

After Recording, Return To:

Marv Strasburg, P.S.
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Seattle, WA 98101



RECORDING COVER SHEET

1. Document Title: RESTRICTIVE COVENANT
2. Reference Number of Document Assigned or Released: NA
3. Grantor: Bayview Building Associates, LLC
4. Grantee: Washington State Department of Ecology
5. Legal Description:
Lt. 1 & Ptn Lts 2,3 & 12, Block 18 Dennys Waterfront Addition, Vol. 2, P.61
Records of King County, WA
6. Assessor's Tax Parcel Number: 199220-0400-00

RESTRICTIVE COVENANT

Bayview Building

129- 1st. Ave. West, Seattle, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030 (1) (f) and (g) and WAC 173-340-440 by Bayview Building Associates, LLC, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following documents, which are on file at Ecology's Northwest Regional Office:

- 1) UST Closure Report/Remedial Options Summary, Bayview Building, 129-1st Ave. West, Seattle, Washington, December 24, 2003
- 2) Supplemental Information Bayview Building, March 29, 2004
- 3) Supplemental Information and Cross Sections, May 7, 2004
- 4) Proposed Methodology Vapor Pathway Evaluation, Bayview Building, July 27, 2004
- 5) Projected Site Remediation Costs, Bayview Building, October 26, 2004
- 6) Proposed Methodology Vapor Pathway Evaluation, Bayview Building,, January 12, 2005
- 7) Alternative Remediation Costs, Bayview Building, January 12, 2005
- 8) Request for No Further Action Determination, Bayview Building, March 23, 2005

This Restrictive Covenant is required because the Remedial Action resulted in leaving residual concentrations of Total Petroleum Hydrocarbon - Oil Range Organics, Total Petroleum Hydrocarbons-Diesel Range Organics, Benzo(a)anthracene, Benzo(b)fluoranthene, Benzo(a)pyrene, and Chrysene in the soil a portion of the property that exceed the MTCA Method A soil cleanup levels established in WAC 173-340-745.

The undersigned, Bayview Building Associates, LLC is the fee owner of real property (hereafter "Property") in the County of King, State of Washington that is subject to this Restrictive Covenant. The Property is legally described in Exhibit A to this Restrictive Covenant and made a part hereof by reference. A diagram of the Bayview Building located on the property is provided in Exhibit B to this Restrictive Covenant and made a part hereof by reference. The portion of the Property impacted by residual contamination [the "Impacted Area"] is covered by Units 130 and 136 of the Bayview Building, and is identified on the building diagram as the shaded area in Attachment B.

Bayview Building Associates, LLC makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. A portion of the Property, the Impacted Area, contains residual concentrations of Total Petroleum Hydrocarbons- Oil Range organics in soil that exceed the MTCA Method A soil cleanup levels of 2,000mg/kg established in WAC 173-340-745. The exceedances occur in the Impacted Area at sample locations SW, NW, and P-2 as shown in Attachment B. The Impacted Area also contains residual concentrations of Total Petroleum Hydrocarbon - Diesel Range Organics that exceed the MTCA Method A soil cleanup levels of 2,000mg/kg established in WAC 173-340-745. These exceedances occur in the Impacted Area at sample locations P-X, SW, NW and P-2, as shown in Attachment B. The Impacted Area also contains Benzo(a)anthracene, , Benzo(b)fluoranthene, Benzo(a)pyrene, and Chrysene that exceed the respective MTCA Method A soil cleanup levels of 0.137, 0.137, 0.137, and 0.137 mg/kg. These exceedances occur in the Impacted Area at sample location P-1 as shown in Attachment B.

The Owner shall not alter, modify or remove the existing structure[s] in this area of the Property nor conduct any other activity on the Property that may result in the release or exposure to the environment of the residual petroleum contaminated soil that was contained on site or create a new exposure pathway, without prior written approval from Ecology.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property, except that the Owner need not give advance written notice to Ecology if the Owner leases a subunit of the building other than Unit 130 or Unit 136. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for maintenance of the Remedial Action. When notice is required by this Section, the Owner conveying any interest in the Property shall notify Ecology of the name, mailing address and telephone number of the person or persons who acquired the title, easement, lease, or other interest in the Property within fifteen (15) days of the transaction.

Section 5. The Owner must restrict leases of Units 130 and 136 to uses and activities consistent with the Restrictive Covenant and notify all lessees, including lessees of units other than Unit 130 or Unit 136, of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

Bayview Building Associates, LLC

By: _____

David Benohiel, Manager

Date: _____

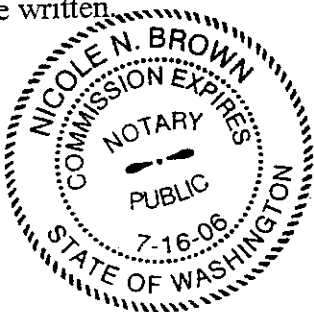
STATE OF WASHINGTON)

)ss.

COUNTY OF KING)

On this 8th day of September 2005, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared DAVID BENOLIEL, to me known to be the person who signed as Manager of the Bayview Building Associates, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was duly qualified and authorized as said manager of the company to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Nicole N. Brown
Print Name: Nicole N. Brown

Notary Public in and for the State of Washington,

Residing at Auburn, WA

My commission expires: 7-16-06

EXHIBIT "A"

Legal Description

Lot 1 and that portion of Lots 2, 3 and 12 lying Northerly and Easterly of Western Avenue, as established by Ordinance No. 23040 of the City of Seattle, Block 18, North Seattle, according to the Plat thereof recorded in Volume 1 of Plats, Page 41, records of King County, Washington (known as D.T. Denny's Waterfront Addition, according to Plat thereof recorded in Volume 2 of Plats, Page 61);

Together with that portion of the alley in said Block 18 lying Northerly of the North line of Western Avenue and vacated by Ordinance No. 56801 of the City of Seattle.

Situate in the County of King, State of Washington

EXHIBIT "A"
Legal Description

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