

MALLGREN & FERRELL, P.C.

Paul Chmielewski, Attorney at Law

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August 18, 2006

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

State of Washington
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

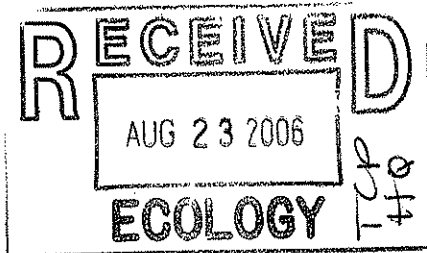
DEPARTMENT OF ECOLOGY
AUG 22 2006
WATER QUALITY PROGRAM

Re: **Restrictive Covenant - 620 Auburn Way South, Auburn, Washington**
Recording No. 9611080818

Dear Department of Ecology:

This firm represents Litchfield Investments Firehouse, LLC, the current owner of certain property located at the above-referenced street address. Our client has entered into a contract for the sale of its property to Twigs, LLC, an Oregon limited liability company. Please accept this letter in satisfaction of the Seller's obligation to inform the State of Washington, Department of Ecology, of the conveyance of its property as required by the above referenced Restrictive Covenant recorded against the property (see Exhibit "A" attached hereto). A copy of this letter is being sent to the purchaser of this property to ensure that they are aware of the conditions of the Restrictive Covenant.

If you have any questions or require further information, please do not hesitate to contact our office.



PC
Enclosure

Very truly yours,

Paul Chmielewski

cc: Scott Kaufman, Manager, Litchfield Investments Firehouse, LLC (w/ enclosure)
Renee Stineman, Manager, Twigs, LLC (w/ enclosure)
Lynette D. Anderson, First American Title Insurance Company (w/ enclosure)
Erica Nordquist, Capital Pacific, LLC (w/ enclosure)

Exhibit "A"

RESTRICTIVE COVENANT

THIS COVENANT is entered into by HAYDEN CORPORATION dba HILLMAN PROPERTIES NORTHWEST, an Oregon corporation ("Owner") on certain real property located at 620 Auburn Way South in Auburn, Washington (the Property), which property is known as Firehouse Square and is more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

The groundwater beneath the Property has been contaminated by a release of gasoline and diesel originating from the Cenex facility at 238 8th Street South in Auburn, Washington. The groundwater beneath the Property is the subject of a remediation effort under the terms of Agreed Order ("Agreed Order") DE94TC-N396 entered into with the State of Washington, Department of Ecology ("Ecology") and Cenex on November 7, 1994, as amended on February 13, 1995. These documents are on file at Ecology's Northwest Regional Office.

This Restrictive Covenant is required to assure the continued protection of human health and the environment and the integrity of the remedial action being undertaken by Cenex pursuant to Ecology's Agreed Order.

1. Restrictive Covenant Provisions. With respect to the Property and its ownership, this Restrictive Covenant:

- a. Prohibits activities on the site that may interfere with the Cenex cleanup action being undertaken pursuant to Ecology's Agreed Order; this includes prohibiting activities on the site that may interfere with the cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment;
- b. Prohibits withdrawal of groundwater from the Property;
- c. Requires notice to Ecology of the Owner's intent to convey its interest in the site; any conveyance by the Owner of its interest in the property shall be subject to this Restrictive Covenant; commercial space leases of portions of the property shall be permissible without notice to Ecology so long as the Owner makes adequate and complete provision for the aforementioned monitoring activity and such other measures as Ecology and the Owner may determine to be necessary to assure the integrity of the Cenex cleanup action;
- d. Requires notice and approval by Ecology of any proposal to use the site in a manner which is inconsistent with this restrictive covenant, subject only to any subsequent amendments of this Restrictive Covenant based upon the mutual agreement of Owner and Ecology; and,

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FILED BY CHICAGO TITLE INSURANCE CO.
REF. # W910001082

CHICAGO TITLE INSURANCE CO.
1800 N. LAKE STREET
CHICAGO, ILL. 60610
FOR RECORD AND INDEX BY
THE COUNTY OF LAKE
BY ACCEPTANCE

10
961108-1018 12/29/95 PM KING COUNTY RECORDS 003 JMK 10:00

e. Grants Ecology and its designated representatives the right to enter the Property upon reasonable prior notice and at reasonable times for the purpose of taking samples and evaluating the compliance of Cenex with the Agreed Order cleanup action plan and any other required plans.

2. **Binding Effect.** This Restrictive covenant shall run with the land, and be binding on Owner's successors and assigns.

3. **Entire Covenant.** This is the entire Restrictive Covenant.

4. **Removal of Covenant.** The owner of the Site and any successor owners reserve the right under WAC 173-340-440 to record an instrument which provides that this Restrictive covenant shall no longer be of any further force or effect. However, such an instrument may be recorded only with the consent of Ecology, or its successor agency. Ecology, or its successor agency, may consent to the recording of such an instrument only after appropriate public notice and comment. Subject to appropriate public notice and comment, Ecology's consent shall be granted when the Cenex groundwater remedial action is deemed by Ecology to be complete.

HAYDEN CORPORATION dba
HILLMAN PROPERTIES NORTHWEST

By Darlene Clark
Title: Vice President
Date: November 4, 1996

911080618

STATE OF DELAWARE)
County of New Castle) ss.

This instrument was acknowledged before me on November 4, 1996, by Darlene Clark, as Vice President of HAYDEN CORPORATION dba HILLMAN PROPERTIES NORTHWEST.

JOAN E. BACHNER
NOTARY PUBLIC
MY COMMISSION EXPIRES
DECEMBER 6, 1996

Joan E. Bachner
Notary Public for Delaware

W:\P\DATA\INSTR\CASR\HILLMAN\COVENANT.FMT(10/19/96)

RESTRICTIVE COVENANT

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PARCEL 1:

LOT 2 OF CITY OF SEATTLE SHORT PLAT NUMBER SP-2-87, RECORDED UNDER RECORDING NUMBER 8803140981, SAID SHORT PLAT BEING A SUBDIVISION OF, A PORTION OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 21 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON.

PARCEL 2:

LOT 3 OF CITY OF AUBURN SHORT PLAT NUMBER SP-2-87, RECORDED UNDER RECORDING NUMBER 8803140981, SAID SHORT PLAT BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 21 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON.

9611080518
ST80801196

AFTER RECORDING RETURN TO:

William P. Hutchison, Jr.
TOOZE SHENKER DUDEN CREAMER
FRANK & HUTCHISON
333 S.W. Taylor Street
Portland, OR 97204-2496

Telephone: (503) 223-5181
Fax: (503) 223-5550

Scott, Katherine (ECY)

From: Scott, Katherine (ECY)
Sent: Thursday, August 31, 2006 11:43 AM
To: Sato, Brian (ECY)
Cc: Peck, Norm (ECY)
Subject: CENEX - AUBURN - Change in ownership

Hi Brian,

I received a copy of a certified letter from Mallgren & Ferrell, P.C. informing Ecology of a property sale covered by Agreed Order DE-94TC-N396 to Twigs, LLC. Please let me know if you would like a copy of this paperwork.

Katherine

2487

Sato, Brian
~~Peck, Norm~~

NW King

CENEX - AUBURN - DE-94TC-N396 (Agreed Order & Amendment Nov -94)