



CROSS-REFERENCE: Deed Book 14819, Page 4475

Deed Book 15452 Pg 5909
Filed and Recorded Jun-20-2017 04:21pm
2017-0068756

Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

After Recording Return to:
Craig Pendergrast
Taylor English Duma, LLP
1600 Parkwood Circle, S.E.
Suite 400
Atlanta, GA 30339

Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, OCGA § 44-16-1, *et seq.* This Environmental Covenant subjects the Property identified below to the activity and/or use limitations specified in this document. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded in accordance with OCGA § 44-16-8(a).

Fee Owner of Property/Grantor: IPTV-B-C14, LLC
c/o Glen Kitto
8401 North Central Expressway
Suite 910
Dallas, TX 75225

**Grantee/Entity with
express power to enforce:** State of Georgia
Department of Natural Resources
Environmental Protection Division
2 Martin Luther King Jr. Drive, SE
Suite 1456 East Tower
Atlanta, GA 30334

Property:

The property subject to this Environmental Covenant is the New Market Center shopping center located at 2060 Lower Roswell Road in Cobb County, Georgia, with particular reference to the former TLC Cleaners space within such shopping center and its environs (hereinafter "Property"). This tract of land was conveyed on December 7, 2010 from G&R Georgia One, LLC to IPTV-B-C14, LLC, by deed recorded in Deed Book 14819, Page 4475, Cobb County Records. The Property is located in Land Lot 1244 of the 16th District, 2nd Section of Cobb County, Georgia. The former TLC Cleaners space consists of the westernmost leased unit within the shopping center. A complete legal description of the Property is attached as Exhibit A, and a map of the Property is attached as Exhibit B.

Tax Parcel Number(s):

Tax ID parcel number 16124400330 of Cobb County, Georgia

Name and Location of Administrative Records:

The corrective action at the Property that is the subject of this Environmental Covenant is described in the following documents (as same may be amended from time to time with written approval from EPD):

- November 2015 Compliance Status Report (“CSR”)
- February 2016 CSR Addendum
- March 2017 CSR Addendum # 2
- March 2017 Monitoring and Maintenance Plan

These documents are available at the following locations:

Georgia Environmental Protection Division
 Response and Remediation Program
 2 MLK Jr. Drive, SE, Suite 1054 East Tower
 Atlanta, GA 30334
 M-F 8:00 AM to 4:30 PM excluding state holidays

Description of Contamination and Corrective Action:

This Declaration of Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.* by IPTV-B-C14, LLC its successors and assigns and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter “EPD”), its successors and assigns. This Environmental Covenant is required because a release of tetrachloroethene occurred on the Property. Tetrachloroethene is a “regulated substance” as defined under the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder (hereinafter “HSRA” and “Rules”, respectively). The Corrective Action consists of the installation and maintenance of engineering controls consisting of a vapor mitigation system, restriction of building slab penetration, restriction of soil removal under the building slab, and institutional controls limiting use of the Property to non-residential activities to protect human health and the environment.

Grantor, IPTV-B-C14, LLC hereby binds Grantor, its successors and assigns to the activity and use restriction(s) for the Property identified herein and grants such other rights under this Environmental Covenant in favor of EPD. EPD shall have full right of enforcement of the rights conveyed under this Environmental Covenant pursuant to HSRA, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person’s right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict EPD from exercising any authority under applicable law.

IPTV-B-C14, 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, pursuant to O.C.G.A. § 44-16-5(a); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to O.C.G.A. § 44-16-9 and 10; 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 (hereinafter “Owner”). Should a transfer or sale of the Property occur before such time as

this Environmental Covenant has been amended or revoked then said Environmental Covenant shall be binding on the transferee(s) or purchaser(s).

The Environmental Covenant shall inure to the benefit of EPD, IPTV-B-C14, LLC, and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, IPTV-B-C14, LLC or its successors and assigns, and other party(ies) as provided for in O.C.G.A. § 44-16-11 in a court of competent jurisdiction.

Activity and/or Use Limitation(s)

1. Registry. Pursuant to O.C.G.A. § 44-16-12, this Environmental Covenant and any amendment or termination thereof, may be contained in EPD's registry for environmental covenants.
2. Notice. The Owner of the Property must give thirty (30) day advance written notice to EPD of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Corrective Action. The Owner of the Property must also give thirty (30) day advance written notice to EPD of the Owner's intent to change the use of the Property, apply for building permit(s), or propose any site work that would affect the Property.
3. Notice of Limitation in Future Conveyances. Each instrument hereafter conveying an interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of the Environmental Covenant.
4. Monitoring and Maintenance of Vapor Mitigation System. The functioning of the vapor mitigation system at the Property shall be monitored and maintained as detailed in the March 2017 Monitoring and Maintenance Plan until such time as EPD may authorize the modification or termination of such plan. _____
5. Periodic Reporting. Annually, on or before August 1 following EPD's execution of this Environmental Covenant, the Owner shall submit to EPD an Annual Report as specified in the Monitoring and Maintenance Plan which reports on the monitoring and maintenance of the vapor mitigation system pursuant to such plan and contains a certification of the non-residential use of the Property.
6. Activity and Use Limitation(s). The Property shall be used only for non-residential uses, as defined in Section 391-3-19-.02 of the Rules as of the date of this Environmental Covenant. Any residential use on the Property shall be prohibited. The use or extraction of groundwater beneath the Property for drinking water purposes shall be prohibited. Penetration of the building slab and removal of soil under the building slab are restricted as described in the March 2017 Monitoring and Maintenance Plan (or the most recent revision thereof).
7. Permanent Marker. A permanent marker shall be installed and maintained that identifies the restricted area as specified in Section 391-3-19-.07(10) of the Rules. Disturbance or removal of the marker is prohibited.
8. Right of Access. In addition to any rights already possessed by EPD, the Owner shall allow authorized representatives of EPD the right to enter the Property at reasonable times for the purpose of evaluating the Corrective Action; to take samples, to inspect the Corrective Action conducted at the Property, to determine compliance with this Environmental Covenant, and to inspect records that are related to the Corrective Action.

9. Recording of Environmental Covenant and Proof of Notification. Within thirty (30) days after the date of the Director's signature, the Owner shall file this Environmental Covenant with the Recorders of Deeds for each County in which the Property is located, and send a file stamped copy of this Environmental Covenant to EPD within thirty (30) days of recording. Within that time period, the Owner shall also send a file-stamped copy to each of the following: (1) each person in possession of the real property subject to the covenant, (2) each municipality, county, consolidated government, or other unit of local government in which real property subject to the covenant is located, and (3) each owner in fee simple whose property abuts the property subject to the Environmental Covenant.
10. Termination or Modification. The Environmental Covenant shall remain in full force and effect in accordance with O.C.G.A. § 44-16-1 *et seq.*, unless and until the Director determines that the Property is in compliance with the Type 1 or 2 Risk Reduction Standards, as defined in Georgia Rules of Hazardous Site Response (Rules) Section 391-3-19-.07, without continued operation of the vapor mitigation system, whereupon the Environmental Covenant may be amended or revoked in accordance with Section 391-3-19-08(7) of the Rules and O.C.G.A. § 44-16-1 *et seq.*
11. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
12. No EPD Interest in Property Created. This Environmental Covenant does not in any way create any interest by EPD in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by EPD in the Property in accordance with O.C.G.A. § 44-16-3(b).

Representations and Warranties

Grantor hereby represents and warrants to the other signatories hereto:

- a) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- b) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
- c) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- d) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under any other agreement, document or instrument to which Grantor is a party, by which Grantor may be bound or affected;
- e) That the Grantor has served each of the people or entities referenced in Activity 9 above with an identical copy of this Environmental Covenant in accordance with O.C.G.A. § 44-16-4(d).
- f) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property; and
- g) That this Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

Notices

Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

Georgia Environmental Protection Division
Branch Chief
Land Protection Branch
2 Martin Luther King Jr. Drive SE
Suite 1054 East Tower
Atlanta, GA 30334

IPTV-B-C14, LLC
c/o Glen Kitto
8401 North Central Expressway
Suite 910
Dallas, TX 75225

Grantor has caused this Environmental Covenant to be executed pursuant to the Georgia Uniform Environmental Covenants Act, on the 31 day of March, 2017.

Signed, sealed, and delivered in the presence of:

Trey Clemens
Unofficial Witness (Signature)

Trey Clemens
Unofficial Witness Name (Print)

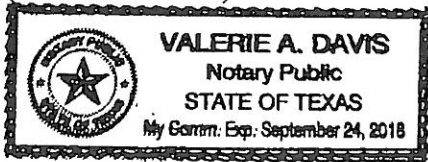
8401 N Central Expy, Suite 910
Dallas, TX 75225
Unofficial Witness Address (Print)

Valerie A. Davis
Notary Public (Signature)

My Commission Expires: 9/24/2018

Date: 4/10/2017

(NOTARY SEAL)



For the Grantor:

IPTV-B-C14, LLC
Name of Grantor (Print)

Glen Kitto (Seal)
Grantor's Authorized Representative (Signature)

Glen Kitto
Authorized Representative Name (Print)

Director
Title of Authorized Representative (Print)

Signed, sealed, and delivered in the presence of:

For the State of Georgia
Environmental Protection Division:

Sydney Brogden
Unofficial Witness (Signature)

Richard [Signature] (Seal)
(Signature)

Director

Sydney Brogden
Unofficial Witness Name (Print)

2 martin Luther King Jr. Drive / Ste 1456

Atlanta, GA 30334
Unofficial Witness Address (Print)

Mona A Ingram
Notary Public (Signature)

My Commission Expires: Jan. 12, 2021

Date: May 29, 2017

(NOTARY SEAL)

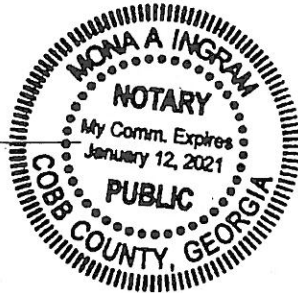


Exhibit A

Legal Description

Deed Book 14815 Pg 447B
 Jay D. Shephard
 Clerk of Superior Court Cobb Cty. Ga.

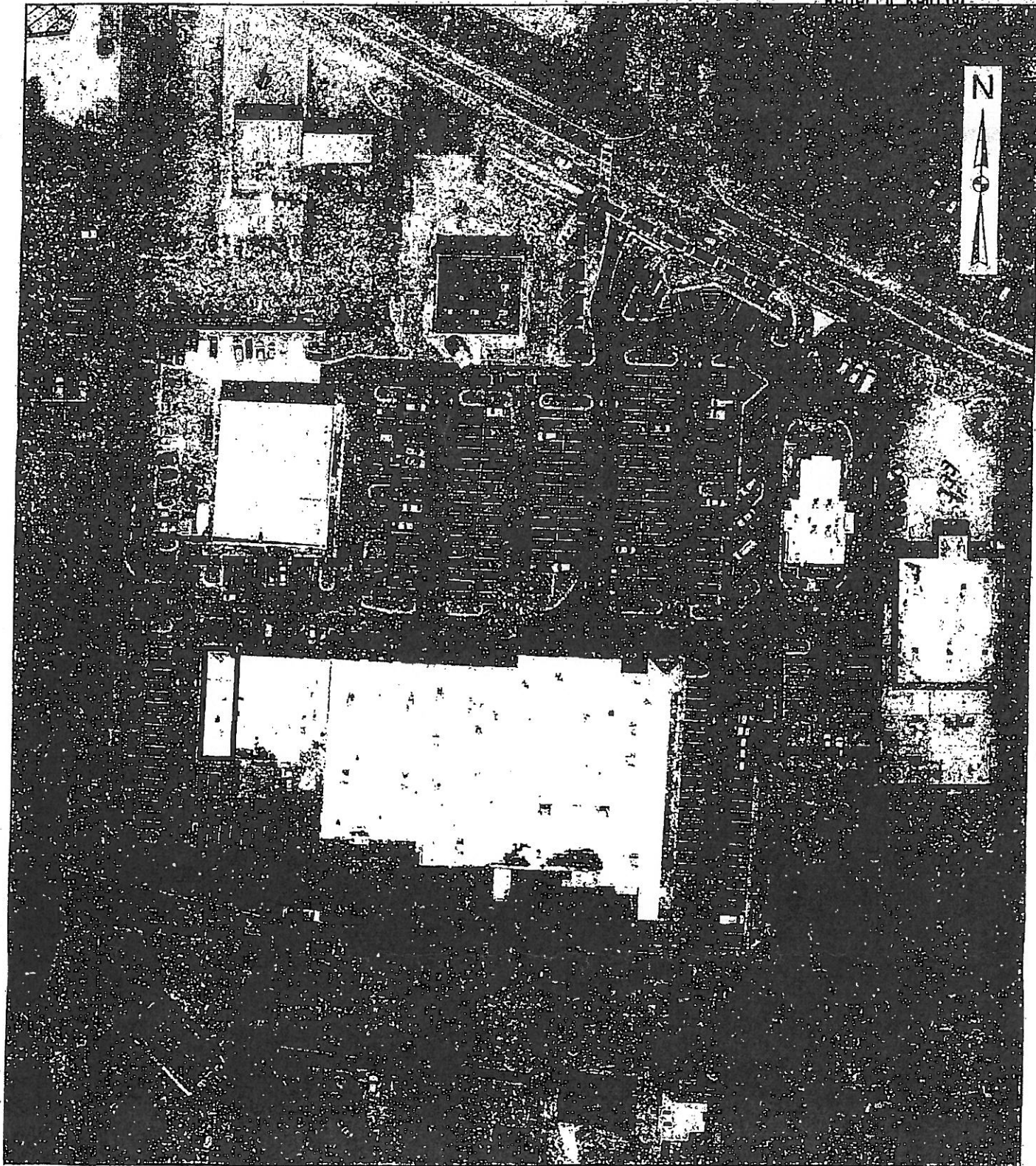
EXHIBIT "A"

All that tract or parcel of land containing 4.805 acres and lying and being in land lot 1244 of the 16th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

To find the true point of beginning commence at the intersection of the southwesterly right of way of Lower Roswell Road (right of way width varies) and the easterly right of way of Shawnee Trail (30 foot right of way); thence running along the southwesterly right of way of said Lower Roswell Road south 63 degrees 19 minutes 56 seconds east a distance of 204.00 feet to a 1/2" rebar found; thence continuing along said right of way south 63 degrees 19 minutes 56 seconds east a distance of 160.00 feet to an iron pin set, said iron pin being the true point of beginning; thence from the true point of beginning thus established and continuing along said right of way south 63 degrees 19 minutes 56 seconds east for a distance of 155.38 feet to an iron pin set; thence leaving said right of way south 26 degrees 40 minutes 04 seconds west for a distance of 51.00 feet to an iron pin set; thence south 01 degrees 29 minutes 06 seconds west for a distance of 223.00 feet to an iron pin set; thence south 43 degrees 30 minutes 54 seconds east for a distance of 54.34 feet to an iron pin set; thence south 01 degrees 27 minutes 36 seconds west for a distance of 45.00 feet to an iron pin set; thence south 83 degrees 18 minutes 28 seconds east for a distance of 86.79 feet to an iron pin set; thence south 00 degrees 47 minutes 59 seconds east for a distance of 187.60 feet to a 1/2" rebar found; thence north 83 degrees 52 minutes 49 seconds west for a distance of 575.07 feet to an iron pin set on the easterly right of way of said Shawnee Trail; thence along the easterly right of way of said Shawnee Trail north 00 degrees 19 minutes 09 seconds west for a distance of 40.89 feet to a point; thence continuing along said right of way along a curve to the right having a radius of 2627.75 feet and an arc length of 144.90 feet, being subtended by a chord of north 01 degrees 15 minutes 38 seconds east for a distance of 144.88 feet to a point; thence continuing along said right of way north 02 degrees 50 minutes 25 seconds east for a distance of 89.68 feet to a point; thence continuing along said right of way along a curve to the left having a radius of 2020.37 feet and an arc length of 8.80 feet, being subtended by a chord of north 02 degrees 45 minutes 14 seconds east for a distance of 8.80 feet to an iron pin set; thence leaving said right of way south 88 degrees 30 minutes 54 seconds east for a distance of 188.55 feet to an iron pin set; thence north 01 degrees 29 minutes 06 seconds east for a distance of 137.55 feet to a nail set; thence south 88 degrees 30 minutes 54 seconds east for a distance of 132.90 feet to a nail set; thence north 01 degrees 29 minutes 06 seconds east for a distance of 146.00 feet to an iron pin set located on the southwesterly right of way of said Lower Roswell Road, said iron pin being the true point of beginning. Said property being known as 2060 Lower Roswell Road, Marietta, Georgia 30067 in accordance with the current system of numbering properties in Cobb County, Georgia.

EXHIBIT A

Exhibit B
Property Map



0 50 100
Feet

Legend

- Former TLC Cleaners
- ■ ■ Property Boundary

Site Plan
TLC Cleaners
2060 Lower Roswell Rd.
Marietta, GA 30068