

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
BOARD OF CONTRACT APPEALS
WASHINGTON, D. C.

In the Matter of:	:	
	:	
RAY RIDDLE, R.H. RIDDLE	:	HUDBCA No. 85-953-D28
COMPANY and WESLEY	:	Docket No. 85-1013-DB
VILLAGE ASSOCIATES,	:	
	:	
Respondents	:	
	:	

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DECISION AND ORDER ON MOTION TO REOPEN

Statement of the Motion

On October 11, 1985 a Motion to Reopen by counsel for Respondents was received and filed in this case, which had been dismissed with prejudice by Order dated September 18, 1985. The Motion to Reopen had apparently been delivered by Respondents' counsel to the HUD Office of Program Enforcement on September 27, 1985, rather than to the Board of Contract Appeals.

Respondents' counsel states as grounds for granting the Motion to Reopen that a Response to Complaint had been delivered by messenger to the "Docket Clerk" on September 9, 1985, but the "Office of the Docket Clerk" failed to forward the Response to Complaint "to the appropriate parties." The certificate from the "Docket Clerk" indicates that the Response to Complaint had been delivered to Room 10266 at HUD and was received by Bette Hyater at 2:33 p.m. on September 9, 1985. It was delivered to the Board

by counsel for the Government on September 25, 1985, after the case had been dismissed.

Summary of Proceedings

Neither the HUD Board of Contract Appeals, its Docket Clerk, or the Administrative Judge assigned to hear and decide this case is located in Room 10266 of HUD. The Notice of Docketing and Order dated May 15, 1985, specifically notified all parties that all written submissions were to be filed with the Board of Contract Appeals in Room 2158. That Notice of Docketing and Order was received by counsel for Respondents. Despite the clear language of the Notice of Docketing and Order, counsel for Respondents has persisted in filing not only the Response to Complaint but the Motion to Reopen with another office.

Respondents were ordered to file an Answer to the Government's Complaint within 30 days of receipt of the Complaint. The Answer was due on July 3, 1985. Respondents failed to file an Answer or obtain an extension of time in which to do so. On July 18, 1985, the Government filed a Motion to Dismiss for lack of prosecution. No response to the Motion to Dismiss was received from Respondents. An Order to Show Cause dated July 25, 1985, directed Respondents to show cause in writing by not later than August 7, 1985 why this case should not be dismissed for lack of prosecution. Respondents were further directed to file an Answer to the Complaint with the showing of cause, or the showing of cause would not be considered. The Order to Show Cause was received by counsel for Respondents on July 26, 1985.

On August 5, 1985, counsel for Respondents requested an extension of time until September 7, 1985 to respond to the Order to Show Cause. The Request was concurred in by counsel for the Government and was granted by the Administrative Judge.

No response to the Order to Show Cause or an Answer was filed by counsel for Respondents by September 7, 1985. At no time up to the present has any cause been shown for Respondents' repeated failures to file pleadings on time or otherwise comply with the Orders in this case.

DECISION AND ORDER

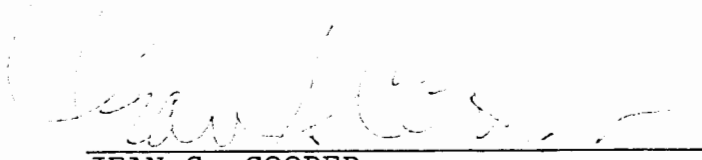
Respondents, through their counsel, have failed at all times to comply with the Orders issued in this case. No showing of cause has ever been offered by Respondents for these failures, despite the Order to Show Cause issued on July 25, 1985. Respondents' counsel, in his request for extension of time, had proposed September 7, 1985 as the date by which he would file an Answer to the Complaint and a showing of cause why Respondents' Answer had not been filed on July 3, 1985. The Response to

Complaint was filed in the wrong office on September 9, 1985. No showing of cause was filed at all.

Respondents have failed to show cause why this case should not have been dismissed for lack of prosecution, and have failed repeatedly to comply with Orders. Respondents are the moving parties in this case, having requested a hearing. Respondents' repeated unexcused failures to fulfill their responsibilities as litigants, with no showing of cause, warranted dismissal of this case with prejudice.

The Motion to Reopen is DENIED.

ORDERED this 23rd day of October, 1985.



JEAN S. COOPER
Administrative Judge