

FILED

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ERIE COUNTY
CLERK'S OFFICE

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT, is made the 20th day of July 2005, by GE Capital Franchise Finance Corporation (formerly Franchise Finance Corporation of America) as successor to Insured Income Properties 1984, a Limited Partnership organized and existing under the laws of the State of Delaware (for purposes of this agreement "GEFF") having an office for the transaction of business at 17207 North Perimeter Drive, Scottsdale Arizona:

WHEREAS, GEFF is the owner of a parcel of real property which is participating in the New York State Department of Environmental Conservation's (the "Department's") Voluntary Cleanup Program, namely, a property made up of four parcels, the metes and bounds of which are set forth on Exhibit A attached hereto, located at 2137 Seneca Street in the City of Buffalo, County of Erie, State of New York, which is part of Lot 52, Township 10, Range 7 of the Buffalo Creek Reservation and according to a map filed in the Erie County Clerk's Office under Cover No. 548 and being more particularly described in Appendix "A," attached to this declaration and made a part hereof, and hereinafter referred to as "the Site"; and

WHEREAS, the Site is the subject of a Voluntary Cleanup Agreement entered into GEFF and the Department ("the Agreement"); and

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Site and such remedy requires that the Site be subject to restrictive covenants.

NOW, THEREFORE, GEFF, for itself and its successors and/or assigns, covenants that:

First, the Site subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Appendix "B" and made a part hereof, and consists of the metes and bounds set forth in Appendix A.

Second, unless prior written approval by the New York State Department of Environmental Conservation or if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, there shall be no use or occupancy of the Site other than restricted industrial or restricted commercial uses which, for purposes of the Declaration of Covenants and Restrictions, shall mean uses which exclude day care, child care and medical care uses. All other lawful industrial and commercial uses of the property are permitted.

Third, the owner of the Site shall prohibit the Site from ever being used for purposes other than for industrial or commercial uses without the express written waiver of such prohibition by the Relevant Agency.

Fourth, the owner of the Site shall prohibit the use of the groundwater underlying the Site without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.

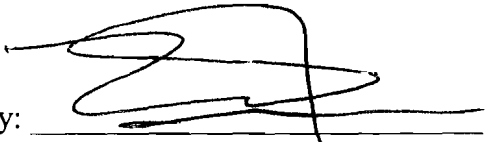
Fifth, the owner of the Site shall continue in full force and effect the above institutional controls required under the Agreement and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency.

Sixth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Site and shall provide that the owner, and its successors and assigns, consent to the enforcement by the Relevant Agency, of the prohibitions and restrictions that Paragraph X of the Agreement requires to be recorded, and hereby covenants not to contest the authority of the Department to seek enforcement.

Eighth, any deed of conveyance including the portion of the Site referred to as the Site shall recite that the said conveyance is subject to this Declaration of Covenants and Restrictions.


IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

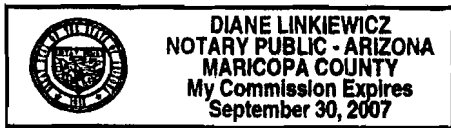
Dated: *July 20, 2005*

By: 
Title: **TODD V. JONES**
Associate General Counsel
and Assistant Secretary

STATE OF)
) ss:
COUNTY OF)

On the 20th day of July in the year 2005, before me, the undersigned, personally appeared TODD V. JONES, 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



Schedule "A"

Parcel "A"

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 52, Township 10, Range 7 of the Buffalo Creek Reservation and according to a map filed in the Erie County Clerk's Office under Cover No. 548, is known as part of Subdivision Lot Number 1, described as follows:

Beginning at the point of intersection of the southwesterly line of Seneca Street with the southeasterly line of Kingston Street; thence southwesterly along said line of Kingston Street 54.80 feet; thence southeasterly and parallel to said line of Seneca Street 59.88 feet to the southeasterly line of said Subdivision Lot No. 1; thence northeasterly along said line and parallel to said line of Kingston Street 54.80 feet to the southwesterly line of Seneca Street; thence northwesterly along said line of Seneca Street 59.88 feet to the place of beginning

Parcel "B"

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 52, Township 10, Range 7 of the Buffalo Creek Reservation and according to a map filed in the Erie County Clerk's Office under Cover No. 548, is known as part of Subdivision Lot Number 1, described as follows:

Beginning at a point on the southeasterly line of Kingston Place distant 54.80 feet southwesterly from the intersection of the southwesterly line of Seneca Street with the southeasterly line of Kingston Place; thence southwesterly along said line of Kingston Place 105.20 feet to the southwesterly corner of said Subdivision Lot No. 1; thence southeasterly along the southwesterly line of said Subdivision Lot No. 1 and parallel to said line of Seneca Street 59.88 feet to the southeasterly corner of said Subdivision Lot No. 1; thence northeasterly along the southeasterly line of said Subdivision Lot No. 1 and parallel to said line of Kingston Place 105.20 feet; thence northwesterly and parallel with the said line of Seneca Street 59.88 feet to the place of beginning

Parcel "C"

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 52, Township 10, Range 7 of the Buffalo Creek Reservation, described as follows:

Beginning at a point in the southerly line of Seneca Street 103.68 feet westerly from the easterly line of said lot; and running thence southerly at right angles 160 feet; thence westerly parallel with Seneca Street 60 feet; thence northerly at right angles with Seneca Street 160 feet to Seneca Street; thence easterly on the southerly line of Seneca Street 60 feet to the place of beginning

Parcel "D"

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 No. 52, Township 10, Range 7 of the Buffalo Creek Reservation, described as follows:

Beginning at a point in the southerly line of Seneca Street 43.68 feet westerly from the east line of said lot; thence southerly at right angles 160 feet; thence westerly parallel with Seneca Street 60 feet; thence northerly at right angles with Seneca Street 160 feet; thence easterly on the southerly line of Seneca Street 60 feet to the point of beginning