

METRO

THE PLAIN DEALER

Controversial Flats firm gets OK to seal records

JOHN C. KUEHNER
Plain Dealer Reporter

A company that is the source of ongoing odor complaints in Cleveland can keep more than 2,000 pages of records out of the public's reach, a Cleveland Housing Court judge has ruled.

General Environmental Management LLC had asked the court to seal the documents because they contained confidential data about the company and trade secret information. Judge Raymond Pianka agreed and signed the order June 15.

"There's nothing nefarious about this," GEM lawyer Christopher Carney said. "It's done all the time in litigation — these types of confidentiality orders."

But a lawyer who represents Ohio Citizen Action, the state's largest environmental group, said the judge's order was too broad. Many of the documents stamped confidential by the company were public records that did not contain trade secrets. Some of the records had been obtained by Ohio Citizen Action from Cleveland.

"In my opinion, the judgment entry took a view contrary to law by permitting that the public records only be disclosed by a special review in court," said Ed Icove, a First Amendment and legal counsel to Ohio Citizen Action. "The public has a

First Amendment right to view what's going on in a case that comes before a court. In a free society, it's a presumption you're entitled to see what's going on."

The records question arose as a side issue in a court case brought by Cleveland against GEM, which treats liquid industrial and hazardous wastes.

Cleveland sued to shut the plant and not allow it to reopen until it meets city codes. The city argued against sealing the documents.

GEM signed a consent order two years ago that set a timetable for the company to bring the plant on Transport Road in the Flats into compliance with city codes.

But since a spectacular fire and explosion April 20 at the plant that injured five people, the city has pushed the plant to dump the timetable and force GEM to comply quickly with the codes.

Pianka is to rule on the case in the next few weeks.

GEM has operated on a limited basis since the fire.

The April fire was the second explosion and third hazardous incident since December 2004, according to records.

To reach this Plain Dealer reporter:
jkuehner@plained.com, 216-999-5325