

John N. Clo, Esq.  
City Attorney

# Fax

**To:** Nadine Medina, I.E., LEED AP

**From:** John N. Clo, Esq.

**Fax:**

**Pages:** 5

**Phone:** (518) 773-4554

**Date:** June 29, 2009

(518) 725-9138: fax

**Re:** Restrictive Covenant

**CC:**

☐ **Urgent**    ☐ **For Review**    ☐ **Please Comment**    ☐ **Please Reply**    ☐ **Please Recycle**

• **Comments:**

Attachments

RESOLUTION NO. 52-2009

Intro R - 2

Councilmember(s) Handy presented the following resolution and moved its adoption

---

**RESOLUTION AUTHORIZING THE INCORPORATION OF RESTRICTIVE COVENANTS INTO THE CITY OF GLOVERSVILLE LANDFILL PROPERTY DEEDS - SOLID WASTE**


---

WHEREAS, the Consent Order entered into March 4, 1989 between the City of Gloversville and New York State Department of Conservation for the City of Gloversville Landfill required restrictive covenants on the land be filed with the County Clerk, and

WHEREAS, the City Attorney has drafted the restrictive covenant; and

WHEREAS, New York State Department of Conservation has reviewed and approved the City Attorney's proposed restrictive covenant:

NOW THEREFORE, be It hereby

RESOLVED, that the Common Council hereby approves the restrictive covenant be filed with the County Clerk and incorporated into future property deeds, and be It hereby further

RESOLVED, the City of Gloversville Common Council hereby authorizes the Mayor to execute and record the necessary documents.

Seconded by Councilmember: Hindes

Aye: 7

Naye: 0

Dated: June 23, 2009

	Aye	Naye		Aye	Naye
ANADIO	x		CASTIGLIONE	x	
HANDY	x		HINDES	x	
MYERS	x		ROBINSON	x	
WENTWORTH	x				

# County of Fulton

COUNTY BUILDING  
223 WEST MAIN STREET  
JOHNSTOWN, NEW YORK 12095

Phone: (518) 736-5555

PLACE VALIDATION STAMP BELOW:

Type of document: RESTRICTIVE COVENANT ON REAL PROPERTY

Party(ies): Grantor/Mortgagor/Assignor

CITY OF GLOVERSVILLE

Party(ies): Grantee/Mortgagee/Assignee

CITY OF GLOVERSVILLE

~~XXXX~~ Town: CITY OF GLOVERSVILLE

Consideration: NONE

LIBER: 1127 PG: 221  
Jun 25, 2009 11:53:41A  
INST # 00002866  
FULTON COUNTY CLERK  
WILLIAM E. ESCHLER

**Record & Return to:**

TIMOTHY G. HUGHES, MAYOR

CITY HALL - 3 FRONTAGE ROAD

GLOVERSVILLE, NY 12078

Recorded by:

This sheet constitutes the Clerk endorsement  
Required by section 316 A (5) for the Real Property  
Law of the State of New York.

### RESTRICTIVE COVENANT ON REAL PROPERTY

THIS COVENANT, made the 24<sup>TH</sup> day of JUNE, 2009, by the City of Gloversville having an office at 3 Frontage Road, Gloversville, New York:

WHEREAS, the City and the New York State Department of Environmental Conservation (DEC) entered into a Consent Order, Index # CV-87-637, on March 4, 1989, requiring the Remedial Investigation, Feasibility Study and implementation of a Remedial Program for an Inactive Hazardous Waste Disposal Site known as the "City of Gloversville Landfill", located on Route 29A, Gloversville, NY, Site #518001 ("the Site"), and being more fully described as:

ALL THE TRACTS OR PARCELS OF LAND situated in the City of Gloversville, County of Fulton, State of New York and being described in two deeds to the City of Gloversville:

- A. The first dated October 27, 1950 and recorded in the Fulton County Clerk's Office on October 27, 1950 in Liber 350 at page 97; and
- B. The second dated April 21, 1972 and recorded in the Fulton County Clerk's Office on May 3, 1972 in Liber 518 of Deeds at page 110.

WHEREAS, the City of Gloversville and the DEC have agreed, in the above-referenced Consent Order, to file this Restrictive Covenant in the Office of the Fulton County Clerk for the purpose of providing notice of the Consent Order and its property restrictions to all potential future purchasers of any portion of the Sites.

NOW, THEREFORE, The City of Gloversville, for itself and its successors, and/or assigns, covenants that:

1. Unless prior written approval by the Department of Environmental Conservation and Department of Health (or any subsequently delegated agencies) (all hereinafter referred to as "the relevant agencies") is first obtained, there shall be no construction, use or occupancy of the Site, or usage of the groundwater or surface water, which results in the disturbance or excavation of the waste materials on the site, which threatens the integrity of the geomembrane cap, soil cover materials or impoundments, or which results in unacceptable human exposure to contaminated media.
2. Unless prior written approval by the relevant agencies is obtained, there shall be no change in the use of the Site in any way that is inconsistent with their present uses. If such a new use of either site is approved, any and all further remedial activities at the site deemed

necessary and appropriate by the relevant agencies will be performed by the City, its successors and/or assigns.

3. The City of Gloversville, its successor and/or assigns will not disturb the Site in any way, except to properly maintain the integrity of the remedial measures undertaken and maintained at the site pursuant to the terms of the Record of Decision which is incorporated herein by reference and made a part hereof.

4. This declaration is and shall be deemed to be a covenant running with the land, binding the City of Gloversville, its successors and/or assigns, and any agent, lessor or invitee of the City, its successors and/or assigns in perpetuity or until such time that the relevant agencies determine these restrictions are no longer necessary for the protection of human health and the environment.

IN WITNESS WHEREOF, the City of Gloversville has caused its corporation seal to be affixed by its City Clerk and this Covenant and to be subscribed by the City Mayor on the date and year first above written.

CITY OF GLOVERSVILLE

By: 

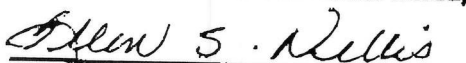
Timothy G. Hughes  
Mayor

STATE OF NEW YORK

COUNTY OF FULTON

)  
) ss.:  
)

On the 24<sup>th</sup> day of JUNE in the year 2009, before me, the undersigned, personally appeared Timothy G. Hughes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that executed the same in capacity, and that by signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

ELLEN S. NELLIS  
Notary Public, State of New York  
No. 01NE097110  
Qualified in Fulton County  
Commission Expires Sept. 22, 2011