

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director  
625 Broadway, 12th Floor, Albany, New York 12233-7011  
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[www.dec.ny.gov](http://www.dec.ny.gov)

December 29, 2023

David Schwartz  
326 Rockaway Owner LLC  
440 Park Avenue South, Floor 3  
New York, NY 10016  
[david@slatepg.com](mailto:david@slatepg.com)

David Schwartz  
326 Rockaway Managing Member LLC  
440 Park Avenue South, Floor 3  
New York, NY 10016  
[david@slatepg.com](mailto:david@slatepg.com)

Emily Kurtz  
326 Rockaway Housing Development Fund Corporation  
217 Wyckoff Avenue  
c/o RiseBoro Community Partnership, Inc.  
Brooklyn, NY 11237  
[ekurtz@riseboro.org](mailto:ekurtz@riseboro.org)

Re: Certificate of Completion  
326-350 Rockaway Avenue  
Brooklyn, Kings County  
Site No. C224328

Dear David Schwartz and Emily Kurtz,

Congratulations on having satisfactorily completed the remedial program at the 326-350 Rockaway Avenue site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (NYSDEC) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record the Notice of Certificate of Completion in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time

frame specified. A standard Notice of Certificate of Completion form is attached to this letter.

- Provide electronic copies of the recorded Notice and proof of recording to NYSDEC's project manager. Please return the hard copy of the proof of recording to:

Erick Bower, Remedial Bureau B  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233

- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. NYSDEC will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days.

If you have any questions, please do not hesitate to contact Erick Bower, NYSDEC's project manager, at (518) 402-9824.

Sincerely,

*Andrew Guglielmi*

Andrew Guglielmi  
Division Director  
Division of Environmental Remediation

ec w/ enclosure:

C. Vooris – NYSDOH, [christine.vooris@health.ny.gov](mailto:christine.vooris@health.ny.gov)  
Scarlett McLaughlin – NYSDOH, [scarlett.mclaughlin@health.ny.gov](mailto:scarlett.mclaughlin@health.ny.gov)  
James Sullivan – NYSDOH, [james.sullivan@health.ny.gov](mailto:james.sullivan@health.ny.gov)  
Michael Burke, P.E. – Langan Engineering, [mburke@langan.com](mailto:mburke@langan.com)  
Lamees Esmail, P.E. – Langan Engineering, [lesmail@langan.com](mailto:lesmail@langan.com)  
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Paul Takac, [paul.takac@tax.ny.gov](mailto:paul.takac@tax.ny.gov)

ec w/o enclosure:

J. O'Connell, S. Deyette, W. Bennett, E. Bower, L. Schmidt – NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

<b>Name</b>	<b>Address</b>
326 Rockaway Housing Development Fund Corporation	217 Wycoff Avenue, Brooklyn, NY 11237
326 Rockaway Managing Member LLC	440 Park Avenue South, Floor 3, New York, NY 10016
326 Rockaway Owner LLC	440 Park Avenue South, Floor 3, New York, NY 10016

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 11/2/21    **Agreement Execution:** 12/15/21  
**Agreement Index No.:** C224328-11-21  
**Application Amendment Approval:** 12/9/22                      **Agreement Amendment Execution:** 12/9/22  
**Application Amendment Approval:** 6/22/23                      **Agreement Amendment Execution:** 6/22/23

**SITE INFORMATION:**

**Site No.:** C224328    **Site Name:** 326-350 Rockaway Avenue  
**Site Owner:** 326 Rockaway Housing Development Fund Corporation  
326 Rockaway Owner LLC  
**Street Address:** 326-350 Rockaway Avenue  
**Municipality:** Brooklyn                      **County:** Kings                      **DEC Region:** 2  
**Site Size:** 0.755 Acres  
**Tax Map Identification Number(s):** 3499-25  
**Percentage of site located in an EnZone:** 100 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

**CERTIFICATE ISSUANCE**

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

**Allowable Uses under the BCP:** Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

**Cleanup Track:** Track 1: Unrestricted use

**Tax Credit Provisions:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50 %.

Eligibility for Tangible Property Credit is available through: EnZone.

Tangible Property Credit Component Rate is 20%. Comprised of 10% Base, 5 % EnZone, 5% Track 1.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), if the site is located in a disadvantaged community and not located in an EnZone (5%), if the site is developed as a renewable energy facility site (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

No Environmental Easement has been granted pursuant to ECL Article 71, Title 36 as there are no use restrictions and there is no reliance on the long-term employment of institutional controls.

#### **LIABILITY LIMITATION**

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

#### **CERTIFICATE TRANSFERABILITY**

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

#### **CERTIFICATE MODIFICATION/REVOCATION**

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon finding any of the following:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos  
Commissioner  
New York State Department of Environmental Conservation

By: Andrew Guglielmi Date: 12/29/2023

Andrew O. Guglielmi, Director  
Division of Environmental Remediation

**EXHIBIT A**  
**Site Description**

## SCHEDULE A

File No.: 5130106-D-NY-CR-TRA

Policy No.: 30693-5-5130106-D-NY-CR-TRA-2022.2730632-229247644

The land referred to in this Policy is described as follows:

ALL that certain plot, piece or parcel of land situate lying and being in the Borough of Brooklyn, County of Kings, City and State of New York being bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of East New York Avenue with the easterly side of Chester Street;

RUNNING THENCE easterly, along the southerly side of East New York Avenue, a distance of 211 feet 2 ¼ inches to the corner formed by the intersection of the southerly side of East New York Avenue with the westerly side of Rockaway Avenue;

THENCE southerly along the westerly side of Rockaway Avenue, a distance of 185 feet 9 ½ inches to a point;

THENCE westerly, parallel with the northerly side Pitkin Avenue, a distance of 100 feet to a point;

THENCE southerly, parallel with the easterly side of Chester Street, a distance of 25 feet to a point;

THENCE westerly, parallel with the northerly side Pitkin Avenue, a distance of 100 feet to the easterly side of Chester Street;

THENCE northerly along the easterly side of Chester Street, a distance of 142 feet 11 ½ inches to the corner formed by the intersection of the southerly side of East New York Avenue with the easterly side of Chester Street, the point or place of BEGINNING.

Containing 32,875 square feet or 0.7547 acres of land, more or less

**EXHIBIT B**  
**Survey**





**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

**326-350 Rockaway Avenue, Site ID No. C224328**  
**326-350 Rockaway Avenue, Brooklyn, NY 11212**  
**New York City, Kings County, Tax Map Identification Number: 3499-25**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (NYSDEC) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to 326 Rockaway Managing Member LLC, 326 Rockaway Owner LLC, and 326 Rockaway Housing Development Fund Corporation for a parcel approximately 0.755 acres located at 326-350 Rockaway Avenue in Brooklyn, Kings County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by NYSDEC of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the Remedial Work Plan.

**PLEASE TAKE NOTICE**, the remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

**PLEASE TAKE NOTICE**, provided that the Certificate is complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by NYSDEC as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

326-350 Rockaway Avenue, C224328  
326-350 Rockaway Avenue, Brooklyn, NY 11212

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC's Region 2 Office located at 1 Hunter's Point Plaza, 47-40 21st Street, Long Island City, NY 11101-5401, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C224328/>.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

326 Rockaway Housing Development Fund Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK ) SS:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**

David Schwartz  
326 Rockaway Owner LLC  
440 Park Avenue South, Floor 3  
New York, NY 10016  
[david@slatepg.com](mailto:david@slatepg.com)

326-350 Rockaway Avenue, C224328  
326-350 Rockaway Avenue, Brooklyn, NY 11212

**WHEREFORE**, the undersigned has signed this Notice of Certificate

326 Rockaway Owner LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK        ) SS:  
COUNTY OF                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

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