

WAKE COUNTY, NC 83
CHARLES P. GILLIAM
REGISTER OF DEEDS
PRESENTED & RECORDED ON
10/18/2018 15:13:03

BOOK:017270 PAGE:02074 - 02086

NOTICE OF DRY-CLEANING SOLVENT REMEDIATION

Property Owner: R D Construction, Inc.

Recorded in Book 017270, Page 02074 - 02086

Associated plat recorded in Plat Book 012618, Page 02083

This documentary component of a Notice of Dry-Cleaning Solvent Remediation (hereinafter "Notice") is hereby recorded on this 18th day of October, 2018 by RD Construction, Inc. (hereinafter "Property Owner"). The survey plat component of the Notice is being recorded concurrently with this documentary component. The real property (hereinafter "Property") which is the subject of this Notice is located at 309 Haywood Street, Raleigh, Wake County, North Carolina, Parcel Identification Number (PIN) 1713073790.

The Property is contaminated with dry-cleaning solvent, as defined at North Carolina General Statutes (hereinafter "N.C.G.S."), Section (hereinafter "§") 143-215.104B(b)(9) and other contaminants, and is one of 12 parcels that make up the dry-cleaning solvent contamination site (hereinafter "Contamination Site"). This Notice has been approved by the North Carolina Department of Environmental Quality, or its successor in function (hereinafter "DEQ") under the authority of the Dry-Cleaning Solvent Cleanup Act of 1997, as amended, N.C.G.S. § 143-215.104A *et seq.* (hereinafter "DSCA"), and is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to NCGS § 143-215.104M. A Notice will be recorded separately in each chain of title of the Contamination Site.

Soil and groundwater at the Property are contaminated with dry-cleaning solvents associated with dry-cleaning operations at the former Holden Cleaners (DSCA Site DC920045) located at 702 East Martin Street, Raleigh. (Note that the current address for the Property is 309 Haywood Street.) Dry-cleaning operations were conducted on the Property for an unconfirmed timeframe prior to 1980.

Pursuant to N.C.G.S. § 143-215.104M, this Notice is being filed in order to reduce or eliminate the danger to public health or the environment posed by the Property. Attached hereto as **Exhibit A** is a reduction, to 8 1/2" x 11", of the survey plat component of the Notice required by N.C.G.S. § 143-215.104M. The survey plat has been prepared and certified by a professional land surveyor and meets the requirements of G.S. 47-30, and contains the following information required by N.C.G.S. § 143-215.104M:

RETURN TO: Hart & Hickman

3921 Sunset Ridge Rd, Ste. 301
Raleigh, NC 27607

- (1) A description of the location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks; and
- (2) The type, location and quantity of regulated dry-cleaning solvent contamination and other contaminants known to exist on the Property.

Attached hereto as **Exhibit B**, is a legal description of the Property that would be sufficient as a description in an instrument of conveyance.

Pursuant to NCGS § 143-215.104M, a certified copy of this Notice must be filed within 15 days of receipt of DEQ's approval of the Notice or the effective date of the dry-cleaning solvent remediation agreement, whichever is later. Pursuant to NCGS § 143-215.104M, the copy of the Notice certified by DEQ must be recorded in the grantor index under the names of the owners of the land.

LAND-USE RESTRICTIONS

NCGS § 143-215.104M requires that the Notice identify any restrictions on the current and future use of the Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Property and that are designated in the dry-cleaning remediation agreement. The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DEQ, or his/her designee, after the hazards have been eliminated, pursuant to NCGS §143-215.104M. Those restrictions are hereby imposed on the Property, and are as follows:

1. Without prior written approval from DEQ, the Property shall not be used for:
 - a. child care centers or schools; or
 - b. mining or extraction of coal, oil, gas or any mineral or non-mineral substances.
2. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that use groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior approval of DEQ.
3. Soil on the Property may not be removed or disturbed unless approved in writing in advance by DEQ or its successor in function, except for routine landscape maintenance and emergency utility repair. In the event of emergency utility repair, DEQ shall be given written notice of any such emergency repair no later than the next business day, and further related assessment and remedial measures may be required.
4. Except for routine maintenance, no construction activities or change in property use that cause or create an unacceptable human health risk from vapor intrusion may occur on the Property without prior approval of DEQ. These activities include but are not limited to: construction of new buildings, removal and construction of part of a building, construction of sub-grade structures that encounter contaminated soil or places building users in close proximity to contaminated groundwater, change from non-residential to residential property, change in tenant space usage, and addition of residential property use on higher floors.

5. Structural modifications that may cause or create an increased risk from vapor intrusion require the property owner to demonstrate to the satisfaction of DEQ that the indoor air in the structure does not pose an unacceptable risk to the occupants following modifications. These modifications include but are not limited to: modification or replacement of heating, ventilation or air conditioning (HVAC) systems, removal or replacement of the building slab, installation of multiple conduits or piping through the building slab, modifications to building walls or ceilings that may change air flow.
6. In January of each year, on or before January 31st, the owner of any portion of the Property shall submit a notarized Annual Certification of Land-Use Restrictions to DEQ certifying that this Notice remains recorded at the Register of Deeds' office, and that the land-use restrictions are being complied with.
7. No person conducting environmental assessment or remediation at the Property or involved in determining compliance with applicable land-use restrictions, at the direction of, or pursuant to a permit or order issued by DEQ may be denied access to the Property for the purpose of conducting such activities.
8. The owner of any portion of the Property shall cause the instrument of any sale, lease, grant, or other transfer of any interest in the property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Notice. The failure to include such a provision shall not affect the validity or applicability of any land-use restriction in this Notice.

In addition to restrictions 1-8 above, the following restrictions also apply to the portion of the Property identified as Area "A" as shown on the survey plat attached as Exhibit A:

9. No activities that cause or create an increase in infiltration (for example, removal or demolition of materials such as asphalt, concrete, buildings, or other structures that by their use and nature minimize infiltration of rain or water runoff into potentially contaminated soil) may occur in "Area A" of the Property, as shown on Exhibit A, without prior approval of DEQ.

EASEMENT (RIGHT OF ENTRY)

The property owner grants and conveys to DEQ, its agents, contractors, and employees, and any person performing pollution remediation activities under the direction of DEQ, access at reasonable times and under reasonable security requirements to the Property to determine and monitor compliance with the land-use restrictions set forth in this Notice. Such investigations and actions are necessary by DEQ to ensure that use, occupancy, and activities of and at the Property are consistent with the land-use restrictions and to ensure that the structural integrity and continued effectiveness of any engineering controls (if appropriate) described in the Notice are maintained. Whenever possible, at least 48 hours advance notice will be given to the Property Owner prior to entry. Advance notice may not always be possible due to conditions such as response time to complaints and emergency situations.

REPRESENTATIONS AND WARRANTIES

The Property Owner hereby represents and warrants to the other signatories hereto:

- i) that the Property Owner is the sole owner of the Property; or that the Property Owner has provided to DEQ the names of all other persons that own an interest in or hold an encumbrance on the Property and have notified such persons of the Property Owner's intention to enter into this Notice;
- ii) that the Property Owner has the power and authority to enter into this Notice, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- iii) that this Notice will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which the Property Owner is a party or by which the Property Owner may be bound or affected.

ENFORCEMENT

The above land-use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land-use restrictions shall be enforced by any owner of the Property. The land-use restrictions may also be enforced by DEQ through the remedies provided in NCGS § 143-215.104P or by means of a civil action; by any unit of local government having jurisdiction over any part of the Property; and by any person eligible for liability protection under the DSCA who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Declaration without the approval of the Secretary of DEQ (or its successor in function), or his/her delegate, shall be subject to enforcement by DEQ to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

If a land-use restriction set out in this Notice required under NCGS § 143-215.104.M is violated, the owner of the Property at the time the land-use restriction is violated, the owner's successors and assigns, and the owner's agents who direct or contract for alteration of the contamination site in violation of a land-use restriction shall be liable for remediation of all contaminants to unrestricted use standards.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Property subject to this Notice is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, (1) a statement that the property has been contaminated with dry-cleaning solvent and, if appropriate, cleaned up under the Act and (2) a reference by book and page to the recordation of this Notice.

The Property Owner shall notify DEQ within fourteen (14) calendar days of the effective date of any conveyance, grant, gift, or other transfer, whole or in part, of the Property Owner's interest in the Property. This notification shall include the name, business address and phone number of the transferee and the expected date of transfer.

The Property Owner shall notify DEQ within thirty (30) days following the petitioning or filing of any document by any person initiating a rezoning of the Property that would change the base zone of the Property.

This provision shall not apply to leases that do not provide for the right to take actions that would violate the prohibitions and restrictions of this Notice.

PROPERTY OWNER SIGNATURE

IN WITNESS WHEREOF, Property Owner has caused this instrument to be duly executed this 12 day of September, 2018.

R D Construction, Inc.

By:

[Signature]
Name of contact

STATE OF North Carolina
COUNTY OF Wake

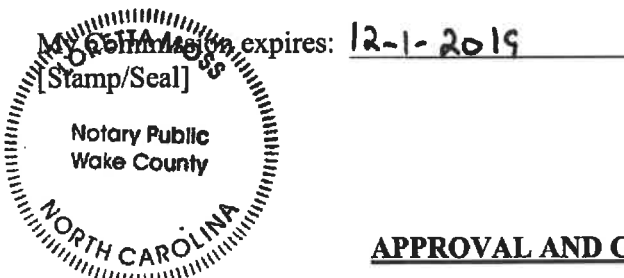
I, Loretta Moss, a Notary Public of the county and state aforesaid, certify that Cliff Zinner personally came before me this day and acknowledged that he/she is the President of R D Construction, Inc., a North Carolina corporation, and that by authority duly given and as the act of the company, the foregoing Notice of Dry-Cleaning Solvent Remediation was signed in its name by him.

WITNESS my hand and official stamp or seal, this 12th day of Sept., 2018.

Loretta Moss

Name typed or printed

Notary Public

APPROVAL AND CERTIFICATION

The foregoing Notice of Dry-Cleaning Solvent Remediation is hereby approved and certified.

North Carolina Department of Environmental Quality

By:

[Signature]
Jim Bateson, LG
Chief, Superfund Section
Division of Waste Management

10/16/2018
Date

ATTACHMENT

LIMITED POWER OF ATTORNEY

I Cliff Zinner "Property Owner", do hereby grant a limited power of attorney to DEQ and to DEQ's independent contractors, as follows:

DEQ and DEQ's independent contractors shall have the limited power of attorney to record this Notice, including its documentary and survey plat components, in accordance with N.C.G.S. § 143-215.104M on my "Property Owner" behalf. This limited power of attorney shall terminate upon completion of the recordation of the Notice.

Signature of Property Owner Cliff Zinner

Dated this 12th day of September, 2018.

STATE OF North Carolina
COUNTY OF Wake

I, Loretta Moss, a Notary Public, do hereby certify that Cliff Zinner personally appeared before me this day and signed this "Limited Power of Attorney".

WITNESS my hand and official stamp or seal, this 12 day of Sept., 2018.

Loretta Moss
Name typed or printed
Notary Public

My Commission expires: 12-1-2019
[Stamp/Seal]



By: _____ (signature) _____ Date _____
 Name typed or printed: _____
 Deputy/Assistant Register of Deeds

EXHIBIT A
REDUCTION OF SURVEY PLAT

EXHIBIT B
PROPERTY LEGAL DESCRIPTION

BEING all of Lot 1 as shown on a map recorded in Book of Maps 2015, Page 1739, Wake County Registry.



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Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Charles P. Gilliam
Register of Deeds
Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

☐ New Time Stamp

☐ \$25 Non-Standard Fee

☐ Additional Document Fee

☐ Additional Reference Fee

This Customer Group

_____ # of Excessive Entities

_____ # of Time Stamps Needed

This Document

_____13_____ # of Pages

