

February 18, 2021

City of Chicago, Public Comment  
Attn: Rulemaking – Demolitions by Implosion

Submitted Via email to: [publiccomments@cityofchicago.org](mailto:publiccomments@cityofchicago.org)

Re: Proposed Rules for Demolitions by Implosion

To Whom It May Concern:

Please be advised that I represent the Little Village Environmental Justice Organization (“LVEJO”). LVEJO is a community organization whose mission is to organize with their community to “accomplish environmental justice in Little Village and achieve the self-determination of immigrant, low-income, and working-class families.”<sup>1</sup> Their organizing model consists of three guiding principles: (1) intergenerational leadership that sustains community self-determination; (2) it assumes that those directly affected have the solutions to resolve their own problems; and (3) it builds upon the existing assets and resources of the community for social change.<sup>2</sup> Several LVEJO members are Chicago residents living near the former Crawford Power Generation Station.

The importance of proposed City of Chicago (“the City”) Municipal Code Chapter 2-30 entitled “Multiagency Regulation of Implosions”<sup>3</sup> can be better understood through the experience of Little Village residents who suffered direct impacts of a mismanaged implosion on April 11, 2020.<sup>4</sup> In April 2020, while the state was under a stay-at-home order, a century old smokestack was imploded at the former Crawford Power Generating Station, located at 3501 S. Pulaski Road, Chicago, IL (“Implosion site”).<sup>5</sup> There were multiple actors involved during the implosion including: Hilco Redevelopment, LLC; Hilco Redevelopment Partners; HRP Exchange 55, LLC; MCM Management Corporation; and Controlled Demolition, Incorporation (collectively “Hilco”).<sup>6</sup>

The importance and impact of the proposed ordinance is further understood through the experience LVEJO and the Little Village Community have had with various actors before, during, and after the implosion disaster that occurred at the Implosion site on April 11, 2020.

### **Before Implosion**

The Implosion site has long been a point of concern and struggle for Little Village residents as it formerly held one of the nation’s oldest and largest coal-fired power plants, the Crawford Power

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<sup>1</sup> <http://www.lvejo.org/our-mission/mission-vision-statement/>

<sup>2</sup> *Id.*

<sup>3</sup> <https://www.chicago.gov/city/en/sites/implosion-rules/home.html>

<sup>4</sup> Consent Order at 3, Illinois v. Hilco Redevelopment, LLC, (2020) (No. 2020-CH-4076) (Joint Motion to Enter Proposed Consent Order).

<sup>5</sup> *Id.*

<sup>6</sup> Complaint at 1, Illinois v. Hilco Redevelopment, LLC, (2020) (No. 2020CH0476).

Generating Station (“Crawford”).<sup>7</sup> Crawford was owned by Midwest Generation and operated less than .25 miles from Little Village Residents from 1924 until 2012.<sup>8</sup> Despite fighting for Crawford’s closure for over 12 years, to ensure cleaner air and environment, Little Village has yet to obtain environmental justice regarding the site.

The Crawford plant was one of two coal-fired plants in the City that were the “biggest industrial sources of lung- and heart-damaging soot and smog... cost[ing] neighboring communities more than \$120 million a year in hidden health damages.”<sup>9</sup> In the early 2000s, a Harvard School of Public Health study linked “emissions from the plants to 41 premature deaths, 550 emergency room visits and 2,800 asthma attacks annually.”<sup>10</sup> Notably, Little Village is an Illinois Environmental Protection Agency (“IEPA”) designated environmental justice concern area. Which means it has a higher concentration of low-income and minority populations where a disproportionate environmental burden may take place. These areas are also typically more susceptible to air pollution as many have high rates of chronic respiratory illnesses, like asthma or COPD.

In response to seeing these detrimental effects firsthand, many Little Village residents began to advocate for closure of the Crawford plant. In 2002, LVEJO collected signatures of Little Village residents to get a referendum on the 2003 ballot requesting an ordinance that would require the Crawford plant to either (1) reduce its emission of pollution by 90 percent or (2) be shut down.<sup>11</sup> However, it was not until 2011 when faced with a total upgrade of pollution controls to reduce greenhouse gas emissions that Midwest Generation finally began to shut down Crawford.<sup>12</sup>

In the fall of 2012, the Crawford was no longer in operation and Midwest Generation began decommissioning the site.<sup>13</sup> In 2014, NRG purchased the site and in 2017 sold it to Hilco Redevelopment Partners. Hilco plans to redevelop the site in a 1-million square foot warehouse and distribution center to be named Exchange 55.<sup>14</sup> In July 2018, Hilco enrolled the site in IEPA’s Site Remediation Program and began moving forward with its mission to build a massive warehouse and distribution center.<sup>15</sup>

Aware of the already vulnerable environment in Little Village and weary of the new developers on the contaminated site, LVEJO repeatedly addressed the City and Illinois agencies advocating for transparency and community engagement.<sup>16</sup> In October 2018, LVEJO sent a letter informing the director of IEPA about the incredible need for Little Village community members to have strengthened public involvement throughout decision making involving the former Crawford site.<sup>17</sup> Again, on May 3, 2019, LVEJO communicated with IEPA questions and concerns

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<sup>7</sup> <http://www.lvejo.org/our-accomplishments/coal-plant-shutdown/>

<sup>8</sup> Complaint at 1, Illinois v. Hilco Redevelopment, LLC, (2020) (No. 2020CH0476).

<sup>9</sup> <https://www.chicagotribune.com/business/ct-xpm-2012-09-02-ct-biz-0902-crawford-fisk-20120902-story.html>

<sup>10</sup> *Id.*

<sup>11</sup> <https://www.chicagotribune.com/business/ct-xpm-2012-09-02-ct-biz-0902-crawford-fisk-20120902-story.html>

<sup>12</sup> <http://www.lvejo.org/our-accomplishments/coal-plant-shutdown/>

<sup>13</sup> *Id.*; <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Pages/default.aspx>

<sup>14</sup> <http://www.lvejo.org/our-accomplishments/coal-plant-shutdown/>

<sup>15</sup> <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Pages/default.aspx>

<sup>16</sup> *Id.*

<sup>17</sup> <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Documents/LVEJO%20IL%20EPA%20Crawford%20Public%20Participation%20Request.pdf>

regarding remediation activities at the site. Some of which were incorporated into the April 2019 Supplement to the Comprehensive Site Investigation Report.<sup>18</sup>

On August 6, 2019, IEPA and the Chicago Department of Public Health (“CDPH”) participated in a public meeting, organized by LVEJO, in Little Village regarding the Implosion site.<sup>19</sup> Hilco was also in attendance but did not participate in any way, even when residents specifically directed questions at them.<sup>20</sup> During the meeting, Little Village residents demanded that the air monitors were installed in the area before remediation began.<sup>21</sup> However, City officials responded that air monitors are not typical in a situation like the one before them and were therefore unnecessary.<sup>22</sup> The installation of air monitors was not further addressed at the community meeting by the IEPA, CDPH, or Hilco. Instead, the IEPA remediation project manager, Todd Hall, dismissed residents’ concerns stating that remediation was only needed to ensure soil and groundwater safety and therefore there was no risk of inhalation.<sup>23</sup>

Nine days later, on August 15, 2019, LVEJO communicated concerns with IEPA and the City<sup>24</sup> after finding that Hilco began undertaking remedial action without notification or providing opportunities for public engagement.<sup>25</sup> CDPH issued a response letter to LVEJO’s questions 1 through 11 on September 26, 2019 and provided copies of environmental permits issued to Hilco by the city.<sup>26</sup> While IEPA responded to LVEJO’S questions 12 through 27 on October 2, 2019.<sup>27</sup> CDPH stated in their letter “[LVEJO] reference[s] residents’ concerns that they should close doors and lock windows during active site work. Please be assured that with the safeguards being implemented at the site, such measures are not necessary.”<sup>28</sup> With this response, the City and Hilco failed to provide Little Village residents with transparency regarding emergency plans of action. Instead, Little Village residents were once again given vague and unspecific assurances there was nothing to be concerned about at the site; but there was.

In October 2019, Representative Jesus Garcia of Illinois’s 4<sup>th</sup> Congressional District, showed support to Chicago’s southwest side by sending a letter to IEPA and CDPH urging the agencies to provide transparency and increase public access to information throughout the redevelopment process at the Implosion site.<sup>29</sup> Despite Representative Garcia’s encouragement, Little Village was not given the clarity it deserved regarding the site’s redevelopment and questions sent on August 15, 2019. LVEJO sent a follow-up letter to CDPH on October 29, 2019 and sent a follow-up letter to the IEPA on November 5, 2019.<sup>30</sup> LVEJO received a response from IEPA on December 2, 2019 and from CDPH on December 16, 2019.

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<sup>18</sup> <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Pages/default.aspx>

<sup>19</sup> *Id.*

<sup>20</sup> <https://lavillitairepira.com/updates/summer-2019/>

<sup>21</sup> <https://energynews.us/2019/08/07/midwest/as-chicago-coal-plant-cleanup-proceeds-residents-demand-air-pollution-monitors/>

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Pages/default.aspx>

<sup>25</sup> <https://lavillitairepira.com/updates/summer-2019/>

<sup>26</sup> <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Pages/default.aspx>

<sup>27</sup> <https://www2.illinois.gov/epa/topics/community-relations/sites/hilco/Pages/default.aspx>

<sup>28</sup> [https://lavillitairepira.files.wordpress.com/2019/10/cdph\\_response-9.26.19.pdf](https://lavillitairepira.files.wordpress.com/2019/10/cdph_response-9.26.19.pdf)

<sup>29</sup> *Id.*

<sup>30</sup> <https://lavillitairepira.com/updates/fall-2019/>

While LVEJO and Little Village residents continued to fight for transparency regarding the redevelopment of the Implosion site, tragedy struck. On December 30, 2019, Reynaldo Grimaldo passed away while working at the Implosion site.<sup>31</sup> LVEJO sought answers from Hilco for Mr. Grimaldo's tragic passing but over a year later has still not received any. This incident further incited the already mounting anxiety surrounding the Implosion site.

In March 2020, COVID-19 infected the United States and much of the world. Little Village was hit especially hard by COVID-19. According to Chicago COVID-19 Map Reports, of the 5 zones (5 having the greatest number of COVID-19 cases among Chicago residents) demonstrating COVID-19 cases by zip-code, Little Village was in zone 4 on April 7, 2020, mere days before the implosion.<sup>32</sup> Unmistakably, given this background, Little Village was in no position to endure an implosion such as the April 2020 one.

### **Implosion**

On April 11, 2020, at 8 am, Little Village community members endured the direct impact of an unannounced implosion gone wrong. Hilco imploded an almost century old smokestack at the Implosion site. When the smokestack hit the ground, it released an uncontrolled cloud of dust that descended on the communities nearby. Amid a respiratory pandemic, community members that live as close as .25 miles from the Implosion site were engulfed in a thick black cloud of particulate matter.<sup>33</sup> This dust cloud was so thick that it was difficult to see across the street. As the dust cloud settled into their neighborhood, Little Village residents were left guessing what hazardous substances it contained.<sup>34</sup>

Community members received less than 48 hours of notification before the implosion took place. Alderman Michael Rodriquez was informed of the implosion on Friday, April 10, by the Department of Buildings and CDPH.<sup>35</sup> Alderman Rodriquez responded by urging Hilco to send notice in Spanish and English to nearby residents. If these letters were sent, distribution was minimal as most of Little Village was caught off guard. LVEJO executive director learned of the implosion late at night on Thursday, April 9, and immediately organized to alert as many neighbors as possible. Even so, many residents were unaware of the planned implosion and were caught outside when the dust descended. Aside from the letters, Hilco posted notification about the implosion on its website on Thursday, less than 48 hours before the implosion. Chicago Department of Transportation also issued a "notification about street closures less than 24 hours before the action."<sup>36</sup>

Along with this lack of notification of the implosion, came a lack of direction of what to do when it went wrong. Residents were left to wonder if they should evacuate, if they could have their heat or air conditioners on, or if they could even open their windows. There was major concern

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<sup>31</sup> *Id.*

<sup>32</sup> [https://www.chicago.gov/content/dam/city/sites/covid/reports/2020-04-08/COVID-19\\_Confirmed%20cases%20by%20zipcode%20April%207.png](https://www.chicago.gov/content/dam/city/sites/covid/reports/2020-04-08/COVID-19_Confirmed%20cases%20by%20zipcode%20April%207.png)

<sup>33</sup> Complaint at 4, *Illinois v. Hilco Redevelopment, LLC*, (2020) (No. 2020CH0476).

<sup>34</sup> [https://drive.google.com/drive/u/1/folders/1nJvoFJc7nrmmdWKOa5gzdJLtpjA\\_Bs9](https://drive.google.com/drive/u/1/folders/1nJvoFJc7nrmmdWKOa5gzdJLtpjA_Bs9)

<sup>35</sup> <https://blockclubchicago.org/2020/04/11/old-crawford-coal-plant-smokestack-blown-up-sending-dust-into-little-village-during-global-pandemic/>

<sup>36</sup> *Id.*

about air monitoring.<sup>37</sup> Community members had requested air monitors to be installed before April 2020 while remediation was ongoing at the Implosion site but the City refused. “City officials said the company was not required by state law to host air monitors at the site.”<sup>38</sup>

Eight days after the implosion, USEPA conducted a study by collecting daily air samples from the Implosion site on April 19, 2020 through May 5, 2020. This study was to determine the constituents within the dust cloud.<sup>39</sup> However, as implosion dust travels and settles fairly quickly, it is uncertain whether those results are a full representation of what Little Village residents were exposed to and inhaled on April 11.<sup>40</sup>

### **After Implosion**

The April 2020 implosion was a disaster. On April 12, Mayor Lori Lightfoot called the implosion “utterly unacceptable.”<sup>41</sup> Community members were left to navigate the aftereffects blindly despite habitually voicing their concerns before the implosion to the City, IEPA, and Hilco.

After the implosion, several legal actions were filed against Hilco. These actions are articulated in Table 1 starting on page 6 of this document.

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> <https://www.epa.gov/il/environmental-issues-chicagos-little-village-pilsen-neighborhoods>

<sup>40</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605> (stating that air monitoring PM concentrations returned to background levels 20 minutes post implosion.)

<sup>41</sup> <https://www.nbcchicago.com/news/local/lightfoot-orders-investigation-after-implosion-blankets-little-village-neighborhood-in-dust/2254559/>

**Table 1: Legal Actions Against Hilco After April 2020 Implosion**

<b>Case ID</b>	<b>Plaintiff</b>	<b>Defendant</b>	<b>Venue/Status</b>	<b>Claims</b>	<b>Relief Sought</b>
<p><b>Municipal Citations April 17, 2020</b></p> <p>E00003580510 E00003580511 E00003580513 E00003580514 E00003580515 E00003580516 E00003580517 E00003580518</p>	Chicago	<p>Hilco Redevelopment Partners</p> <p>HRE Exchange 55, LLP</p> <p>MCM Management Corp.</p> <p>Controlled Demolition</p>	<p>Administrative Citation</p> <p>Fine assessed, work stoppage pending review of implosion incident and demolition practices</p>	<p>Failed implosion released dust plume into residential neighborhood</p> <p>Violations of Ordinance 11-4-2170(b)(1) – control of dust and debris during demolition</p> <p>Violations of Ordinance 7-28-080 – Nuisance in Connection With a Business</p> <p>Violations of Ordinance 11-4-760 – Handling of Material Susceptible to Becoming Windborne</p> <p>Violations of Ordinance 13-32-125(2) – Construction Site Cleanliness</p>	<p>\$68,000 penalty</p> <p>immediate work stoppage</p> <p>review of on-site practices pursuant to Demolition Permit No. 100753139</p>
<p><b>Municipal Citation May 10, 2020</b></p>	Chicago Department of Public Health	<p>Hilco Development Partners</p> <p>HRE Exchange 55, LLP</p>	<p>Administrative Citation</p> <p>Fine assessed, incident report including sampling results completed</p>	<p>Polluted wastewater discharged from the site into the Chicago Sanitary and Ship Canal</p>	<p>\$2,500 penalty</p>

<b>Case ID</b>	<b>Plaintiff</b>	<b>Defendant</b>	<b>Venue/Status</b>	<b>Claims</b>	<b>Relief Sought</b>
<b>Illinois EPA Violation Notice No. W-2020-50049, April 16, 2020</b>	Illinois EPA	Hilco Redevelopment LLC d/b/a Hilco Redevelopment Partners-Exchange 55 Business Park (ILR10AN60)	Administrative Complaint  Pending (referred to the Illinois Attorney General for civil enforcement)	Failure to comply with a storm water management plan that requires air pollution control  Release of air pollution that endangers public health, safety and the environment	Seeks compliance measures
<b>Civil Complaint in the Circuit Court of Cook County, 2020CH04076 May 5, 2020</b>	People of the State of Illinois represented by the Illinois Attorney General  (Elizabeth Wallace, lead IAG attorney)	Hilco Redevelopment LLC d/b/a Hilco Redevelopment Partners  HRP Exchange 55, LLC  MCM Management Corp.  Controlled Demolition	Circuit Court of Cook County  Pending	Violations of 415 ILCS 5/9(a) – release of contaminant emissions in violation of statute (415 ILCS 5/3.315) and regulations (35 IAC 201.141)	The IAG seeks Preliminary and Permanent Injunctive Relief  Penalties of \$50,000 for each violation and an additional \$10,000 per day for ongoing violations  costs

Beyond these actions, on April 15, 2020, a class action was filed by community members against Hilco seeking damages and equitable relief.<sup>42</sup> Then, on May 5, 2020, the Illinois Attorney General’s office filed complaint No. 2020CH04076 against Hilco.<sup>43</sup> The Illinois Attorney General’s office alleged that because of emissions of particulate matter released during the implosion, Hilco caused, threatened, or allowed air pollution in violation of Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a) (2016), and Section 201.141 of the

<sup>42</sup> Complaint at 1, Solis v. Hilco Redevelopment, LLC, (2020) (filed April, 14, 2020) (Class Action Complaint for Damages and Equitable Relief).

<sup>43</sup> Complaint at 1, Illinois v. Hilco Redevelopment, LLC, (2020) (No. 2020CH0476).

Pollution Control Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.<sup>44</sup> Both complaints are attached to this document.

On November 19, 2020, the Illinois Attorney General’s office filed a Joint Motion to Enter Proposed Consent Order No. 2020-CH-4076 addressing the complaint filed on May 5, 2020, which is attached to this document.<sup>45</sup> In the consent order, the Attorney General’s office contends the allegations made in the complaint while Hilco entered the Consent Order for purposes of settling and compromising but not admitting to the alleged violations.<sup>46</sup> The terms of the Consent order dictated that Hilco will must pay several penalty fees along with perform higher future compliance expectations.<sup>47</sup> Hilco also agreed to a beneficial project under with Hilco must pay a total of \$370,000 to ACCESS Community Health Network, a federally-qualified health center in Little Village.<sup>48</sup>

Despite these legal actions, on May 19, 2020, the City held a virtual community meeting and explained that Hilco must continue with demolition of the remaining structures at the implosion site.<sup>49</sup> Meanwhile, LVEJO continued to voice community concerns that the ongoing demotion was unnecessary and dangerous during a pandemic by organizing and participating in several car caravans.<sup>50</sup> LVEJO received notice from the City on June 19, 2020 that demolition at the Implosion site would continue but that Hilco Redevelopment Partners (“HRP”) was instructed to share the demolition process and host a virtual community meeting.<sup>51</sup> Prior to HRP’s virtual community meeting on June 27, 2020, LVEJO submitted a list of questions, which is attached to this document.<sup>52</sup> HPR did not answer the questions submitted by LVEJO at the meeting but did send answers on July 2, 2020.<sup>53</sup>

The crucial importance of the proposed rules regarding implosion is clear given the context of the events leading up to, during, and after the April 2020 implosion. It is beneficial, not only for Little Village, but all of Chicago, to have specific regulations in place to ensure safe implosions and prevent any recurrence of the “utterly unacceptable”<sup>54</sup> event of April 11, 2020.

In an effort to further strengthen these proposed rules, LVEJO offers the following comments to better protect the environment and the health and welfare of Chicago citizens.

**LVEJO Comment One:** Because of the mismanagement of the April 2020 implosion, Chicago’s population density, severe consequences of dust from implosion, and regulatory complexities, LVEJO urges the City to *prohibit the use of implosion as a demolition practice altogether within Chicago limits.*

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<sup>44</sup> Consent Order at 2, Illinois v. Hilco Redevelopment, LLC, (2020) (No. 2020-CH-4076) (Joint Motion to Enter Proposed Consent Order).

<sup>45</sup> *Id.* at 1.

<sup>46</sup> *Id.* at 4.

<sup>47</sup> *Id.* at 9.

<sup>48</sup> *Id.* at 9,10.

<sup>49</sup> <https://lavillitairepira.com/updates/spring-2020/>

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> [https://lavillitairepira.files.wordpress.com/2020/06/lvejo\\_hilco\\_questions\\_06262020\\_eng.pdf](https://lavillitairepira.files.wordpress.com/2020/06/lvejo_hilco_questions_06262020_eng.pdf)

<sup>53</sup> <https://lavillitairepira.com/updates/summer-2020/>

<sup>54</sup> <https://www.nbcchicago.com/news/local/lightfoot-orders-investigation-after-implosion-blankets-little-village-neighborhood-in-dust/2254559/>

Chicago has a population of 2,714,017 and a population density of approximately 11,938 people per square mile.<sup>55</sup> Importantly, implosion as a demolition practice is most often used for projects involving large industrial structures. As such, implosion will most likely occur in the industrial corridors of the City. Generally, neighborhoods within or near the industrial corridors have a higher population density than the city at large. For example, Little Village, which sits within or near the Southwest Industrial Corridor has a population density of approximately 16,611 people per square mile;<sup>56</sup> Pilsen, another community within or near the Southwest Industrial Corridor, has a population density of approximately 12,206 people per square mile;<sup>57</sup> and West Garfield Park, which encircles most of the Northwest Industrial Corridor<sup>58</sup> has a population density of approximately 13,345 people per square mile.<sup>59</sup>

Implosion creates sizable dust clouds; large enough to engulf densely populated urban neighborhoods in their entirety. A study conducted in 2005 found evidence within ambient air quality data that implosion dust from a large hospital traveled downwind up to 20 km or approximately 12.4 miles.<sup>60</sup> This dust traveled that far on a clear weather day with wind speeds of only approximately 4.3 mph.<sup>61</sup> Many of Chicago's neighborhoods are 3 miles or smaller. In fact, the furthest border of Little Village is merely 2.75 miles from the Implosion site. Thus, the dust cloud from the April 2020 implosion would have easily enveloped the community in its entirety and, most likely, a portion of adjacent communities. Photographs and aerial video taken in Little Village after the April 2020 implosion support this conclusion.<sup>62</sup>

Further, the dust clouds from implosion can carry hazardous, potentially carcinogenic, materials. While the constituents of implosion dust clouds are largely unexplored, it is widely accepted that they can reasonably be expected to reflect building material, silica, and soil constituents.<sup>63</sup> Importantly, the Implosion Site is a former coal fire power plant which historically housed a large coal ash pond and other hazardous substances. Implosions conducted on environmentally contaminated sites, such as the Implosion site, can aerosolize any hazardous constituents present at the site.<sup>64</sup> Implosion has also been associated with local increases in particulate matter (PM), lead, and asbestos.<sup>65</sup> For example, the implosion of a 22-story high rise in Baltimore, MD, resulted in concentrations of PM over 1,000 times higher than pre-implosion levels.<sup>66</sup> Similarly, the implosion of a hospital in Canada resulted in significant increases in PM10 and PM2.5, total suspended solids (TSD), asbestos, and lead.<sup>67</sup>

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<sup>55</sup> <https://www.areavibes.com/chicago-il/west+garfield+park/demographics/>

<sup>56</sup> <https://greatcities.uic.edu/wp-content/uploads/2017/10/Latino-Neighborhoods-Report-v2.2.pdf>

<sup>57</sup> *Id.*

<sup>58</sup> [https://www.chicago.gov/city/en/depts/dcd/supp\\_info/tif/northwest\\_industrialcorridor.tif.html](https://www.chicago.gov/city/en/depts/dcd/supp_info/tif/northwest_industrialcorridor.tif.html)

<sup>59</sup> <https://www.areavibes.com/chicago-il/west+garfield+park/demographics/>

<sup>60</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>61</sup> *Id.*

<sup>62</sup> <https://www.nbcchicago.com/top-videos-home/drone-video-shows-demolition-that-blanketed-little-village-in-dust/2254805/>

<sup>63</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>; <https://48hills.org/2015/01/kaboom-the-plan-to-blow-up-candlestick/>; <https://sf.curbed.com/2015/1/16/10001376/candlestick-to-be-demolished-by-wrecking-ball-not-implosion>

<sup>64</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>65</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2006.10464504>; <https://www.epa.gov/asbestos/learn-about-asbestos#asbestos>

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

Silica dust (crystalline silica), a known human carcinogen, originates during construction on materials such as stone, rock, bricks, tiles, concrete, and quartz.<sup>68</sup> The fine dust is 100 times smaller than a grain of sand so it is often unobserved but can be incredibly harmful when inhaled.<sup>69</sup> Exposure to silica dust can lead to lung cancer, silicosis (irreversible scarring and stiffening of the lungs), kidney disease, heart failure, and chronic obstructive pulmonary disease (COPD).<sup>70</sup>

PM exposure has been linked to premature death, heart attack, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms like coughing or difficulty breathing.<sup>71</sup> If small enough, particles may be embedded in lungs or enter the bloodstream.<sup>72</sup> Children, the elderly, and persons with preexisting heart or lung disease are most susceptible to PM exposure, but symptoms can occur in anyone. Beyond health impacts, PM can detrimentally affect the environment by causing haze, making water systems acidic, depleting nutrients in soil, damaging forests and crops, changing the diversity of ecosystems, and contributing to acid rain.

Asbestos is a mineral fiber that occurs in rock and soil. Exposure to asbestos can cause asbestosis (scarring of lung tissue), pleural disease (lung condition that causes changes in the membrane surrounding the lungs), and many cancers, including mesothelioma.<sup>73</sup> Similar to asbestos, lead is a naturally occurring element found in the earth's crust.<sup>74</sup> When released into the air, lead can travel long distances before settling to the ground.<sup>75</sup> Lead exposure may cause cardiovascular problems, decreased kidney function, reproductive issues, and developmental and neurological problems in children.<sup>76</sup> To decrease the risk of asbestos and lead leaving the work site, the building must be completely eradicated of the substances *before* implosion.<sup>77</sup>

The air quality throughout Chicago does not leave the margin of error that implosion practices need. Many of the communities within or near the industrial corridors are already at a risk for chronic respiratory illnesses like asthma and COPD.<sup>78</sup> Much of Cook County, including Little Village, has been in nonattainment for Ozone since 2012.<sup>79</sup> While the area is currently in attainment for PM2.5 and PM10, historically, the area has been in severe nonattainment.<sup>80</sup> Importantly, at the time of writing, USEPA's Airnow reported Chicago's Air Quality Index (AQI) as a 58 with the primary pollutant listed as PM2.5.<sup>81</sup> An AQI of 58 is considered Airnow's moderate rating which urges sensitive populations to limit their outdoor activity.<sup>82</sup>

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<https://www.cdc.gov/TSP/ToxFAQs/ToxFAQsLanding.aspx#:~:text=The%20Department%20of%20Health%20and,Human%20Carcinogen%20causes%20cancer>.

<sup>69</sup> <https://www.osha.gov/silica-crystalline>; <https://www.cdc.gov/niosh/docs/97-112/>

<sup>70</sup> *Id.*

<sup>71</sup> <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>

<sup>72</sup> *Id.*

<sup>73</sup> [https://www.atsdr.cdc.gov/asbestos/health\\_effects\\_asbestos.html](https://www.atsdr.cdc.gov/asbestos/health_effects_asbestos.html)

<sup>74</sup> <https://www.epa.gov/lead/learn-about-lead#:~:text=Adults%20exposed%20to%20lead%20can,in%20both%20men%20and%20women>.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>78</sup> i.e., Chicago has an asthma rate of 9.5% while West Garfield Park has a rate of 20.2%.

<https://www.chicagohealthatlas.org/indicators/asthma>

<sup>79</sup> [https://www3.epa.gov/airquality/greenbook/anayo\\_il.html](https://www3.epa.gov/airquality/greenbook/anayo_il.html)

<sup>80</sup> *Id.*

<sup>81</sup> <https://www.airnow.gov/?city=Chicago&state=IL&country=USA>

<sup>82</sup> *Id.*

Finally, implosion practices result in complex regulatory responses. Effective regulation of implosion in such a densely populated area is virtually impossible. The public health and environmental consequences are too severe and widespread for regulations to be effectively imposed in urban settings.

“The ability of an implosion to effectively aerosolize building materials indicates that all lead painted surfaces and nonfriable and friable asbestos-containing materials should be removed from a building during the preparatory work. The implosion dust cloud affected ambient air quality up to 20 km [~12.4 miles] downwind and suggests that public advisory zones around implosion sites should be extended. The necessity for large advisory zones in densely populated areas will be a challenge for the effective public communication of the health risks, mitigation, and cleanup strategies. We suggest that implosions should be prohibited in densely populated areas.”<sup>83</sup>

As such, ***implosion should be prohibited within Chicago limits***. The public health and welfare consequences along with regulatory implications of implosion are so severe within an urban environment that they outweigh any benefits. Instead, considering the complexities of the area, methods of mechanical demolition or selective demolition are more appropriate in this environment. LVEJO therefore urges the City to ***ban this practice for the health and welfare of its citizens***.

In the alternative, if implosion is continued to be permitted in Chicago, LVEJO offers the following comments to address inadequacies within the proposed rules.

**LVEJO Comment Two:** The City is prohibited from engaging in actions that have the effect of discriminating on the basis of race, color and national origin. Pursuant to Title VI of the Civil Rights Act of 1964, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity which receives federal financial assistance.<sup>84</sup>

In general, implosion is not used for demolition of smaller, residential projects but rather for large, industrial structures like the smokestack at the Implosion site. Many of the communities surrounding such structures are in the City’s industrial corridors and are already susceptible due to pre-existing health and social factors including, but not limited to, a prevalence of COPD, heart disease, asthma, and rates of poverty. As articulated below, using Little Village and West Garfield Park as examples, even in the absence of demolition dust, these communities experience higher rates of outdoor pollutant concentrations, air toxins, traffic proximity and proximity to hazardous waste facilities. Cumulatively speaking, these predominantly minority communities are among the most environmentally burdened in the city.

Little Village is an IEPA designated environmental justice neighborhood, meaning that the area has a higher population of low income and minority residents.<sup>85</sup> USEPA’s EJ Tracker states that

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<sup>83</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>84</sup> 42 U.S.C. § 2000d et seq.

<sup>85</sup> <https://illinois-epa.maps.arcgis.com/apps/webappviewer/index.html?id=f154845da68a4a3f837cd3b880b0233c>

the area adjacent to the Implosion site (within a 3 mile radius, which encompasses all of Little Village) houses 339,578 people, 92% of which are members of a minority, 73% of which are Hispanic or Latino residents.<sup>86</sup> Further, 71% of the population over the age of 5 speak non-English at home and 210,130 people in the area speak English “less than well,” “less than very well,” “not well,” or “not at all.”<sup>87</sup> 60% of the residents reported an annual household income of \$50,000 or less, 15% of which make an annual household income between \$15,000- \$25,000, and 14% make less than \$15,000 annually.<sup>88</sup> The area houses 122,625 children under the age of 18 and 30,329 residents over the age of 65.<sup>89</sup> The 3-mile radius surrounding the Implosion site, including all of Little Village, scores in the upper 90<sup>th</sup> percentile of the state, EPA Region, and country in ten of the categories assessed by US EPA’s EJ screening tool, including PM 2.5, Ozone, NATA Diesel PM, NATA Air Toxics Cancer Risk, NATA Respiratory Hazard Index, Traffic Proximity and Volume, Lead Paint Indicator, RMP Proximity, Hazardous Waste Proximity, and Wastewater Discharge Indicator.<sup>90</sup> USEPA’s assessment further aligns with the findings of the City’s Air Quality and Health Report.<sup>91</sup>

West Garfield Park, located in Chicago’s Northwest Industrial Corridor, is also designated an environmental justice concern area by IEPA.<sup>92</sup> The total population is 16,950, a majority of which are of a minority race. 93.7% of residents racially identify as black non-Hispanic and 2.6% Hispanic or Latino.<sup>93</sup> The area houses 5,794 youths 19 years and under and 1,882 people over the age of 65.<sup>94</sup> 73.9% of the population’s household income is less than \$50,000 with 50.7% of residents making less than \$25,000 annually. 20.2% of West Garfield Park residents have asthma.<sup>95</sup> The area is ranked in the 90<sup>th</sup> percentile of the state and EPA region in ten of the categories assessed by US EPA’s EJ screening tool, including PM 2.5, Ozone, NATA Diesel PM, NATA Air Toxics Cancer Risk, NATA Respiratory Hazard Index, Traffic Proximity and Volume, Lead Paint Indicator, RMP Proximity, Hazardous Waste Proximity, and Wastewater Discharge Indicator.<sup>96</sup>

Despite the disastrous implosion in April 2020, the known demographics of the industrial corridors, and CDPH’s own Air Quality and Health Report, CDPH has provided no description of how environmental justice analysis and related evidence will affect its review of the implosion permit application, its requirements for the permit applicant, its interactions with the public, or its permit issuance.

Importantly, Hilco is in the process of redeveloping part of the Fisk Generating Station located in Pilsen, another IEPA designated environmental justice concern area within the Southwest Industrial Corridor. Hilco plans to build a 350,000-square-foot data campus on the site. It is possible that Hilco will attempt to secure an implosion permit during redevelopment of the Fisk Generation Station.

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<sup>86</sup> <https://ejscreen.epa.gov/mapper/>

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> [https://ejscreen.epa.gov/mapper/ejscreen\\_SOE.aspx](https://ejscreen.epa.gov/mapper/ejscreen_SOE.aspx)

<sup>91</sup> [https://www.chicago.gov/city/en/depts/cdp/provdrs/healthy\\_communities/svcs/air-quality-and-health.html](https://www.chicago.gov/city/en/depts/cdp/provdrs/healthy_communities/svcs/air-quality-and-health.html)

<sup>92</sup> <https://illinois-epa.maps.arcgis.com/apps/webappviewer/index.html?id=f154845da68a4a3f837cd3b880b0233c>

<sup>93</sup> <https://www.cmap.illinois.gov/documents/10180/126764/West+Garfield+Park.pdf>

<sup>94</sup> *Id.*

<sup>95</sup> <https://www.chicagohealthatlas.org/zip-codes/west-garfield-park>

<sup>96</sup> <https://ejscreen.epa.gov/mapper/>

Considering the characteristics of Little Village, Pilsen, West Garfield Park, and many other similarly situated neighborhoods in the industrial corridors of Chicago where implosion is most likely to occur, LVEJO is formally requesting the City conduct environmental justice analyses as part of the implosion permitting process. This analysis should address whether the environmental consequences of the applicant's implosion, viewed comprehensively and in the context of where it will occur, will cause or contribute to significant, adverse, and disproportionate risks for local communities. LVEJO asserts the City's history of ignoring the risks of significant, adverse, and disproportionate harm in already susceptible, overburdened Chicago communities must be remedied beginning with additional requirements to CDPH's review of implosion permit applications including an environmental justice assessment in areas of predominately low income or minority residents.

**LVEJO Comment Three:** Because implosion is widely known to aerosolize materials present at the site and within the structure,<sup>97</sup> an environmental site assessment is crucial to ensure the safety and welfare of residents in the area.

The Implosion site is a historically contaminated site. Crawford operated as a coal-fired power plant on the site from 1924-2012. Along with numerous other soil and groundwater constituents, the site historically housed a 2,750 square-foot coal ash pond.<sup>98</sup> There are two monitoring wells on site which have routinely shown pollution levels over federal advisory levels.<sup>99</sup> As of 2018, groundwater at the site contained unsafe levels of manganese, sulfate, cobalt, and antimony.<sup>100</sup> Despite this site background, Hilco did not release any new information regarding the constituents present on the site prior to implosion. As far as residents and LVEJO know, no additional site assessment was completed in preparation of the implosion. Further, despite knowledge of the site's historic contamination, the City nor Hilco conducted water or soil testing after the implosion disaster in April 2020.

LVEJO encourages the City to require implosion permit applicants to conduct initial site assessments, findings of which must be included within the permit application. This is especially encouraged on sites of historic environmental contamination. The findings of this initial site assessment must be made public to allow for adequate transparency. LVEJO further encourages a requirement of community engagement regarding the site assessment to increase transparency and public involvement.

**LVEJO Comment Four:** The April 2020 implosion occurred with an unacceptable lack of notice to residents. Neither Hilco nor the City attempted to communicate the upcoming implosion sufficiently. LVEJO's executive director heard of the plans on Thursday night when the implosion was to take place on Saturday at 8 am. Residents were left wondering why they receive more notice for street cleaning activities.<sup>101</sup> The proposed rules still do not ensure sufficient notice or opportunities for community engagement.

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<sup>97</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>98</sup> <https://ashtracker.org/facility/168/crawford-generating-station>

<sup>99</sup> <https://ashtracker.org/facility/168/crawford-generating-station>

<sup>100</sup> <https://ashtracker.org/facility/168/crawford-generating-station>

<sup>101</sup> <https://blockclubchicago.org/2020/04/12/extremely-angry-lightfoot-blames-developer-for-massive-little-village-dust-cloud-alderman-apologizes/>

The proposed rules state applicants are required to provide written notice to adjacent residents, within 1,000-feet of the site, and to the local alderman. This written notice is required to provide date, time, and location of the required community meeting, the type of explosives to be used, and an emergency contact. These requirements cannot properly educate the residents on the implosion as it leaves out key pieces of information including any expected hazardous contaminants on the site, the location of structure to be imploded, and emergency or pollution control plans.

A 1,000-foot radius is an insufficient distance to properly notify all who will be affected. As stated in Comment One, implosion dust can quickly disperse over significant distances. For example, dust from the implosion of hospital buildings traveled approximately 12.4 miles from the site on a clear day with winds of about 4.3 mph.<sup>102</sup> This is further supported by photographic evidence from the April 2020 implosion that shows Little Village completely enveloped in the implosion dust cloud.<sup>103</sup> LVEJO insists that the City review this information and expand the “sensitive areas” beyond 1,000 ft of the site to be imploded.

Further, the proposed rules only require written notice when the permit for implosion is applied for, which does not adequately prepare residents for day-of-event practices. Often, permits are applied for long before the implosion occurs. For example, Hilco was issued a Wrecking/Demolition permit on or about July 6, 2018 only for the implosion at issue to occur almost 2 years later after undisclosed communication and approval between the City and Hilco. During that time, information may be forgotten or misplaced, residents may move out or into the area, and public health circumstances may change.

To address these inadequacies, LVEJO proposes the city require written notice both when the permit is submitted and at least 72 hours before the implosion is set to occur. This notice should be mailed to all residences within at least a 5-mile radius of the implosion site and posted online on Hilco and the Mayor’s website. Physical postings with information regarding the implosion and any opportunities for community engagement should also be placed at the site, at any governmental buildings in the area, and at local libraries. All notices must be written in Spanish and English to be accessible to as many residents as possible.

All notice distributed as part of permit application must include: (1) date, time, and location of any public meeting or engagement, (2) hazardous contaminants (if any) associated with the site or found during site assessment; (3) a map or picture of the site identifying the structure or building to be imploded; (4) demolition company and explosives information; (5) emergency plan information; and (6) a phone number or email for questions or concerns.

All notice distributed after the implosion permit issuance but before the implosion must include (1) time and date of scheduled implosion; (2) description, map, or picture of the site including identification of building or structure to be demolished; (3) a list of contaminants (if any) associated with the site; (4) the name of the construction or demolition company to be used; (5) information on any applicable permits including permit numbers and PDFs or links to the permit;

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<sup>102</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>103</sup> <https://www.nbcchicago.com/top-videos-home/drone-video-shows-demolition-that-blanketed-little-village-in-dust/2254805/>

(6) description of pollution preventative measures and emergency plans in place; (7) description of any public utility lines in the area that will be temporarily suspended or effected by the implosion; (8) advice on actions residents should take to avoid dust inhalation i.e. stay inside with windows closed, cover or seal vents, keep air conditioners or heaters off, etc.; and (9) information regarding coal ash or historic coal ash ponds, if implosion involves a smokestack or other structure from a former coal-fire power plant.

Lastly, the proposed rule's suggested evidence required to prove written notice distribution should be strengthened. Merely sending a list of all residences within 1,000 ft of the site and a copy of a notice does not provide sufficient proof that the notice has been distributed and received. Instead, LVEJO suggests the rules be strengthened to require concrete proof of distribution such as certified mail receipts or US mail tracking information in addition to a copy of the notice and a list of residences.

**LVEJO Comment Five:** LVEJO requests an increase in transparency and additional opportunities for public engagement in regulatory events leading to implosion to be included in the rules.

The proposed rules allow for a representative from at least seven Chicago departments to review and participate in discussion of the comprehensive plan and implosion permit application. However, the rules do not allow for any local participation outside of the public meeting held by the company. Local representation with City departments during permit consideration is important considering the complexities of Chicago's separate neighborhoods. For example, before the April 2020 implosion, a local alderman would have been able to articulate concerns Little Village residents had regarding the Implosion site's contamination and the general local outcry against Hilco. Further, an alderman can gather concerns or opinions from other residents and ensure they are voiced during the permitting process. This will guarantee that the local interests are properly voiced and advocated for throughout permitting. A local representative would also have a personal stake in the process as they and their family will be personally affected by the decisions made regarding implosion. As such, LVEJO proposes the aldermen from each ward affected by the applicant's project be present at all meetings between the commissioners involving approval of implosion permits and practices.

Residents of Little Village had to wait significant periods of time for air monitoring data to be taken and released after the April 2020 implosion. At that point, it was too late for residents to properly respond to the air quality. It was also too late to truly understand the impact of the dust as implosion dust travels and settles quickly.<sup>104</sup> LVEJO requests that the City provide real time air monitors on the day before, during, and the day after implosion. This data must be made available to the public instantaneously to ensure transparency regarding the dust impact and allow residents the proper response time.

The public meeting requirement within the proposed rules also falls short as it does not reach the amount of people that will be affected by an implosion. The proposed rules require one public meeting of at least 50 attendees to be held *after* the permit application has been submitted. For most industrial corridor neighborhoods, a requirement of 50 attendees is not an accurate

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<sup>104</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

representation of the community. For example, given Little Village's population of 73,826, an accurate sample population is about 600 people.<sup>105</sup> As such, LVEJO proposes the City increase the attendee requirement to provide an adequate sample size of individual Chicago neighborhoods. Further, the proposed rules only require one meeting. Residents in these areas are working class residents, many of whom work more than one job. There may need to be more than one meeting to accommodate work and family life schedules. LVEJO proposes an increase in the number of public meetings held allowing for public engagement both before the permit is applied for and after the permit has been issued.

Importantly, nothing within the proposed rules indicates whether the public meeting will change the course of permit issuance. The public meeting is to be held no less than 30 days and no more than 60 days after the application has been submitted to the City. This suggests that the public meeting will only serve to provide information to residents rather than allow for residents to take part in the process by airing concerns or proposing ideas. As such, under the rules as they are, there is no opportunity for public participation in the permit issuance. LVEJO proposes the City provide for more public engagement and opportunities for participation *before* the application is submitted as well as before the permitted implosion occurs.

Many neighborhoods located within or near industrial corridors share a wariness toward industry and, in some instances, toward the City to uphold enforcement of environmental regulations. To remedy some of this distrust, permits and related documents should be made public. These documents provide vital information regarding associated constituents, pollution control measures in place, and emergency plans. The public should be fully educated on a subject that can detrimentally impact their homes, their utility lines, and their health and making permit applications public records allows for them to do so comprehensively.

As such, LVEJO request increased transparency and public engagement to be written into the proposed rules. To achieve this, LVEJO suggests the City (1) requires aldermanic review and approval of the comprehensive plan and permit, (2) provide real time air monitoring data to the public; (3) require additional public participation opportunities held before application and after issuance to ensure appropriate sample sizes for the affected neighborhood; and (4) allow permit applications and any supporting documents to be public record.

**LVEJO Comment Six:** Considering the many health impacts of constituents associated with implosion dust as detailed in Comment One, the City should require companies to conduct health studies on residents in the event of excessive dust exposure or emergency. Residents of Little Village were told that the dust from the Implosion site was not hazardous, but no one has conducted any studies to understand how they personally have been impacted by the dust. As such, Little Village residents still do not know for sure what they inhaled or whether there will be medical implications in the future.

Implosion dust, typically, settles relatively quickly.<sup>106</sup> Air monitoring completed after implosion may not have captured the true concentrations of airborne hazardous materials in the initial moments after implosion. Further, many health impacts of exposure to implosion dust constituents are not immediately apparent. Therefore, a health study should be conducted, at the

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<sup>105</sup> <https://www.surveysystem.com/sscalc.htm>

<sup>106</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

expense of the company, in situations such as the April 2020 implosion when dust mitigation is mismanaged or in the event of an emergency.

**LVEJO Comment Seven:** The proposed rules do not adequately protect against applicants with a history of implosion mismanagement or environmental violations following implosion activities. LVEJO suggests the City require information on any past implosion activities completed by or commissioned by the applicant as part of implosion permitting.

After the April 2020 implosion, the City and Mayor Lightfoot stood steadfast on the position that Hilco had somehow acted inappropriately during implosion.<sup>107</sup> 3 months after the April 2020 implosion, Hilco received similar criticism in New Jersey.<sup>108</sup> On July 24, 2020, Hilco conducted an unannounced-but-planned implosion at the Hudson Generating Station, a former coal-fired power plant in Jersey City which released a cloud of dust into the adjacent residential community.<sup>109</sup> Residents in New Jersey panicked, some even fearing a terrorist attack on the city. There, as here, Hilco faced very few consequences for their actions. This occurrence is eerily similar to the April 2020 implosion disaster that occurred in Little Village and should be protected against within the proposed rules.

To protect its citizens from repeat violators or those with past mismanagement of implosion, the City should require information about past implosion activities including, but not necessarily limited to, general implosion practices, demolition companies commissioned, warnings, violations, levied fines, and civil legal and/or enforcement actions related to past implosions. If an applicant has significant past violations or enforcement actions, the City must reserve the right to deny the implosion permit on this basis.

**LVEJO Comment Eight:** For the reasons listed in Comment Seven and considering the finances of companies performing implosion, LVEJO requests the City increase fines for violations of implosion rules.

On December 16, 2020, CDPH introduced an ordinance setting increased fines for air pollution and fugitive dust violations.<sup>110</sup> The new ordinance increases fines starting at \$1,000-5,000 and exceeding to \$20,000 with each violation.<sup>111</sup> The increased fines can increase up to \$50,000 for any egregious violations that result in injury or death or are a result of willful and wanton conduct.<sup>112</sup> While these fine increases are a step in the right direction, they are still not enough.

For a large company like Hilco, with 40 million square feet of real estate and \$2.5 billion held in assets,<sup>113</sup> even the most egregious offense under the new ordinance results in nothing more than a slap on the wrist. \$50,000 in contrast to the amount of money Hilco has at its disposal is very

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<sup>107</sup> <https://blockclubchicago.org/2020/04/12/extremely-angry-lightfoot-blames-developer-for-massive-little-village-dust-cloud-alderman-apologizes/>

<sup>108</sup> <https://blockclubchicago.org/2020/09/01/3-months-after-little-village-dust-disaster-hilco-implosion-terrifies-new-jersey-neighbors-what-they-did-was-unconscionably-wrong/>

<sup>109</sup> *Id.*

<sup>110</sup> [https://www.chicago.gov/city/en/depts/cdph/provdrs/healthy\\_communities/news/2020/december/mayor-lightfoot-introduces-ordinance-to-increase-fines-on-air-po.html](https://www.chicago.gov/city/en/depts/cdph/provdrs/healthy_communities/news/2020/december/mayor-lightfoot-introduces-ordinance-to-increase-fines-on-air-po.html)

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> <https://www.hilcoredev.com/>

little. To fulfil the ordinance’s purpose of ensuring accountability, CDPH must increase the fines. Setting higher fines for violations will act as an adequate deterrence to ensure that companies are not simply paying fines and continuing their violative practices because it is less expensive to do so. Higher fines will also more adequately punish those commit violations of these rules.

LVEJO urges the City to increase the fines for dust and air pollution violations resulting from implosion. LVEJO further urges the City to allocate any fines received to benefit those directly impacted by the violation i.e., air pollution monitoring equipment in the affected area or to enforcement of these rules.

**LVEJO Comment Nine:** After the April 2020 implosion, many residents complained of changes in their water pressure and quality. It was later discovered that when the smokestack fell to the ground, the impact caused an interruption in the water lines. However, despite the complaints, the City did not restore water for a significant amount of time while it was conducting studies on the lines. This process was made even longer because of the ongoing pandemic and social distancing requirements that disallowed City employees from entering residences. During this time, residents were without safe and clean drinking water.

To avoid this happening again, the Department of Water Management mandated within these proposed rules that the company conduct a pre- and post-implosion assessment of water and sewer lines. Building off this, LVEJO proposes the City require within the implosion rules this same pre- and post-implosion assessment of all public utility lines to ensure little to no disruption of residents’ services.

**LVEJO Comment Ten:** The impact of the implosion could easily affect the structural integrity of adjacent buildings including residential homes. Especially considering residential proximity to construction sites in urban environments, neighboring residents have legitimate concerns about damage from debris, dust, ground vibration, and air blast overpressure.<sup>114</sup> Conducting pre- and post- implosion assessments ensures that residents will not have significant financial and safety burdens following the implosion for building damage that they may not be able to see until later.

These assessments can be conducted using several technologies. For example, thorough photographic surveys of neighboring buildings can be used to identify and document and pre-existing damage.<sup>115</sup> Seismographic monitoring equipment can be temporarily installed on adjacent lots to record the vibration levels experienced during implosion.<sup>116</sup> Ground penetrating radar can also be used prior to implosion to find any foundation issues that may be furthered by the implosion’s impact.<sup>117</sup>

Surely, residents cannot be required or even expected to conduct and finance building assessments after implosion. Most of the homes closest to the Implosion site are single family homes, many of which are owned and lived in by elderly residents. To ensure their physical and economic safety, LVEJO urges the City to require the company to conduct a pre- and post-implosion assessments of adjacent residences’ structural integrity.

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<sup>114</sup> <https://www.healthcarelawinsights.com/2012/06/assessing-and-allocating-the-risks-of-demolition-by-implosion/>

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

**LVEJO Comment Eleven:** Wind speed is not sufficiently addressed in the proposed rules. Under the proposed rules, the fire commissioner requires a plan to monitor wind speed to be outlined in the permit application. The wind monitoring plan must also provide for a threshold wind speed that will delay implosion. These rules are vague and should be streamlined for the City as a whole to ensure effective compliance and enforcement. These rules also allow for bad actors to put forth either an insufficient plan or plan that they may not actually follow as enforcing different wind speed thresholds would be difficult.

Wind speed and direction are important in implosion planning and execution as the wind dictates where and how far the dust will travel. For example, as mentioned in Comment One, dust traveled approximately 12.4 miles downwind after an implosion of a large hospital on a clear day with windspeeds of approximately 4.3 mph.<sup>118</sup> Knowing the windspeed and direction helps to mitigate any damage or dust that may result from the implosion. Dust and the constituents contained therein will travel downwind, so it is best to plan for a day when the wind direction is toward the least populous area. Wind speed can also increase the concentration of airborne PM by aerosolizing settled dusts.<sup>119</sup> In the event of an emergency, knowledge of wind direction and speed can help first responders by sending mitigation efforts downwind and getting residents upwind, away from harmful dust.

Nothing within these rules indicates what the threshold should be or what will be considered acceptable by the fire department. At the community meeting on January 28, 2021, the Fire Commissioner explained that each site is unique. However, the rules do not provide a formula or way to effectively obtain appropriate windspeed threshold for each site. Again, this subjective approach allows for mistakes or for applicants to cut corners. Instead, LVEJO urges the fire department to set a citywide threshold for windspeed on the day of implosion. If winds exceed this threshold, implosion must be postponed until weather is better suited for implosion.

If the fire department is concerned that a single threshold would not apply to all sites, LVEJO requests the fire department draft a wind speed threshold schedule to allow for different wind speeds dependent on the size or weight of the structure, size of the site possible constituents, and the population density of the area. This schedule still would allow for the plan to be tailored to the site specifics while still streamlining requirements and enforcement.

**LVEJO Comment Twelve:** After the April 2020 implosion, there was little funding from Hilco in place to respond to consequences of the blast, including funds to conduct air, soil, health, and water studies, to repair homes, buildings, and streets, or to respond to local outcry. A requirement of financial assurance in the form of a surety bond would ensure that these funds were available from the responsible company if an incident like the April 2020 implosion occurred again.

LVEJO urges the city to include financial assurance provisions similar to those used in CERCLA<sup>120</sup> as a requirement of a demolition by implosion permit issuance. The City or State of Illinois should promulgate regulations that require demolition by implosion applicants “establish

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<sup>118</sup> <https://www.tandfonline.com/doi/pdf/10.1080/10473289.2005.10464605>

<sup>119</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3804089/>

<sup>120</sup> 42 U.S.C. § 9608(b)

and maintain evidence of financial responsibility consistent with the degree and duration of risk associated” with any potential damage, health impacts, or emergency to be incurred by the environment and community as a result of the demolition. 42 U.S.C. §9608(b)(1). This financial assurance provision could work as a surety bond or letter of credit from the company held by the City while demolition is underway and would demonstrate that adequate financial resources are available to complete any required cleanup. Much like the CERCLA requirement, the financial assurance in this case is in the public interest. Financial assurance requirements protect human health and the environment by ensuring the availability of adequate financial resources to conduct site cleanups and remedial actions. Further, such assurance provisions provide proof that responsible parties can and will bear the burden of completing cleanup activities in the event of an emergency or mismanagement of demolition. This is an invaluable safeguard against the effect of financial distress that can accompany environmental contamination or emergency.

Many of the newly proposed rules, especially those proposed by the Department of Water Management and the Fire Department require the company to bear costs in the event of damage or emergency caused by the implosion. However, nothing within the proposed rules or application requirements instructs the applicant to provide proof of sufficient funding available to cover said costs. With a financial assurance program in place, residents and government alike will have peace of mind that in the event of damage, the company will be fully capable to fund recovery or remedial actions. As such, LVEJO urges the city to write a financial assurance program into the newly proposed rules for demolition by implosion.

**LVEJO Comment Thirteen:** Throughout April 2020, Illinois was under a stay-at-home order issued by Governor Pritzker to contain the spread of a global respiratory pandemic. COVID-19 gripped the nation and the world with a highly contagious, novel respiratory virus which brought the highest death and hospitalization rates seen from a virus in over a century. Individual states began responding to the pandemic in March 2020 by closing schools, restaurants, theaters, social gathering spots, and workplaces. Office workers transitioned to work from home and classes took place over zoom while teachers and students stayed home. Eventually, many states issued stay-at-home orders to contain the spread of the disease. Under the stay-at-home orders, only “essential workers” and “essential businesses” were permitted to remain in operation. People were discouraged from gathering with family members or friends and travel was limited to essential situations such as grocery shopping or to pick up medication. Everyone was to remain in their own homes with only household members as company to stay safe from contraction and to contain the contagion. That is what the community in Little Village was doing when the smoke plume descended on their homes.

Chief Sustainability Officer, Angela Tovar, stated in the January 21, 2021 community meeting regarding these proposed rules that “the purpose of this meeting and of these amendments is to ensure that an incident of this [Hilco April implosion] stature will be prevented from happening ever again.” To do that, the city must take *all* continuing events into consideration, including the ongoing global pandemic and the standing stay-at-home order in place at the time of the implosion at the Implosion site.

Only essential implosion should have been permitted in any situation like the one Little Village was in in April 2020. In fact, other large cities, including New York City, halted all “non-essential” construction work while Chicago continued to permit such work despite the pandemic

and stay at home order.<sup>121</sup> In New York, the Department of Buildings issued a halt work order that allowed only for “essential” construction to continue. Under the New York halt work order, essential construction includes work on transit facilities, utilities, hospitals or healthcare facilities, homeless shelters, schools, and affordable public housing.<sup>122</sup> Nothing within the record indicates that Hilco’s implosion of the smokestack at the former coal-fired power plant was urgent nor essential. In fact, Hilco’s project is exclusively commercial: building a 1-million square foot warehouse for Target Corp.

LVEJO urges the City to write into the rules that ongoing public health events, like COVID-19, will be considered when issuing an implosion permit. A moratorium should be placed for implosion in situations, such as the issuance of a stay-at-home order, where residents have little opportunity to leave their homes to escape dust or any potential emergency created by the implosion. LVEJO further urges the City to reserve the right within the rules to revoke or suspend any already issued permit in any ongoing public health event to preserve the wellbeing and safety of citizens.

Please contact me if you have any questions or concerns or if I can provide additional information regarding these comments.

Sincerely,

*Cassandra Hadwen*

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<sup>121</sup> <https://www1.nyc.gov/site/buildings/about/covid-19-response.page>

<sup>122</sup> [https://www1.nyc.gov/assets/buildings/pdf/essential\\_vs\\_non-essential.pdf](https://www1.nyc.gov/assets/buildings/pdf/essential_vs_non-essential.pdf)