

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Violation of Article 27, Title 13 of the
New York State Environmental Conservation Law ("ECL")
and Title 6 of the New York Codes, Rules and Regulations
(NYCRR),

**ORDER ON
CONSENT**

By

DEC Case No.
R2-20111017-719

**GGP Staten Island Mall, LLC,
successor in interest to
Rouse SI Shopping Center LLC**

Site No. 243020

Respondent
-----X

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the administration and enforcement of law and regulation pursuant to Article 27, Title 13, of the New York State Environmental Conservation Law ("ECL").
2. Respondent, GGP Staten Island Mall, LLC ("GGP-SI") is a foreign business corporation incorporated under the laws of Delaware and registered to do business in the State of New York. Respondent owns that parcel of land designated as the Carol Cleaners Site on the New York Registry of Inactive Hazardous Waste Sites, Site No. 243020 ("the Site").
3. On October 4, 2002, the Department executed an Administrative Order on Consent ("the Order") with Rouse SI Shopping Center LLC (predecessor in interest to GGP-SI) for the implementation of a Remedial Program at the Site.
4. On October 14, 2010, the Department issued an approval to Respondent for a Work Plan and Schedule to complete remedial investigation at the Site.
5. On or about October 30, 2010, Respondent failed to implement the required Work Plan and Schedule, thereby interfering with the completion of said remedial program.
6. On or about December 31, 2009, Respondent failed to submit a monthly Progress Report pursuant to Paragraph III of the Order, and failed to submit any monthly Progress Reports until May 2011. Respondent has submitted monthly Progress Reports since May 2011.
7. On May 18, 2011, Respondent submitted a revised schedule for completing the remaining tasks related to the Remedial Investigation and Feasibility Study. The proposed schedule was acceptable, and would allow for DEC to issue a Proposed Remedial Action Plan (PRAP) and

Record of Decision (ROD) on or before March 31, 2012.

8. On August 16, 2011, Respondent notified the Department that the schedule contained in the May 18, 2011 letter would not be adhered to, which has jeopardized the Department's ability to issue a timely PRAP and ROD.

9. On October 5, 2011 the Department issued a final schedule to Respondent.

10. Pursuant to 6 NYCRR Part 375-1.11(b)(2)(i), as promulgated pursuant to Article 27, Title 13 of the ECL, it is a violation to engage in any activity that will, or that is reasonably anticipated to, prevent or interfere significantly with any proposed, ongoing, or completed remedial program at any site.

11. Respondent, by failing to implement the required Work Plan and Schedule, and by failing to submit any monthly Progress Reports, has violated the Order on Consent and 6 NYCRR Part 375-1.11(b)(2)(i).

12. ECL § 71-2705(1) provides that any person who violates any provision of, or who fails to perform any duty imposed by title 13 of Article 27 or any rule, regulation, or order issued thereunder, shall be liable for a civil penalty not to exceed \$37,500 for each day during which such violation continues.

13. Pursuant to Paragraph IV. A. 2. of the Order, Respondent may elect to opt out of statutory penalties and be subject to stipulated penalties in the amount of up to \$1,500 per day.

14. In settlement of Respondent's civil liability for the aforesaid violations, Respondent admits the violations set forth herein, waives its rights to a hearing as provided by law, consent to the issuing and entering of this Order on Consent pursuant to the provisions of Articles 27 and 71 of the ECL, and agrees to be bound by the provisions, terms and conditions herein.

NOW, being duly advised and having considered this matter, the Commissioner of the Department of Environmental Conservation hereby ORDERS that:

I. PENALTY

Respondent is hereby assessed a civil penalty in the amount of **Fifteen Thousand (\$15,000) Dollars**, which must be paid upon submission of a signed version of this Order on Consent. Payment shall be made by check to "the New York State Department of Environmental Conservation" and delivered with the Respondent's signed original of this Order to: Louis P. Oliva, Regional Attorney, New York State Department of Environmental Conservation, 47-40 21st Street, Long Island City, New York, 11101-5407.

II. COMPLIANCE SCHEDULE

- Respondent must comply with the schedule set forth in the Department's October 5, 2011 e-mail from Jane O'Connell to Kelly Webb (attached to this Order as Attachment "A").

III. MISCELLANEOUS

a. Compliance with all terms of this Order shall satisfy the Respondent's outstanding civil liability for the violations described above. The provisions, terms and conditions of this Order shall be deemed to bind the Respondent and the Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.

b. This Order shall constitute the entire agreement of the Department and the Respondent with respect to settlement of the violations specifically referenced herein. All other provisions of the October 4, 2002 Order on Consent remain in effect.

c. If the Respondent cannot comply with a deadline or requirement of this Order, because of war, strike, riot, catastrophe, or other condition which was not caused by the negligence or willful misconduct of the Respondent and which could not have been avoided by the Respondent through the exercise of due care, the Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement.

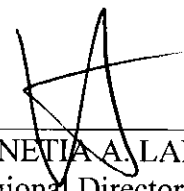
d. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of the Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to the Respondent. The Respondent shall have the burden of proving entitlement to any modification requested.

e. The Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs resulting from the acts and/or omissions of the Respondent, intentional, negligent, or otherwise, of every nature and description, arising out of or resulting from the compliance or attempted compliance with the provisions of this Order by the Respondent or their employees, servants, agents, successors or assigns.

f. This Order shall take effect when it is signed by the Commissioner of the Department of Environmental Conservation or his designee.

DATED: Long Island City, New York
November 4, 2011

JOSEPH J. MARTENS
Commissioner
New York State Department of
Environmental Conservation

By: 

VENETIA A. LANNON
Regional Director
NYSDEC - Region 2

**CONSENT BY RESPONDENT
GGP Staten Island Mall, LLC**

Respondent hereby consents to the issuing and entering of this Order on Consent without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order on Consent.

By (Signature): 

Print Name: MARVIN J. LEVINE

Title: CHIEF LEGAL OFFICER

Date: 10-31-11

ACKNOWLEDGMENT

STATE OF Illinois)

COUNTY OF Cook) ss:

On the 31st day of Oct in the year 2011 before me personally came

Marvin J. Levine, Esq.

_____ to me known, who, being by me duly sworn, did depose and say

that s/he resides in COOK COUNTY, ILLINOIS

_____ SR. V.P.; that s/he is the CHIEF LEGAL OFFICER of

GGP Staten Island Mall LLC, the entity described in and which

executed the above instrument; and that s/he signed his/her name thereto by authority of the

GGP Staten Island Mall, LLC



Dorothy C. Malecki
Notary Public

Attachment "A"

SCHEDULE

Task	Deadline for completion
Submittal of RI Report	October 31, 2011
FS Scoping mtg. (conference call)	October 14, 2011
Submittal of EDD format data	November 30, 2011
Submittal of FS	November 30, 2011



RECEIPT

NUMBER
575854

Date 11/1/11

Region Number 2

Location LIC Division OGC

Received of GGP Staten Island Mall, LLC

In the amount of Fifteen Thousand \$ 15,000-

For R2-20111017-719 (SW)

pd in full

Cash Department Representative Regina Seetchal

Check Number 316514263 Title Sec

Money Order

ORIGINAL