

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

---

In the Matter of a Remedial Program  
under Article 27, Title 14 of the  
Environmental Conservation Law  
for the Buena Vista Development Phase I  
Project - Teutonia Hall Apartments  
by  
**Teutonia Buena Vista, LLC**  
and  
**Buena Vista 53, LLC,**  
**Volunteers**

AMENDMENT TO  
BROWNFIELD SITE  
CLEANUP AGREEMENT

Successors-in-Interest to  
The Urban Group, LLC

Site # C360085  
Index # A3-0529-1005

---

**WHEREAS,**

1. By a certified application dated August 11, 2005 (the "Initial Application"), Applicant The Urban Group, LLC ("Initial Volunteer"), a limited liability Corporation, with offices located at 294 Bronxville Road, Bronxville, New York 10708, submitted a request to participate in the Brownfield Cleanup Program relative to property located at 41-51 Buena Vista Avenue in the City of Yonkers, County of Westchester, State of New York, which application was approved by the Department for such real property described on the Yonkers tax map as Section 1, Block 512, Lots 11, 13, and 15 (the "Initial Site").
2. The Department and the Initial Volunteer executed a Brownfield Cleanup Agreement for the Initial Site, Index # A3-0529-1005, Site # C360085, dated November 21, 2005 (the "Agreement").
3. By letter dated November 13, 2006, enclosing a Change of Use form executed by both the Initial Volunteer and Applicant Teutonia Buena Vista, LLC and Buena Vista 53, LLC ("New Volunteers"), limited liability corporations, with offices located at 82 Pondfield Road West, Bronxville, New York 10708, the Initial Volunteer desires to assign the Agreement for the Initial Site to the New Volunteers, which are willing and able to assume all responsibilities under the terms of the Agreement.
4. By a certified application dated November 22, 2006 (the "Second Application"), the New Volunteers submitted a request to participate in the Brownfield Cleanup Program relative to adjacent property located at 53-55 Buena Vista Avenue in the City of Yonkers, County of Westchester, State of New York, for real property described on the Yonkers tax map as

Section 1, Block 512, Lot 17 (the "Second Site"), and within the application requested approval to consolidate the Initial Site and Second Site into the Agreement.

5. On January 16, 2007, the Initial Volunteer and New Volunteer met with the Department to discuss this Agreement Amendment to both formalize the change of use request and to consolidate the approximately 0.5 acre Initial Site and approximately 0.25 acre Second Site (collectively, the "Brownfield Site") into the Agreement, and such request was conditionally approved pending the consideration of any comments from the public submitted during the public comment period for the Second Site, and the execution of this Amendment.

6. An opportunity for public comment on New Volunteers' request to participate in the Brownfield Cleanup Program, including the request to consolidate the Sites, was provided and the Department duly considered all comments received.

7. Upon consideration of the factors enumerated in ECL 27-1407(8) and (9), the Department determines, based upon the information contained in the Second Application and as supplemented by further information provided by the New Volunteers in the Change of Use form, that the New Volunteers are eligible to participate in the Brownfield Cleanup Program as Volunteers with respect to the consolidated Brownfield Site.

8. Upon consideration of the factors enumerated in ECL 27-1419, the Department has determined that the Brownfield Site, which is more fully delineated by the metes and bounds description and the metes and bounds survey map attached as "Amendment Exhibit A" and "Amendment Exhibit B" is hereby consolidated into the Agreement and that the New Volunteers are now the Applicant/Volunteers for purposes of the Agreement.

9. All attachments shall be incorporated into and made a part of this Amendment and the Agreement.

**NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:**

I. The above-referenced Agreement shall be amended as indicated herein.

II. The Agreement shall apply to a consolidated site consisting of the Initial Site and the Second Site, described in this Paragraphs I and IV, respectively. The definition of the "Site" located on page 1 of the Agreement is hereby modified to read as follows:

Real property located at 41-51 Buena Vista Avenue and 53-55 Buena Vista Avenue in the City of Yonkers, County of Westchester, State of New York, described on the Yonkers tax map as Section 1, Block 512, Lots 11, 13, 15, and 17. The Site is more fully described and delineated by the attached Exhibits "Amendment Exhibit A," a document entitled "Legal Description" and

“Amendment Exhibit B,” a document entitled “Map of Survey of Property in the County of Westchester” which includes a survey map and a metes and bounds description of the Site.

III. The Agreement is hereby amended to provide that the “Applicant” with respect to the Site is Teutonia Buena Vista, LLC and Buena Vista 53, LLC, which have been referred to above as the New Volunteers. The Applicant/New Volunteers shall be substituted in place of The Urban Group, LLC as Applicant, and shall be the parties responsible for performing all remaining obligations under the Agreement. The Applicant/New Volunteers shall participate in the Brownfield Cleanup Program as Volunteers.

IV. Within twenty (20) days after the effective date of this Amendment, Applicant shall update the Citizen Participation described in Paragraph I of the Agreement.

V. Paragraph II.A of the Agreement is amended to add language to the paragraph which provides for submission to the Department of an additional Work Plan. The Work Plan shall be captioned “Supplemental Remedial Investigation Work Plan” and provide for supplemental investigation of the nature and extent of contamination within the boundaries of the Site.

VI. Paragraph II.B shall be amended to add language to the provision which provides that a “Supplemental Remedial Investigation Work Plan” shall be submitted within thirty (30) of the effective date of this Amendment.

VII. Paragraph V.C of the Agreement is hereby amended to read as follows:

Such invoice shall be sent to Applicant at the following address:

Kenneth W. Dearden  
DW Capital  
82 Pondfield Road West  
Bronxville P.O.  
Yonkers, New York 10708

VIII. Paragraph XII.A.1 is hereby amended to delete the name and address of Deborah Christian, and to substitute the following name and address:

Dolores A. Tuohy, Esq.  
New York State Department of Environmental Conservation  
Division of Environmental Enforcement  
625 Broadway  
Albany, New York 12233-5500

IX. Paragraph XII.A.2 is hereby amended to delete the name and address of Gary Flocco, and to substitute the following name and address:

Kenneth W. Dearden  
DW Capital  
82 Pondfield Road West  
Bronxville P.O.  
Yonkers, New York 10708

X. This Amendment to the Agreement, and the Agreement shall constitute the entire Agreement between the parties with all the terms and conditions of the Agreement, except as herein provided, remaining in full force and effect.

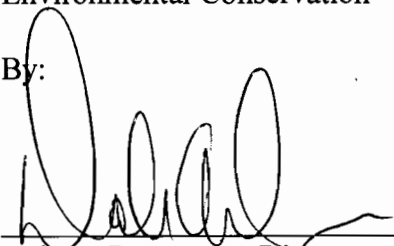
XI. The effective date of this Amendment shall be the date it is executed by the Commissioner or the Commissioner's designee.

DATED: Albany, New York

PR 16 2007

Alexander B. Grannis  
Commissioner  
New York State Department of  
Environmental Conservation

By:

  
\_\_\_\_\_  
Dale A. Desnoyers, Director  
Division of Environmental Remediation

CONSENT BY INITIAL VOLUNTEER

Initial Volunteer hereby consents to the issuing and entering of this Amendment, waives the right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

**The Urban Group, LLC**

By: 

Gary Flocco

Title: Managing Member

Date: 3/29/07

STATE OF New York )  
 ) s.s.:  
COUNTY OF Westchester

On the 29<sup>th</sup> day of March, in the year 2007, before me, the undersigned, personally appeared Gary Flocco, 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.

  
Signature and Office of individual  
taking acknowledgment

JOAN PELLEGRINO  
NOTARY PUBLIC, State of New York  
No. 5055511  
Qualified in Bronx & Westchester County  
Commission Expires Sept. 09, 19 2010

CONSENT BY NEW VOLUNTEERS/APPLICANT

New Volunteers/Applicant hereby consent to the issuing and entering of this Amendment, waive the right to a hearing herein as provided by law, and agree to be bound by this Amendment.

**Teutonia Buena Vista, LLC and  
Buena Vista 53, LLC**

By:   
Alan Litt

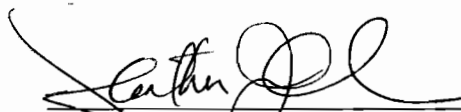
Title: Alan Litt

Date: 3/30/07

STATE OF NEW JERSEY )  
 ) s.s.:  
COUNTY OF BERGEN )

On the 30 day of March, in the year 2007, before me, the undersigned, personally appeared Alan Litt, 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.



  
Signature and Office of individual  
taking acknowledgment

HEATHER JOHNSON  
Notary Public Of New Jersey  
Commission Expires August 25, 2008

AMENDMENT  
EXHIBIT A

Legal Description

All that certain plot, piece or parcel of land as laid out on the accompanying plan titled "Boundary Survey of Block 512, Lot's 11, 13, 15 & 17" dated 11/20/06, prepared by New York City Land Surveyors, PC, 200 Radcliff Road, Staten Island, New York 10305, situate, lying and being in the City of Yonkers, County of Westchester and State of New York, being more particularly bounded and described as follows:

Beginning at an angle point along the westerly side of Buena Vista Avenue distant 266.25 feet southerly from the corner formed by the intersection of the said westerly line of Buena Vista Avenue with the southerly line of Main Street;

1. Running thence westerly on a line forming an interior angle of 95 degrees 25 minutes and 00 seconds with said westerly line of Buena Vista Avenue, a distance of 124.20 feet to a point along the easterly line of land now or formerly of New York Central and Hudson River Railroad Company, a/k/a Block 7000 Lot 1;

2. Running thence southerly along said easterly line of land now or formerly of New York Central and Hudson River Railroad Company, on a curve bearing to the left having a radius of 2,475.00 feet and a central angle of 6 degrees 13 minutes and 20 seconds, for a distance of 268.78 feet to a point;

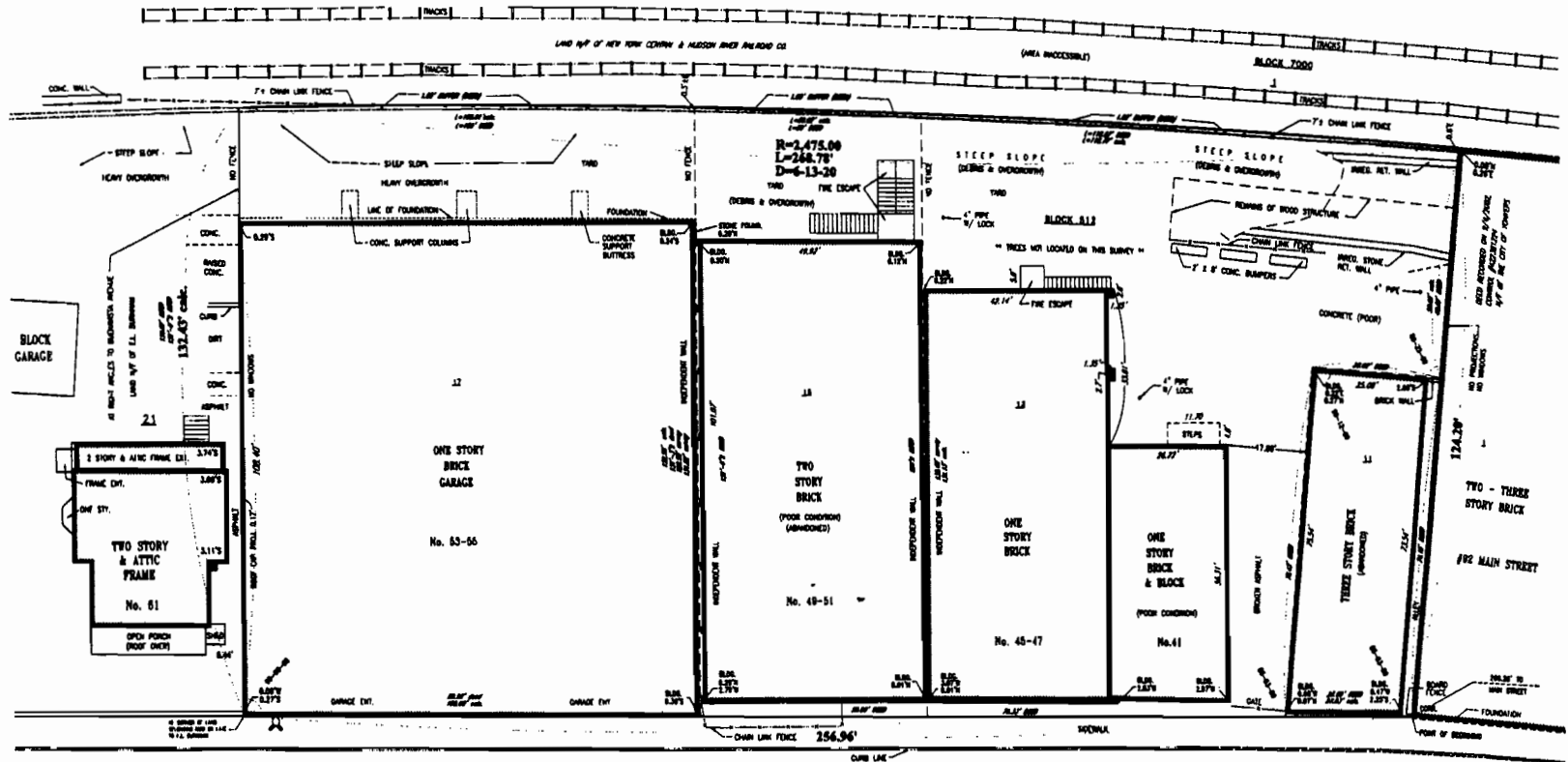
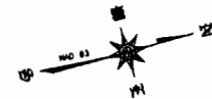
3. Running thence easterly on a line at right angles to Buena Vista Avenue, for a distance of 132.43 feet to a point along the westerly line of Buena Vista Avenue;

4. Running thence northerly along said westerly line of Buena Vista Avenue, a distance of 256.96 feet to the Point or Place of Beginning.

Excepting, however, from the above described premises so much thereof as lies between the easterly line of land of the New York Central and Hudson River Railroad and a line drawn parallel therewith and distant 1.00' easterly there from.

Parcel contains a two dimensional area of 34,320 square feet or 0.7878 acres.

# AMENDMENT EXHIBIT B



BUENA VISTA AVENUE

Unauthorised alteration or addition to a survey map created by a licensed land surveyor is a violation of Section 1709, sub-section 2, of the New York State Constitution.

<b>Map of Survey of Property</b> in the County of Westchester City of Yonkers State of New York		<b>Boundary Survey</b> of Block 513 Lots 14, 15 & 17	
Date: 1-25-2007	Project Number: 2006-76-5127	Title Number:	Site Address: No. 41-55 Buena Vista Avenue
Survey Date: 11-10-06	Drawn: AS	Approved: PJ	
Block: 513	Lot(s): 14, 15, 17	Drawing No.: 1	
Scale: REEL 2016 PAGE 1790	Sheet No.: 1 of 1		

Notes

The location of underground improvements or encroachments are not shown herein and shall remain the responsibility of the owner. The location of underground improvements or encroachments are not shown herein and shall remain the responsibility of the owner.

Any map was prepared from data collected by an actual field survey conducted on 10-25-06.

Copyright ©:  
1. John L. and Betty L. Holding Company, LLC  
2. Westchester Title Agency, LLC  
3. Westchester Title Agency, LLC  
4. Westchester Title Agency, LLC  
5. Westchester Title Agency, LLC

CLERK OF CITY: Patrick Benoit, Jr.  
New York State Licensed Land Surveyor  
License No. 008811



New York City Land Surveyors, PC  
200 Rockwell Road, Staten Island, NY 10306

Phone: 1-718-799-1201 Fax: 1-718-799-1077

