

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 30, 2020

Mr. Rocco Termini
140 Chandler Street, LLC
391 Washington Street, Suite 800
Buffalo, NY 14203

Re: Certificate of Completion
140 Chandler Street Site
Buffalo, Erie County
Site No.: C915354

Dear Mr. Termini:

Congratulations on having satisfactorily completed the remedial program at the 140 Chandler 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 the Notice of Certificate of Completion 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 the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:



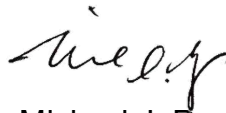
Department of
Environmental
Conservation

Jaspal S. Walia
New York State Department of Environmental Conservation
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203
Albany, NY 12233

- Provide the Notice of Certificate of Completion 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;

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

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Michele Wittman, michelewittmangeo@gmail.com
Marc Romanowski, Esq., mromanowski@hsr-legal.com
Christine Vooris, NYSDOH, christine.vooris@health.ny.gov
Charlotte Bethony, NYSDOH, charlotte.bethany@health.ny.gov
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Matt Gokey, NYSDTF, matthew.gokey@tax.ny.gov
Paul Takac, NYSDTF, paul.takac@tax.ny.gov

ec w/o enc.:

Jaspal S. Walia, NYSDEC
Andrea Caprio, NYSDEC
Michael Cruden, NYSDEC
Karen Draves, Esq., NYSDEC
Kelly Lewandowski, NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER:

Name

140 Chandler Street, LLC

Address

391 Washington Street, Suite 800, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 1/24/20 **Agreement Execution:** 1/31/20

Agreement Index No.: C915354-01-20

Application Approval Amendment: 12/23/20

Agreement Execution Amendment: 12/29/20

SITE INFORMATION:

Site No.: C915354 **Site Name:** 140 Chandler Street

Site Owner: 140 Chandler Street, LLC

Street Address: 140 Chandler Street

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

Site Size: 0.512 Acres

Tax Map Identification Number(s): 77.84-4-4.1

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: 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 %.

No Environmental Easement has been granted pursuant to ECL Article 71, Title 36 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 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.

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: 12/30/2020

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

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

140 Chandler Street , Site ID No. C915354
140 Chandler Street, Buffalo, NY 14207
Buffalo, Erie County, Tax Map Identification Number: 77.84-4-4.1

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 140 Chandler Street, LLC for a parcel approximately 0.512 acres located at the 140 Chandler 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, 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.

140 Chandler Street, C915354, 140 Chandler Street, Buffalo, NY 14207

WHEREFORE, the undersigned has signed this Notice of Certificate

140 Chandler Street, 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:
Mr. Rocco Termini
140 Chandler Street, LLC
391 Washington Street, Suite 800
Buffalo, NY 14203

Exhibit A

Site Description

104 Chandler Street, Site No.: C915354
City of Buffalo, Erie County

Metes and Bounds Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Lot 88, Township 11, Range 8 of the Holland Land Company's Survey and according to a map filed in the Erie County Clerk's Office under Cover No. 196 is known as the easterly 1 foot 3.5 inches of Subdivision Lot No. 50, all of Subdivision Lots Nos. 51 through 54 inclusive and the west 4.24 feet of Subdivision Lot No. 55 in Block "A" situate on the north side of Chandler Street and being further bounded and described as follows:

BEGINNING at a point on the northerly line of Chandler Street (a 60.0 foot wide right of way) at its intersection with the east line of lands conveyed to John Valenti, Jr. in Liber 11280 of Deeds, page 3750; running thence easterly along the north line of Chandler Street a distance of 148 feet 8.5 inches to the true point or place of beginning; running thence easterly along said northerly line of Chandler Street a distance of 125 feet 6.5 inches to a point; running thence northerly at right angles, a distance of 150 feet to a point on the north line of Subdivision Lot No. 55; running thence westerly along the northerly lines of Subdivision Lot Nos. 50 through 55 inclusive, a distance of 125 feet 6.5 inches to a point; thence southerly at right angles, a distance of 150 feet to the north line of Chandler Street and the point or place of beginning. Containing 0.512 acres of land, more or less.

Exhibit B

Site Survey

