

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



\*641383422EAS001X\*

### Westchester County Recording & Endorsement Page

#### Submitter Information

Name: Stewart Title Insurance Company (pick up by Ramon .  
Address 1: 711 Westchester Avenue, Ste 302  
Address 2:  
City/State/Zip: White Plains NY 10604

Phone: 914-993-9393  
Fax: 914-997-1698  
Email: nymetrorecordings@stewart.com  
Reference for Submitter: 2334662/81292477 200 Hamilton Avenue

#### Document Details

Control Number: **641383422**  
Package ID: 2024051700205001001

Document Type: **Easement (EAS)**  
Document Page Count: **10** Total Page Count: **11**

#### Parties

Additional Parties on Continuation page

1st PARTY  
1: S-WDWP LLC - Other  
2:

2nd PARTY  
1: NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL C - Other  
2: NEW YORK STATE OF - Other

#### Property

Additional Properties on Continuation page

Street Address: 200 HAMILTON AVENUE  
City/Town: WHITE PLAINS

Tax Designation: 125.67-5-1..2  
Village:

#### Cross-References

Additional Cross-Refs on Continuation page

1: 2: 3: 4:

#### Supporting Documents

1: TP-584

#### Recording Fees

Statutory Recording Fee: \$40.00  
Page Fee: \$55.00  
Cross-Reference Fee: \$0.00  
Mortgage Affidavit Filing Fee: \$0.00  
RP-5217 Filing Fee: \$0.00  
TP-584 Filing Fee: \$5.00  
RPL 291 Notice Fee: \$0.00  
Total Recording Fees Paid: \$100.00

#### Mortgage Taxes

Document Date:  
Mortgage Amount:

Basic: \$0.00  
Westchester: \$0.00  
Additional: \$0.00  
MTA: \$0.00  
Special: \$0.00  
Yonkers: \$0.00  
Total Mortgage Tax: \$0.00

#### Transfer Taxes

Consideration: \$0.00  
Transfer Tax: \$0.00  
Mansion Tax: \$0.00  
Transfer Tax Number: 3926

Dwelling Type: Exempt:   
Serial #:

RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK



Recorded: 10/29/2024 at 12:15 PM  
Control Number: **641383422**  
Witness my hand and official seal

Timothy C. Idoni  
Westchester County Clerk

#### Record and Return To

Pick-up at County Clerk's office

Stewart Title Insurance  
711 Westchester Avenue  
Suite 302  
White Plains , NY 10604

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

<sup>AS OF</sup>  
THIS INDENTURE made this 23rd day of July, 2024 between Owner, S-WD/WP LLC, having an office at c/o The Cappelli Organization 5 Renaissance Square, 42nd Floor, White Plains, County of Westchester, 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 200 Hamilton Avenue in the City of White Plains, County of Westchester and State of New York, known and designated on the tax map of the County Clerk of Westchester as tax map parcel number: Section 125.67 Block 5 Lot 1..2, being the same as that property conveyed to Grantor by deed dated November 30, 2022 and recorded in the Westchester County Clerk's Office in Instrument No. 623113486. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.94 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 21, 2024, and last revised June 17, 2024, prepared by Steven J. Willard, 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: C360177-03-22, 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:

**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 Westchester County Department of Health 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 Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), 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;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a



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**

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

S-WD/WP LLC:

By: *B B*

Print Name: BRUCE BERG

Title: AUTHORIZED SIGNATORY Date: 7/17/24

Grantor's Acknowledgment

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

On the 17<sup>th</sup> day of July, in the year 20 24, before me, the undersigned, personally appeared Bruce Berg, 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]*  
Notary Public - State of New York

LYNNA. GORSLINE  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01GO6015509  
Qualified in Suffolk County  
Commission Expires 11/2/2026



**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: Andrew Guglielmi  
Andrew O. Guglielmi, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

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

On the 23rd day of July, in the year 2024 before me, the undersigned, personally appeared Andrew O. Guglielmi, 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.

Cheryl A. Salem  
Notary Public - State of New York

Cheryl A. Salem  
Notary Public State of New York  
Registration No. 01SA0002177  
Qualified In Albany County  
My Commission Expires March 3, 2027

**SCHEDULE "A" PROPERTY DESCRIPTION**

**Deed and Easement Description**

ALL that certain plot piece or parcel of land, situate, lying and being in the part of the condominium located in the City of White Plains, County of Westchester and State of New York, known and designated as Unit No. 2, together with a 40.00% undivided interest in the common elements of the condominium, hereafter described as the same is defined in the Declaration of Condominium hereinafter referred to.

The real property above described is a unit shown on map entitled "Condominium Map prepared for Hamilton Green Condominium, located at 200 & 250 Hamilton Ave., White Plains, NY 10601 and W.P. Mall Realty LLC, property situate in the City of White Plains, County of Westchester, State of New York," prepared by Line & Grade Surveyors D.P.C., and filed in the Office of the Clerk of the County of Westchester on August 25, 2021 as Map No. 29553, defined in the Declaration of Condominium entitled "The Hamilton Green Condominium" made by W.P. Mall Realty, LLC, under Article 9-B of the New York Real Property Law dated as of August 24, 2021, and recorded in the Office of the Clerk of the County of Westchester on September 1, 2021, in Control No. 612383625, covering the property therein described.

The land area of Unit 2 is described as follows:

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

BEGINNING at a point on the easterly side of Dr. Martin Luther King Blvd. (formerly known as Northern Arterial) at the northerly end of a curve having a radius of 20.00 feet, a central angle of 100° 16' 52.9" and a length of 35.00 feet which curve connects the southerly side of Barker Avenue with the easterly side of Dr. Martin Luther King Blvd. (formerly known as Northern Arterial) as shown on a certain map entitled "Disposition Parcel No. 14, W. P. Mall Corp." which map is filed in the Westchester County Clerk's Office, Division of Land Records on June 9, 1971 as Map No. 17464;

RUNNING THENCE along the southerly side of Barker Avenue North 61° 48' 41" East a distance of 208.58 feet to a point;

THENCE through the lands known as Disposition Parcel 14, South 27° 01' 19" East a distance of 413.84 feet to a point along the northerly side of Hamilton Avenue;

THENCE along the northerly side of Hamilton Avenue, along a curve to the right having a radial bearing of North 25°09'48" West, a radius of 4627.386 and a length of 183.292 feet to a point;

THENCE along a curve to the right having a radius of 20.00 feet, a central angle of 88° 53' 19" and a length of 31.028 feet to a point;

THENCE along the easterly side of Dr. Martin Luther King Blvd. (formerly known as Northern Arterial) along a curve to the left having a radius of 1414.00 feet, a central angle of  $14^{\circ} 27' 53''$  and a length of 356.97 feet to a point;

THENCE along a curve to the right having a radius of 20.00 feet, a central angle of  $100^{\circ} 16' 52.9''$ , and a length of 35.00 feet to the point and place of BEGINNING.

For Information Only: Said premises are known as 200 Hamilton Avenue, White Plains, New York and designated as Tax Lot 1..2, Block 5, Section 125.67, on the tax map of the City of White Plains.

Containing within said bounds 1.940 acres of land.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF ENVIRONMENTAL REMEDIATION

-----X

HAMILTON GREEN SITE  
NYS BCP C#360177  
200 Hamilton Avenue  
White Plains, Westchester County  
Region 3

AFFIRMATION OF SERVICE  
OF  
NOTICE TO MUNICIPALITY

-----X

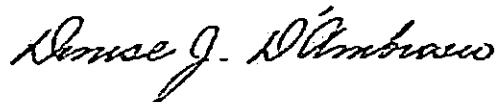
I, Denise J. D'Ambrosio, declare under penalty of perjury, that I am attorney in the Law Office of Denise J. D'Ambrosio, attorney for S-WD/WP LLC, and that I served the Notice to Municipality of Environmental Easement and Environmental Easement in the above captioned matter upon the following:

Hon. Thomas Roach  
Mayor, City of White Plains  
255 Main Street  
White Plains, New York 10601

by mailing and depositing a true and correct copy of the documents in an official depository for delivery by mail to said address on October 31, 2024.

Dated: October 31, 2024  
White Plains, New York

Law Office of Denise J. D'Ambrosio



Denise J. D'Ambrosio, Esq.

2 Westchester Park Drive, Suite 418  
White Plains, New York 10604  
914-393-9578

Law Office of  
Denise J. D'Ambrosio  
Attorney at Law

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October 30, 2024

Hon. Thomas Roach  
Mayor, City of White Plains  
255 Main Street  
White Plains, New York 10601

Re: Notice to Municipality of Environmental Easement  
Hamilton Green Site  
NYS BCP Site No. C360177

Dear Mayor Roach:

Attached please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation ("Department") on July 23, 2024 by S-WD/WP LLC for the property located at *200 Hamilton Avenue, White Plains*, Tax Map No. Section 125.67, Block 5, Lot 1..2; the Site being the Hamilton Green Site, DEC BCP Site No. C360177.

This Environmental Easement temporarily restricts future use of the above-referenced property to restricted residential uses. Any on-site activity must be done in accordance with the Environmental Easement and the 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:

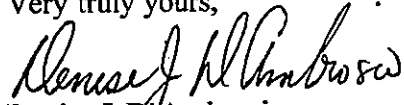
1. Whenever the department is granted an environmental easement, it shall provide each affected local government with a copy of such easement and shall also provide a copy of any documents modifying or terminating such 1-3 Pier Street environmental easement.
2. Whenever an affected local government receives 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 approval from the department.

Municipal Notice  
BCP Site C360177  
October 30, 2024

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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 these provisions of 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,



Denise J. D'Ambrosio

Counsel

S-WD/WP LLC

Hamilton Green II Partners LLC

Law Office of  
**Denise J. D'Ambrosio, Esq.**  
Attorney at Law

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October 31, 2024

Brian Rashkow, Assistant Counsel  
Office of General Counsel, 14<sup>th</sup> Floor  
New York State Division of Environmental Conservation  
Bureau of Remediation  
625 Broadway, 14<sup>th</sup> Floor  
Albany, NY 12233-1500

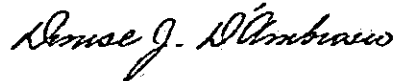
RE: BCP Environmental Easement  
Hamilton Green Site BCP # C360177  
200 Hamilton Avenue  
White Plains, New York 10601

Dear Mr. Rashkow:

Enclosed is an Affirmation of Service of the Notice to Municipality of Environmental Easement, Recorded Environmental Easement, and an Affirmation of Service of both documents upon the City of White Plains, the municipality where the Site is located.

Thank you and your colleagues for your assistance in this matter.

Sincerely,



Denise J. D'Ambrosio

Enclosures.

ec: Brian Rashkow  
Greta White, DEC  
Kyle Pero, DEC  
Cheryl Salem