

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE:2/15/2022
TIME:4:01:04 PM
RECEIPT: 22024921

LIPPES MATHIAS ETAL
ACCOUNT #: 1627

ITEM - 01 740
RECD: 2/15/2022 4:06:26 PM
FILE: 2022031828 BK/PG D 11396/4950
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL C
ONSERVATION
201 ELLICOTT STREET SITE
Recording Fees 105.00
Subtotal 105.00

TOTAL DUE	\$105.00
PAID TOTAL	\$105.00
PAID CHECK	\$105.00
Check #91570:	105.00

REC BY: David M
COUNTY RECORDER

February 16, 2022

Certified Mail RRR

New York State Department of Environmental Conservation
Division of Environmental Remediation
Attn: Joshua Vaccaro, Bureau E – Region 9
270 Michigan Avenue
Buffalo, NY 14203

RE: NYSDEC Brownfield Certificate of Completion
201 Ellicott Street, Buffalo, NY

Dear Mr. Vaccaro:

Enclosed please find the file stamped Brownfield Cleanup Certificate of Completion and recording receipt for the above-referenced property.

If you have any questions with respect to the foregoing, please call me at (716) 853-5100, ext.# 1247.

Very truly yours,

LIPPES MATHIAS LLP


Sherry Keklak
Enc.

C: Denise M. Juron-Borgese

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Sherry Keklak | Legal Assistant | skeklak@lippes.com

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

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CERTIFICATE HOLDERS:

Name	Address
201 Ellicott Commercial, LLC	50 Fountain Plaza, Suite 500, Buffalo, NY 14202
201 Ellicott Housing Development Fund Corp.	50 Fountain Plaza, Suite 500, Buffalo, NY 14202
201 Ellicott Residential, LLC	50 Fountain Plaza, Suite 500, Buffalo, NY 14202
201 Ellicott, LLC	50 Fountain Plaza, Suite 500, Buffalo, NY 14202

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 7/23/18 **Agreement Execution:** 9/18/18

Agreement Index No.: C915331-07-18

Application Approval Amendment: 5/15/20

Agreement Execution Amendment: 5/15/20

SITE INFORMATION:

Site No.: C915331 **Site Name:** 201 Ellicott Street Site

Site Owner: Ellicott Commercial Owner, LLC
201 Ellicott Housing Development Fund Corp.

Street Address: 201 & 225 Ellicott Street

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

Site Size: 2.477 Acres

Tax Map Identification Number(s): 111.13-13-1.1, 111.13-13-1.2

Percentage of site located in an EnZone: 100%

FILED

FEB 15 2022

ERIE COUNTY
CLERK'S OFFICE

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%.

Tangible Property Credit 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%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24%.

The Environmental Easement for the site granted pursuant to ECL Article 71, Title 36 on October 6, 2020 is no longer required 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 holders 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.

The Certificate holders (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: Susan Edwards Date: 12/11/2020

Susan Edwards, P.E., Acting Director
Division of Environmental Remediation

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

201 Ellicott Street Site, Site ID No. C915331
201 & 225 Ellicott Street, Buffalo, New York, 14203
City of Buffalo, Erie County, Tax Map Identification Numbers: 111.13-13-1.2, 111.13-13-1.1

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 Ellicott Commercial, LLC, 201 Ellicott Housing Development Fund Corp., 201 Ellicott Residential, LLC and 201 Ellicott, LLC for a parcel totaling approximately 1.462-acres located at the 201 Ellicott Street in the City of Buffalo and 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.

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.

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 located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C915331/>.

201 Ellicott Street Site C915331 – 201 & 225 Ellicott Street, Buffalo, NY, 14203

WHEREFORE, the undersigned has signed this Notice of Certificate

201 Ellicott Housing Development Fund Corp.

By: 

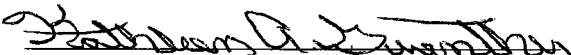
Paul F. Ciminelli

Title: **Managing Member**

Date: 2/10/22

STATE OF NEW YORK) SS:
COUNTY OF ERIE)

On the 10th day of February, in the year 2022 before me, the undersigned, personally appeared Paul F. Ciminelli 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(~~ties~~), 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

KATHLEEN A. GUENTHER #01GU4575162
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires August 31, 2022

Please record and return to:
201 Ellicott Commercial, LLC
Paul Ciminelli
50 Fountain Plaza, Suite 500
Buffalo, NY 14202

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NYS DEC
REGION 9

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

201 Ellicott Street Site, Site ID No. C915331
201 & 225 Ellicott Street, Buffalo, New York, 14203
City of Buffalo, Erie County, Tax Map Identification Numbers: 111.13-13-1.2, 111.13-13-1.1

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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):

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- ☒ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
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- ☒ 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.

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

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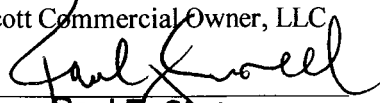
PLEASE TAKE NOTICE, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C915331/>.

WHEREFORE, the undersigned has signed this Notice of Certificate

Ellicott Commercial Owner, LLC

By:



Paul F. Ciminelli

Title:

Managing Member

Date:

2/10/22

STATE OF NEW YORK) SS:
COUNTY OF ERIE)

On the 10th day of February, in the year 2022 before me, the undersigned, personally appeared Paul F. Ciminelli 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 acknowledgement

KATHLEEN A. GUENTHER #01GU4675162
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires August 31, 2022

Please record and return to:

201 Ellicott Commercial, LLC
Paul Ciminelli
50 Fountain Plaza, Suite 500
Buffalo, NY 14202

Exhibit A

Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York, and being part of Outer Lots 110 and 111, bounded and described as follows:

BEGINNING AT the intersection of the south line of Clinton Street with the east line of Ellicott Street;

RUNNING THENCE: Southeasterly, along the south line of Clinton Street, a distance of 245.70 feet to a point, said point being 1.0 foot northwesterly measured along the south line of Clinton Street from the northwest corner of the first described parcel of an easement granted to National Fuel Gas Distribution Corporation by deed recorded in the Erie County Clerk's Office in Liber 9727 of Deeds at Page 385;

RUNNING THENCE: Southwesterly, parallel with the west line of Elm Oak Arterial (formerly Oak Street) and 1.0 foot westerly of the west line of said National Fuel Gas Distribution Corporation easement, a distance of 31.0 feet to a point;

RUNNING THENCE: Southeasterly, parallel with the south line of Clinton Street and 1.0 foot southerly of the south line of said National Fuel Gas Distribution Corporation easement, a distance of 56.0 feet to a point on the west line of Elm Oak Arterial;

RUNNING THENCE: Southwesterly, at an interior angle of 89°-56'-51" with the last described line and along the west line of Elm Oak Arterial, a distance of 332.44 feet to the northeast corner of lands conveyed to Niagara Frontier Transportation Authority by deed recorded in the Erie County Clerk's Office in Liber 8278 of Deeds at Page 531; said point being also on the north line of Former Eagle Street;

RUNNING THENCE: Northwesterly, at an interior angle of 90°-05'-02" with the last described line and along the north line of said Niagara Frontier Transportation Authority lands and the north line of former Eagle Street, a distance of 301.52 feet to a point on the east line of Ellicott Street;

RUNNING THENCE: Northeasterly, at an interior angle of 89°-56'-38" with the last described line and along the east line of Ellicott Street, a distance of 363.60 feet to the POINT OR PLACE OF BEGINNING, containing 2.477 Acres, be the same, more or less.

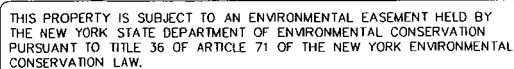
SUBJECT to easements, rights of way and restrictions of record.

Exhibit B

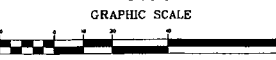
Site Survey

DEED DESCRIPTION
L-11350, P-1651

PARCEL")

[illegible]

THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWENT@DEC.NY.GOV.



1

- | | | |
|---|----------------------------|--------------------|
| — | UNDERGROUND ELECTRIC | STORM MANHOLE |
| — | UNDERGROUND TELEPHONE | PARKING METER |
| — | UNDERGROUND COMMUNICATIONS | PARKING RECEIPT |
| — | SEWAGE WATER | PARKING BUTTON |
| — | STORM SEWER | GUARD POST |
| — | WATER | CLEANOUT |
| — | UNKNOWN UNDERGROUND | GAS VALVE |
| — | UTILITY | WATER VALVE |
| — | FENCE | HYDRANT |
| — | CLERICAL | TELEPHONE |
| — | TRAFFIC LIGHT | TELEPHONE MANHOLE |
| — | LIGHT POLE | TRAFFIC MANHOLE |
| — | LIGHT BARS ONLY | LIGHTING MANHOLE |
| — | CATCH BASIN | ELECTRIC MANHOLE |
| — | COMBINATION MANHOLE | SIGN |
| — | | NOT FIELD VERIFIED |

McINTOSH & McINTOSH, P.C.
CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS
428 PINE STREET, LOCKPORT, NEW YORK 14094
PHONE 433-2535 PHONE 625-8360

SURVEY OF PART OF OUTER LOTS-110 & 111			
CITY OF BUFFALO, ERIE COUNTY, NEW YORK			
JOB No. 8828-EE			SCALE: 1" = 20'
DATE: AUGUST 16, 2016			DRAWN: MJD COMP: QVZ CHECK: CARM REVISION:



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/16/2021



SITE DESCRIPTION

SITE NO. C915331

SITE NAME 201 Ellicott Street Site

SITE ADDRESS: 201 & 225 Ellicott Street **ZIP CODE:** 14203

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Monitoring Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Periodic Review Frequency: N/A

Periodic Review Report Submitted Date: N/A

Description of Institutional Control

201 Ellicott, LLC

50 Fountain Plaza, Suite 500

201 Ellicott Street

Environmental Easement

Block: 13

Lot: 1

Sublot: 2

Section: 111

Subsection: 13

S_B_L Image: 111.13-13-1.2

Site Management Plan

**NOTE: Environmental Easement to be
extinguished at the request of the Applicant
post COC re-issuance. ICs no longer required.**

Ellicott Commercial Owner, LLC

50 Fountain Plaza, Suite 500

225 Ellicott Street

Environmental Easement

Block: 13

Lot: 1

Sublot: 1

Section: 111

Subsection: 13

S_B_L Image: 111.13-13-1.1

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Ground Water Use Restriction IC/EC Plan Landuse Restriction Site Management Plan
Description of Engineering Control