

SIVE, PAGET & RIESEL P.C.

Allison Sloto
Direct Dial: (646) 378-7270
asloto@sprlaw.com

October 17, 2019

VIA FEDEX and EMAIL

Bradford Burns, Esq.
New York State Dept. of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233-1500
(518) 402-9518

**Re: Brownfield Cleanup Program Site No. C231067, 300 West 122nd Street
Environmental Easement Recordation and Notice to Municipality**

Dear Mr. Burns,

Enclosed please find proof of the environmental easement recordation and notice to the municipality, including:

- The NYC Notice Letter and Original Return Receipt from the office of NYC Mayor De Blasio; and
- A Copy of the Recorded Easement, including Cover Page.

Please do not hesitate to contact me if there are any questions or concerns. Thank you for your assistance in this matter.

Very Truly Yours,
Allison Sloto
Allison Sloto

Enclosures

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October 8, 2019

Mayor Bill de Blasio
City of New York
City Hall
New York, NY 10007

Re: Notice of Environmental Easement: 300 West 122nd Street (SBL: 7-1948-35)

Dear Mayor Bill de Blasio,

Attached please find a copy of an Environmental Easement granted to the New York State Department of Environmental Conservation (“Department”) on September 23, 2019 by Bespoke Harlem West LLC for property located at 300 West 122nd Street, New York, New York, Section 7, Block 1948, Lot 35, DEC Site No. C231067.

This Environmental Easement restricts future use of the above referenced property to residential, restricted residential, commercial, and industrial uses. Any on-site activity must be done in accordance with the Environmental Easement and Site Management Plan, which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use.

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

1. Whenever the Department is granted an Environmental Easement, it shall provide each affected local government with a copy of such Easement and shall also provide a copy of any documents modifying or terminating such Environmental Easement.
2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an Environmental Easement and that may relate to or impact such Easement, the affected local government shall notify the Department and refer such application to the Department. The Department shall evaluate whether the application is consistent with the Environmental Easement, and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government’s review of the application. The affected local government shall not approve the application until it receives formal approval from the Department.

An electronic version of every Environmental Easement that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your Building and/or Planning Departments, as applicable, to ensure your compliance with the provisions of the New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very Truly Yours,
Allison Sloto
Allison Sloto

Enclosures

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mayor Bill de Blasio
City Hall of New York
New York, NY 10007

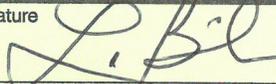


9590 9402 1897 6104 3746 68

2. Article Number (Transfer from service label)

7015 3010 0000 4886 9576

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

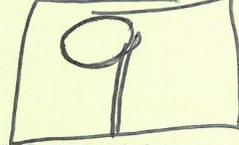
B. Received by (Printed Name)

L. BIRCH

C. Date of Delivery

10/11/2019

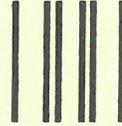
D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No



3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

USPS TRACKING #



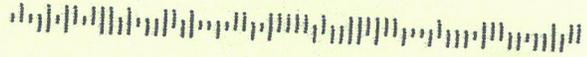
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 1897 6104 3746 68

**United States
Postal Service**

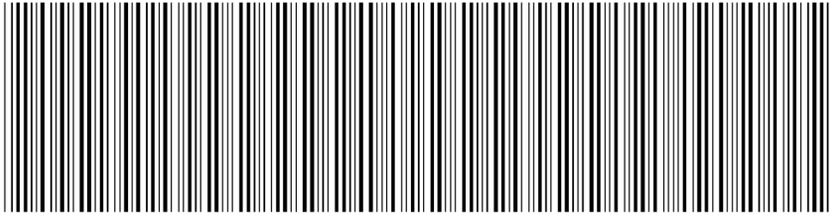
• Sender: Please print your name, address, and ZIP+4® in this box•

Allison Sloto
Sive, Paget & Riesel, P.C.
560 Lexington Ave, 15th Fl.
New York, NY 10022



**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2019100700620001002ED5F2

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 11

Document ID: 2019100700620001

Document Date: 09-23-2019

Preparation Date: 10-07-2019

Document Type: EASEMENT

Document Page Count: 10

PRESENTER:

ROYAL REGISTERED PROPERTY REPORTS
(182826)MB
125 PARK AVENUE, SUITE 1610
NEW YORK, NY 10017
212-376-0900
MBASALATAN@ROYALABSTRACT.COM

RETURN TO:

ROYAL REGISTERED PROPERTY REPORTS
(182826)MB
125 PARK AVENUE, SUITE 1610
NEW YORK, NY 10017
212-376-0900
MBASALATAN@ROYALABSTRACT.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	1948	35	Entire Lot	235 ST NICHOLAS AVENUE

Property Type: COMMERCIAL REAL ESTATE Easement

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

GRANTOR/SELLER:

OWNER'S BESOKE HARLEM WEST LLC
C/O HAPPY LIVING DEVELOPEMENT LLC, 884
EASTERN PARKWAY
BROOKLYN, NY 11213

GRANTEE/BUYER:

THE PEOPLE OF THE STATE OF NEW YORK
625 BROADWAY
NEW YORK, NY 12233

FEES AND TAXES

Mortgage :

Mortgage Amount:	\$	0.00
Taxable Mortgage Amount:	\$	0.00
Exemption:		
TAXES: County (Basic):	\$	0.00
City (Additional):	\$	0.00
Spec (Additional):	\$	0.00
TASF:	\$	0.00
MTA:	\$	0.00
NYCTA:	\$	0.00
Additional MRT:	\$	0.00
TOTAL:	\$	0.00
Recording Fee:	\$	87.00
Affidavit Fee:	\$	0.00

Filing Fee:

Filing Fee:	\$	0.00
NYC Real Property Transfer Tax:	\$	0.00
NYS Real Estate Transfer Tax:	\$	0.00

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**



CITY OF NEW YORK

Recorded/Filed 10-08-2019 14:07
City Register File No.(CRFN):
2019000326101

Annette McMill

City Register Official Signature

**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

THIS INDENTURE made ^{on} this 23rd day of September, 2019, between Owner(s) Bespoke Harlem West LLC, having an office at c/o Happy Living Development LLC, 884 Eastern Parkway, Brooklyn, New York 11213, County of Kings, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 300 West 122nd Street (a/k/a 223-237 St. Nichols Street and 305 West 121st Street in the City of New York, County of New York and State of New York, known and designated on the tax map of the New York City Department of Finance as tax map parcel number: Block 1948 Lot 35, being the same as that property conveyed to Grantor by deed dated March 25, 2019 and recorded in the City Register of the City of New York as CRFN # 2019000102894. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.473 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 23, 2019 prepared by Vincent M. Teutonico, L.L.S., of Empire State Layout, Inc., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C231067-02-11 as amended August 23, 2019, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. **Purposes.** Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. **Institutional and Engineering Controls.** The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Residential as described in 6 NYCRR Part 375-1.8(g)(2)(i), Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii), Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the New York City Department of Health and Mental Hygiene to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be

performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for raising livestock or producing animal products for human consumption, and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:
(i) are in-place;
(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

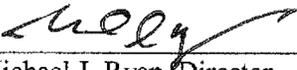
9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

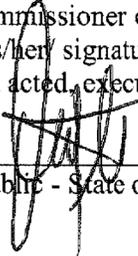
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Michael J. Ryan, Director
Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 23rd day of September, in the year 2019, before me, the undersigned, personally appeared Michael J. Ryan, 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/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2023

SCHEDULE "A" PROPERTY DESCRIPTION

300 West 122nd Street

Legal Description – Environmental Easement

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County, City, and State of New York, bounded and described as follows:

BEGINNING at a point on the northeasterly side of West 121st Street, distant 100 feet northwesterly from the corner formed by the intersection of the northeasterly side of West 121st Street with the northwesterly side of Frederick Douglas Boulevard (a/k/a 8th Avenue);

RUNNING THENCE northwesterly along the northeasterly side of West 212st Street, 50 feet to a point;

THENCE northeasterly at right angles with the northeasterly side of West 121st Street and parallel with Manhattan Avenue, 100 feet 11 inches to the center of the block;

THENCE northwesterly along the center line of the block, 25 feet to a point;

THENCE northeasterly at right angles to the center line of the block, 100 feet 11 inches to the southwesterly side of West 122nd Street;

THENCE southeasterly along the southwesterly side of West 122nd Street, 66 feet to the westerly side of St. Nichols Avenue;

THENCE southerly along the westerly side of St. Nicholas Avenue, 207 feet 3-1/2 inches to the northeasterly side of land now or formerly of ABJ Chosen, LLC;

THENCE northwesterly along said land and parallel with the northwesterly side of west 121st Street, 99 feet 5-1/2 inches to a point;

THENCE southwesterly, continuing along said land and parallel with the northwesterly side of Frederick Douglas Boulevard, 25 feet 2 inches to the northeasterly side of West 121st Street, at the point or place of beginning.

Said lot contains approximately 20,606 square feet or 0.473 acres more or less.

182826

Royal Registered Property Reports, Inc.
125 Park Avenue, Suite 1610
New York, N.Y. 10017
(212) 378-0900

Block 1948
lot 35
County of New York

Record and Return to:

Sive, Pagett & Riesel, P.C.
560 Lexington Avenue, 15th Floor
New York, NY 10022
Attn: Henry E. Myers