



ERIE COUNTY CLERKS OFFICE
County Clerk's Recording Page

Return To:

CITY OF LACKAWANNA
714 RIDGE RD.
LACKAWANNA, NY 14218

Index DEED LIBER
Book 11005 Page 1553
No. Pages 0003
Instrument RESTRICT COVNNT
Date : 4/26/2002
Time : 11:17:27
Control # 200204260267

CITY OF LACKAWANNA

Employee ID DWM

COUNTY	\$	15.00
COE STATE	\$	4.75
COE COUNTY	\$.25
	\$.00
	\$.00
	\$.00
	\$.00
	\$.00
	\$.00
	\$.00
Total:	\$	20.00

STATE OF NEW YORK
ERIE COUNTY CLERKS OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S
ENDORSEMENT, REQUIRED BY SECTIONS 319&316-a
(5) OF THE REAL PROPERTY LAW OF THE STATE OF
NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

DAVID J SWARTS
COUNTY CLERK



D110051553

RESTRICTIVE COVENANT
IN FAVOR OF THE STATE OF NEW YORK AND NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Made this 23rd day of April, 2002.

This restriction shall be construed as a restrictive covenant running with the land which was conveyed in a deed from County of Erie to City of Lackawanna, recorded in liber 10909 of Deeds at page 7768 on December 2, 1996, and was subsequently divided leaving a 8.12 acre site, SBL Number 141.20-1-2.11 and more particularly described as:

All that Tract or Parcel of Land situate in the City of Lackawanna, County of Erie and State of New York and being a part of Lot No. 22, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

Beginning at a point 158.785 feet south of the Dona Street right-of-way and located on the "A" Street west right-of-way; thence southerly along the westerly right-of-way of "A" Street a distance of 187.85 feet to a point; thence easterly a distance of 19.84 feet to a point; thence southerly a distance of 145.34 feet to a point; thence south easterly a distance of 637.46 feet to a point located on the north right-of-way of the South Buffalo Railway; thence easterly along the South Buffalo Railway right-of-way a distance of 193.65 feet to a point; thence northerly along the westerly line of property owned by the County of Erie a distance of 533.03 feet to a point; thence westerly a distance of 800.06 feet to a point, and thence northerly a distance of 30.00 feet to the point of beginning.

The real property conveyed herein by this deed has been investigated and remediated in accordance with the terms and conditions of the "Environmental Restoration Program" established under the 1996 Clean Water/Clean Air Bond Act, as set forth in title 5 of article 56 of the New York State Environmental Conservation Law ("ECL") and its accompanying regulations, and is subject to the terms and conditions set forth in such laws and regulations. This real property is further subject to the terms and conditions of the following State Assistance Contract entered into by the City of Lackawanna ("Municipality") and the New York State Department of Environmental Conservation ("NYSDEC"):

an **investigation**, State Assistance Contract ("SAC") No. C300724,
a **remediation** State Assistance Contract ("SAC") No. C301632.

Additionally, the real property is subject to the terms and conditions of a Record of Decision (ROD) relating to the investigation of the real property, as prepared by NYSDEC dated March, 1999, and on file in the Region 9 – Buffalo office of the NYSDEC.

The Grantor agrees to the following conditions with respect to the use of the real property described herein:

(a) the property shall not be used for any purpose other than the following: commercial/industrial uses contained within buildings, parking, streets, or public safety facilities, without prior written approval by the NYSDEC.

(b) the Municipality and successors in title shall implement the following engineering controls over the property:

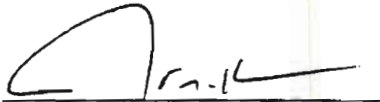
(i) any proposed soil excavation from the site (such as for foundations, utilities etc.) may be placed on the site as fill, graded and covered with topsoil and seeded as described in item ii below. Site soil that is excavated and is intended to be removed from the property must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives; and

(ii) any soil on the property that is not covered by an impervious product such as concrete, asphalt or structures must be covered with a layer of clean soil and this soil layer must be vegetated and maintained by the RDO.

(c) the Municipality and successors in title shall submit to the NYSDEC, an annual report which certifies that the above institutional/engineering controls remain in place.

The Grantor hereby declares that the real property described herein and being conveyed by this instrument shall be held, sold and conveyed subject to each and every term, covenant, condition and restriction set forth in the aforementioned law, regulations, contracts and ROD. All such terms, covenants, conditions and restrictions shall constitute covenants that shall run with the land and shall be binding on all parties including heirs, successors, and assigns having any right, title or interest in this real property, or any part thereof, and may not be released or modified without the prior written approval of the NYSDEC. The Grantor further declares that any use or occupancy of the real property conveyed herein by this deed is limited to uses identified up above. Any "change in the use" which includes, but is not limited to, construction on or conveyance of the real property, is defined in ECL 56-0511 (3)(i), and is subject to the requirements set forth in section 56-0511 of the ECL, which requirements minimally include the prior notice and approval of NYSDEC, or its successor. The Grantor additionally promises that every deed, subsequent to this deed shall contain this restrictive covenant and all subsequent owners shall be deemed to covenant by acceptance of a deed to be bound by these restrictive covenants. The Grantor also declares that the State of New York, NYSDEC, as well as its successors or assigns, shall be entitled to enforce the terms of this restrictive covenant.

THIS IS A CORRECTION TO A COVENANT FILED DEED LIBER 10978 PAGE 9284 ON MARCH 30, 2001.



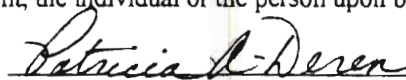
John J. Kuryak, Mayor
City of Lackawanna

4/23/02
Date

STATE OF NEW YORK)
COUNTY OF ERIE)

) ss:

On the 23 day of April, in the year 2002, before me, the undersigned, a notary public in and for said state, personally appeared John J. Kuryak, 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 he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

PATRICIA A. DEREN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires March 9, 2006