

11
26



FOR REGISTRATION REGISTER OF DEEDS
TAMMY THEUSCH BEASLEY
NEW HANOVER COUNTY, NC
2014 OCT 21 11 13 49 AM
BK 5846 PG 1417-1428 FEE \$26 00

INSTRUMENT # 2014028156

NOTICE OF DRY-CLEANING SOLVENT REMEDIATION

Property Owner Milted, LLC
Recorded in Book 5846 Page 1417-1428
Associated plat recorded in Plat Book 59, Page 356

This documentary component of a Notice of Dry-Cleaning Solvent Remediation (hereinafter "Notice") is hereby recorded on this 21st day of October, 2014 by Milted, LLC (hereinafter "Property Owner"). The survey plat component of the Notice is being recorded concurrently with this documentary component. The real property (hereinafter "Property") which is the subject of this Notice is located at 6845 Market Street, Wilmington, New Hanover County, North Carolina, Parcel Identification Number (PIN) R04300-004-006-000.

The Property is contaminated with dry-cleaning solvent, as defined at North Carolina General Statutes (hereinafter "N.C.G.S."), Section (hereinafter "§") 143-215.104B(b)(9) and other contaminants. This Notice has been approved by the North Carolina Department of Environment and Natural Resources, or its successor in function (hereinafter "DENR") under the authority of the Dry-Cleaning Solvent Cleanup Act of 1997, as amended, N.C.G.S. § 143-215.104A *et seq.* (hereinafter "DSCA"), and is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to NCGS § 143-215.104M.

Soil and groundwater at the Property are contaminated with dry-cleaning solvents associated with dry-cleaning operations at the Williams Cleaners (DSCA Site 65-0005) located at 6845 Market Street, Wilmington. Dry-cleaning operations were conducted on the Property from approximately 1983 to 1997 then resumed in 2001 to the present date

Pursuant to N C G S § 143-215.104M, this Notice is being filed in order to reduce or eliminate the danger to public health or the environment posed by the Property Attached hereto as **Exhibit A** is a reduction, to 8 1/2" x 11", of the survey plat component of the Notice required by N.C G S § 143-215 104M The survey plat has been prepared and certified by a professional land surveyor and meets the requirements of G S 47-30, and contains the following information required by N C G S § 143-215 104M.

(1) A description of the location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks, and

(2) The type, location and quantity of regulated dry-cleaning solvent contamination and other contaminants known to exist on the Property.

Attached hereto as **Exhibit B**, is a legal description of the Property that would be sufficient as a description in an instrument of conveyance.

Pursuant to NCGS § 143-215.104M, a certified copy of this Notice must be filed within 15 days of receipt of DENR's approval of the Notice or the effective date of the dry-cleaning solvent remediation agreement, whichever is later. Pursuant to NCGS § 143-215.104M, the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land.

LAND-USE RESTRICTIONS

NCGS § 143-215.104M requires that the Notice identify any restrictions on the current and future use of the Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Property and that are designated in the dry-cleaning remediation agreement. The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR, or his/her designee, after the hazards have been eliminated, pursuant to NCGS §143-215.104M. Those restrictions are hereby imposed on the Property, and are as follows:

- 1. The Property shall be used exclusively for retail, commercial or industrial purposes and related amenities (parking, landscape areas and walkways), and all other uses of the Property are prohibited except as approved in writing by DENR.**
- 2. Without prior written approval from DENR, the Property shall not be used for:**
 - a. child care centers or schools; or**
 - b. mining or extraction of coal, oil, gas or any mineral or non-mineral substances.**
- 3. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that use groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior approval of DENR.**
- 4. In January of each year, on or before January 31st, the owner of any portion of the Property shall submit a notarized Annual DSCA Land-Use Restrictions Certification to DENR certifying that this Notice remains recorded at the Register of Deeds' office, and that the Land-Use Restrictions are being complied with.**
- 5. No person conducting environmental assessment or remediation at the Property or involved in determining compliance with applicable land-use restrictions, at the**

direction of, or pursuant to a permit or order issued by DENR may be denied access to the Property for the purpose of conducting such activities.

6. The owner of any portion of the Property shall cause the instrument of any sale, lease, grant, or other transfer of any interest in the property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Notice. The failure to include such a provision shall not affect the validity or applicability of any land-use restriction in this Notice.
7. Prior to using the former Williams Cleaners/current Hangers Cleaners facility building, as identified in Exhibit A, for any purpose other than drycleaning operations, the property owner must demonstrate to the satisfaction of DENR that the indoor air of the structure does not pose an unacceptable risk to occupants.

EASEMENT (RIGHT OF ENTRY)

The property owner grants and conveys to DENR, its agents, contractors, and employees, and any person performing pollution remediation activities under the direction of DENR, access at reasonable times and under reasonable security requirements to the Property to determine and monitor compliance with the land-use restrictions set forth in this Notice. Such investigations and actions are necessary by DENR to ensure that use, occupancy, and activities of and at the Property are consistent with the land-use restrictions and to ensure that the structural integrity and continued effectiveness of any engineering controls (if appropriate) described in the Notice are maintained. Whenever possible, at least 48 hours advance notice will be given to the Property Owner prior to entry. Advance notice may not always be possible due to conditions such as response time to complaints and emergency situations.

REPRESENTATIONS AND WARRANTIES

The Property Owner hereby represents and warrants to the other signatories hereto:

- i) that the Property Owner is the sole owner of the Property; or that the Property Owner has provided to DENR the names of all other persons that own an interest in or hold an encumbrance on the Property and have notified such persons of the Property Owner's intention to enter into this Notice;
- ii) that the Property Owner has the power and authority to enter into this Notice, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- iii) that this Notice will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which the Property Owner is a party or by which the Property Owner may be bound or affected

ENFORCEMENT

The above land-use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land-use restrictions shall be enforced by any owner of the Property. The land-use restrictions may also be enforced by DENR through the remedies provided in NCGS § 143-215.104P or by means of a civil action, by any unit of local government having jurisdiction over any part of the Property; and by any person eligible for liability protection under the DSCA who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Declaration without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

If a land-use restriction set out in this Notice required under NCGS § 143-215 104.M is violated, the owner of the Property at the time the land-use restriction is violated, the owner's successors and assigns, and the owner's agents who direct or contract for alteration of the contamination site in violation of a land-use restriction shall be liable for remediation of all contaminants to unrestricted use standards.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Property subject to this Notice is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, (1) a statement that the property has been contaminated with dry-cleaning solvent and, if appropriate, cleaned up under the Act and (2) a reference by book and page to the recordation of this Notice.

The Property Owner shall notify DENR within fourteen (14) calendar days of the effective date of any conveyance, grant, gift, or other transfer, whole or in part, of the Property Owner's interest in the Property. This notification shall include the name, business address and phone number of the transferee and the expected date of transfer.

The Property Owner shall notify DENR within thirty (30) days following the petitioning or filing of any document by any person initiating a rezoning of the Property that would change the base zone of the Property.

PROPERTY OWNER SIGNATURE

IN WITNESS WHEREOF, Property Owner has caused this instrument to be duly executed this 21ST day of AUGUST, 20 14.

Milted, LLC

By

Mildred E. Williams
Name of contact

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, CHRISTOPHER TREY WEBB, a Notary Public of the county and state aforesaid, certify that MILDRED E. WILLIAMS personally came before me this day and acknowledged that he/she is a Member of Milted, LLC, a North Carolina limited liability corporation, and its Manager, and that by authority duly given and as the act of the company, the foregoing Notice of Dry-Cleaning Solvent Remediation was signed in its name by him.

WITNESS my hand and official stamp or seal, this 21ST day of AUGUST, 2014.

CHRISTOPHER TREY WEBB
Name typed or printed
Notary Public

My Commission expires: 5/28/2019
[Stamp/Seal]



APPROVAL AND CERTIFICATION

The foregoing Notice of Dry-Cleaning Solvent Remediation is hereby approved and certified

North Carolina Department of Environment and Natural Resources

By Jim Bateson
Jim Bateson, LG
Chief, Superfund Section
Division of Waste Management

10/13/2014
Date

LIMITED POWER OF ATTORNEY

I MILDRED E WILLIAMS "Property Owner", do hereby grant a limited power of attorney to DENR and to DENR's independent contractors, as follows:

DENR and DENR's independent contractors shall have the limited power of attorney to record this Notice, including its documentary and survey plat components, in accordance with N.C.G.S. § 143-215.104M on my "Property Owner" behalf. This limited power of attorney shall terminate upon completion of the recordation of the Notice.

Signature of Property Owner Mildred E. Williams

Dated this 21ST day of AUGUST, 2014.

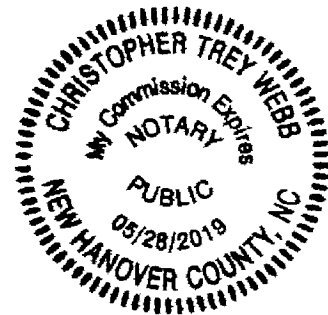
STATE OF NORTH CAROLINA
COUNTY OF NEW HAMOVER

I, CHRISTOPHER TREY WEBB, a Notary Public, do hereby certify that MILDRED E. WILLIAMS personally appeared before me this day and signed this "Limited Power of Attorney"

WITNESS my hand and official stamp or seal, this 21ST day of AUGUST, 2014.

CHRISTOPHER TREY WEBB
Name typed or printed
Notary Public

My Commission expires. 5/28/2019
[Stamp/Seal]



CERTIFICATION OF REGISTER OF DEEDS

The foregoing documentary component of the Notice of Dry-Cleaning Solvent Remediation, and the associated plat, are certified to be duly recorded at the date and time, and in the Book and on the Page(s), shown on the first page hereof

Register of Deeds for New Hanover County

By _____
(signature)

_____ Date

Name typed or printed _____
Deputy/Assistant Register of Deeds

EXHIBIT A
REDUCTION OF SURVEY PLAT

EXHIBIT B
PROPERTY LEGAL DESCRIPTION



MICHAEL UNDERWOOD & ASSOCIATES, P.A.
Professional Land Surveyors

METES AND BOUNDS DESCRIPTION
PREPARED FOR
WILLIAMS CLEANERS
2.78 ACRES
MARKET STREET NEAR
GORDON ROAD, NEW HANOVER
COUNTY, WILMINGTON, NC

Commence at a point located in the west right of way of Market Street (US Hwy 17) at its intersection with the south right of way line of Gordon Road (S.R. 2048); thence along and with the west right of way line of Market Street in a southwest direction a distance of 485 feet to an old axle, the Point of Beginning; thence along and with the west right of way line of Market Street South 43 degrees 27 minutes 39 seconds West a distance of 106.68 feet to a point; thence along and with the west right of way line of Market Street South 43 degrees 18 minutes 07 seconds West a distance of 43.15 feet to an P.K. nail; thence along and with the north line of the Hughes/Ennis Division (Map Book 33, Page 251) North 49 degrees 32 minutes 23 seconds West a distance of 240.00 feet to an iron pipe; thence along and with the north line of the Hughes/Ennis Division (Map Book 33, Page 251) North 49 degrees 32 minutes 23 seconds West a distance of 506.37 feet to an iron pipe; thence along and with the north line of the Hughes/Ennis Division (Map Book 33, Page 251) North 49 degrees 32 minutes 23 seconds West a distance of 62.88 feet to an iron pipe; thence along and with the centerline of the abandoned S.C. Rail Road right of way (now abandoned) North 46 degrees 04 minutes 43 seconds East a distance of 108.77 feet to a point; thence along and with the centerline of the abandoned S.C. Rail Road right of way (now abandoned) North 43 degrees 39 minutes 26 seconds East a distance of 41.98 feet to an iron pipe; thence South 50 degrees 11 minutes 06 seconds East a distance of 63.25 feet to an iron pipe; thence South 49 degrees 27 minutes 08 seconds East a distance of 739.27 feet to an old axle, the Point of Beginning; containing 2.78 acres, more or less.

RECORD OWNER: Ted & Bee Williams

COMMON ADDRESS: 6845 Market Street