column

Street Number	Street Name
10089	E WASHINGTON STREET
10089	EAST WASHINGTON STREET
10089	WASHINGTON STREET

DB2 – In this example, there are three address variations for one property; each record contains uncategorized and unorganized HB110 documents

Further, it was determined that there was no discernable method or procedure in which properties in the program were deemed exempt or removed from the program due to a change in the property’s system configuration or ownership. These changes might occur if the property ultimately tied into a municipal sewer system or the property was sold to a park or the system was decommissioned. The auditors identified records whereby the inspection application was hand marked “exempt” without clarification. After further review of the records in DB2 and the physical file the auditors were unable to locate any substantiating documentation in the file which would corroborate how the exempt status was identified and ultimately approved.

In summary, GPH documentation related to the HB110 program is spread through a variety of sources that were generally unorganized and uncategorized. There are numerous variations and duplications of addresses, transpositions, and incorrect information from the primary and secondary sources. Primarily lacking is evidence of inspections performed. Further, there was no one source with actual property addresses involved in the program. The fees GPH collected were documented in the GPH accounting system; but receipt of fees are not documented in either of the correlating databases. There is no discernable process noting when a property decouples from the program due to a tie-in to a sewer line or other reason. Further, the auditors were unable to discern any pattern or procedure as to how the program is implemented and coordinated.

RECOMMENDATIONS

An annual by address audit consisting of a report documenting the addresses participating in the HB110 program is recommended. This audit could be performed internally and would cross-verify the applications submitted, fees paid and completed inspection report for each property

address per year. As a rule, the submitted application and retention of those records needs to be in a consistent single repository absent of the deficiencies identified above.

Continued utilization of two databases and the hard file records have resulted in confusion, lack of reliable information and integrity of records. Consistency with databases i.e. completing every field and ensuring property addresses are correct, as well as reflecting accurate notes such as property sold, sewer tied into city etc is necessary for proper record keeping. If multiple databases are continued to be used, then if DB1 reflects an application submitted and inspection completed in 2023, copies of those documents should be included in DB2 as well as placed in the singular physical file.

Additional recommendations include completing a checklist for each file, which would ensure a complete and consistent record keeping methodology. The checklist should include the following:

1. Dates and clerk initials that an application for inspection was sent;
2. Date stamped and clerk initials when the application is received;
3. Notation of the amount of the fee paid including a late fee;
4. Date the inspection was completed;
5. Inspector's name;
6. Copy of the inspection report; and
7. Clerk's initials confirming review of all necessary documents and dates upon final review of file and Check Sheet.

An example PDF fillable form is included in this report.

PROPOSED REMEDIAL DOCUMENTS

Example PDF in fillable form is included in following page.

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GEAUGA PUBLIC HEALTH

Promoting and Protecting Community Health

12611 Ravenwood Dr., Suite 300, Chardon, OH 44024-1071

440.279.1900 www.gphohio.org

CHECKLIST – HOUSE BILL 110 PROGRAM

Property Address: _____ City: _____ Zip: _____

Billing Address: _____ City: _____ Zip: _____

Date inspection application sent: _____ Clerk's initials: _____

Date inspection application received: _____ Clerk's initials: _____

Fee amount paid: _____ Date received: _____

Late fee paid: _____ Date received: _____

Inspector name: _____

Date inspection completed: _____

Next date inspection due: _____

Application and inspection report in database: _____ Date: _____ Clerk's initials: _____

CONCLUSION

In summary, the review of several sources including the physical files, DB1, DB2 and Fee Sheet, were inconsistent and in many instances reflected poor record keeping practices. No unified list of participating HB110 addresses appears to exist, nor is there a verification list for properties that paid application fees and were in fact inspected over the course of the 2010-2022 audit time period. Further, the program lacks basic organizational policy and procedures, which would avoid issues with duplicate files, transposed addresses, and incorrect filings. GPH must endeavor to develop a training program to institute new policies and procedure for the identification of HB110 covered properties, the filing of records, the tracking of payments and inspections, and verification of the enforcement of these new policies. Baring a complete overhaul of the program and the creation of new policies and procedures, these deficiencies will continue to be present.

