

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 | F: (518) 402-9020
www.dec.ny.gov

December 29, 2017

4216 Group, LLC
Attn: William Paladino
295 Main Street, Suite 210
Buffalo, NY 14203

Re: Certificate of Completion
300 Ohio Street
Buffalo, Erie County
Site No. C915257

Dear Mr. Paladino:

Congratulations on having satisfactorily completed the remedial program at the 300 Ohio Street Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) 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 a notice of the COC 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 a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to the Department's project manager. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter.



Department of
Environmental
Conservation

Please return the proof of recording to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. The Department 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;
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2019.

If you have any questions regarding any of these items, please contact Anthony Lopes at (716) 851-7220.

Sincerely,



Michael J. Ryan, P.E.
Assistant Director
Division of Environmental Remediation

cc w/ enclosure:

A. Lopes

J. Dougherty

W. Paladino - 4216 Group, LLC, bpaladino@ellicottdevelopment.com

M. Lesakowski – Benchmark, mlesakowski@benchmarkturnkey.com

C. Slater - Slater Law Firm, cslater@cslaterlaw.com

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

Name

4216 Group, LLC

Address

295 Main Street, Suite 210, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 9/6/11 **Agreement Execution:** 11/9/11 **Agreement Index No.:** C915257-09-11

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C915257 **Site Name:** 300 Ohio Street Site

Site Owner: 4216 Group, LLC

Street Address: 300 Ohio Street

Municipality: Buffalo **County:** Erie **DEC Region:** 9

Site Size: 4.825 Acres

Tax Map Identification Number(s): 122.10-2-10, 122.10-2-11, 122.10-2-12, 122.10-2-13, 122.10-2-14,
122.10-2-15, 122.10-2-16.2, 122.10-2-17, 122.10-2-18, 122.10-2-19,
122.10-2-20

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: Commercial and Industrial

Cleanup Track: Track 4: Restricted use with site-specific soil cleanup objectives

Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25 %.

Tangible Property Credit Component Rate is 20 %.

Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25 %.

Tangible Property Credit Component Rate is 18 %.

The Remedial Program includes use restrictions or reliance on the long-term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as BK/PG D 11282/2680 and 2015139962.

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 a finding that:

- (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;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

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:  Date: 12/29/17
Michael J. Ryan, P.E., Assistant Director
Division of Environmental Remediation

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

300 Ohio Street, Site ID No. C915257
300 Ohio Street, Buffalo, NY, 14203
Buffalo, Erie County, Tax Map identification Numbers 122.10-2-10, 122.10-2-11,
122.10-2-12, 122.10-2-13, 122.10-2-14, 122.10-2-15, 122.10-2-16.2, 122.10-2-17,
122.10-2-18, 122.10-2-19, 122.10-2-20

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to 4216 Group, LLC for a parcel approximately 4.825 acres located at 300 Ohio Street in the City of Buffalo, Erie County.

PLEASE TAKE NOTICE, the Certificate was 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 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.

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 the Department as not inconsistent with the remedy.

PLEASE TAKE NOTICE, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as File 2015139962 and BK/PG D 11282/2680.

PLEASE TAKE NOTICE, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

PLEASE TAKE NOTICE, provided that the Environmental Easement, SMP and Certificate are 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

300 Ohio Street, C915257, 300 Ohio Street, Buffalo, NY 14203

limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

PLEASE TAKE NOTICE, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

PLEASE TAKE NOTICE, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

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.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 Office located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

4216 Group, 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

Please record and return to:
4216 Group, LLC
ATTN: William Paladino
295 Main Street, Suite 210
Buffalo, NY 14203

Exhibit A

SCHEDULE "A" PROPERTY DESCRIPTION

Environmental Easement Description

For 300 Ohio Street Site

BCP Site No. C915257

**300, 326, 328, 340 and 354 Ohio Street
11 Chicago Street
49 and 53 Mackinaw Street**

ALL THAT PLOT OF LAND SITUATE in the City of Buffalo, County of Erie and State of New York, being part of Out Lot No. 56 in said City, more particularly bounded and described as follows:

BEGINNING at the intersection of the easterly line of Chicago Street (66 feet wide) with the northeasterly line of Ohio Street (66 feet wide);

THENCE southeasterly, along the northeasterly line of Ohio Street, a distance of 596.00 feet to the point of intersection of said northeasterly line of Ohio Street with the southerly line of Wabash Street (66 feet wide), now discontinued and closed;

THENCE N 61° 28' 40" E, along the southerly line of the former Wabash Street, a distance of 55.77 feet to an angle point therein;

THENCE N 13° 17' 30" E, along the easterly line of the former Wabash Street, a distance of 843.22 feet, more or less, to a point in the southerly line of Mackinaw Street (originally 66 feet wide, but now discontinued in part);

THENCE N 76° 42' 30" W, along the southerly line of Mackinaw Street, a distance of 225.57 feet to a point on said southerly line of Mackinaw Street distant 140.00 feet easterly from the intersection of said southerly line of Mackinaw Street with the easterly line of Chicago Street, as measured along said southerly line of Mackinaw Street;

THENCE southerly, at right angles, and parallel to Chicago Street, a distance of 100.00 feet;

THENCE easterly, at right angles, and parallel to Mackinaw Street, a distance of 12.00 feet to a point on a line-drawn parallel to Chicago Street;

THENCE southerly, at right angles, and parallel to Chicago Street, a distance of 158.50 feet to a point on a line drawn parallel to Mackinaw Street;

THENCE westerly, parallel to Mackinaw Street, a distance of 91.00 feet to a point which is 61.00 feet east of the easterly line of Chicago Street as measured along a line drawn at right angles to the easterly line of Chicago Street;

THENCE northerly, at right angles and parallel with the easterly line of Chicago Street, a distance of 20.00 feet;

THENCE westerly, parallel with the southerly line of Mackinaw Street, a distance of 61.00 feet to a point in the easterly line of Chicago Street which point is 141.00 feet north of the intersection of said easterly line of Chicago Street and the northeasterly line of Ohio Street as measured along the easterly line of Chicago Street;

THENCE southerly, along the easterly line of Chicago Street, 141.00 feet to the point and place of beginning.

71, 73, & 75 Chicago Street

ALL THAT PLOT OF LAND SITUATE in the City of Buffalo, County of Erie and State of New York, Bounded and described as follows, to wit:

BEGINNING at a point in the easterly line of Chicago Street twenty-five (25) feet south of Mackinaw Street; running thence easterly on a line parallel with Mackinaw Street one hundred (100) feet; thence southerly and parallel with Chicago Street twenty-nine (29) feet; thence westerly and parallel with Mackinaw Street one hundred (100) feet to Chicago Street, and thence northerly along the easterly line of Chicago Street twenty-nine (29) feet to the place of beginning.

AND ALSO, ALL THAT PLOT OF LAND SITUATE in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot No. 56 in said City, bounded and described as follows:

BEGINNING at a point in the south line of Mackinaw Street distant ninety-nine (99) feet east of its intersection with the east line of Chicago Street; thence easterly along the south line of Mackinaw Street one (1) foot; thence southerly and parallel with the east line of Chicago Street twenty-five (25) feet; thence westerly and parallel with the south line of Mackinaw Street one (1) foot; thence northerly and parallel with the east line of Chicago Street twenty-five (25) feet to the point or place of beginning.

Environmental Easement area containing 4.825 ± acres more or less.

Exhibit B



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/22/2017



SITE DESCRIPTION

SITE NO. C915257

SITE NAME 300 Ohio Street Site

SITE ADDRESS: 300 Ohio Street ZIP CODE: 14204

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan



Monitoring Plan



Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/29/2019

Description of Institutional Control

4216 Group, LLC

295 Main Street Suite 210

11 Chicago Street

Environmental Easement

Block: 2

Lot: 15

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-15

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

300 Ohio Street

Environmental Easement

Block: 2

Lot: 14

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-14

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

326 Ohio Street

Environmental Easement

Block: 2

Lot: 13

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-13

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

328 Ohio Street

Environmental Easement

Block: 2

Lot: 12

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-12

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

340 Ohio Street

Environmental Easement

Block: 2

Lot: 11

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-11

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

354 Ohio Street

Environmental Easement

Block: 2

Lot: 10

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-10

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

49 Mackinaw Street

Environmental Easement

Block: 2

Lot: 19

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-19

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

53 Mackinaw Street

Environmental Easement

Block: 2

Lot: 20

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-20

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

71 Chicago Street

Environmental Easement

Block: 2

Lot: 17

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-17

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

73 Chicago Street

Environmental Easement

Block: 2

Lot: 18

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-18

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

75 Chicago Street

Environmental Easement

Block: 2

Lot: 16
Sublot: 2
Section: 122
Subsection: 10
S_B_L Image: 122.10-2-16.2
Building Use Restriction
Ground Water Use Restriction
IC/EC Plan
Landuse Restriction
Monitoring Plan
Site Management Plan
Soil Management Plan

Description of Engineering Control

4216 Group, LLC

295 Main Street Suite 210

11 Chicago Street

Environmental Easement

Block: 2

Lot: 15

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-15

Cover System

300 Ohio Street

Environmental Easement

Block: 2

Lot: 14

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-14

Cover System

326 Ohio Street

Environmental Easement

Block: 2

Lot: 13

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-13

Cover System

328 Ohio Street

Environmental Easement

Block: 2

Lot: 12

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-12

Cover System

340 Ohio Street

Environmental Easement

Block: 2

Lot: 11

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-11

Cover System

354 Ohio Street

Environmental Easement

Block: 2

Lot: 10

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-10

Cover System

49 Mackinaw Street

Environmental Easement

Block: 2

Lot: 19

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-19

Cover System

53 Mackinaw Street

Environmental Easement

Block: 2

Lot: 20

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-20

Cover System

71 Chicago Street

Environmental Easement

Block: 2

Lot: 17

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-17

Cover System

73 Chicago Street

Environmental Easement

Block: 2

Lot: 18

Sublot:

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-18

Cover System

75 Chicago Street

Environmental Easement

Block: 2

Lot: 16

Sublot: 2

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-16.2

Cover System