



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

October 15, 2008

CERTIFIED MAIL

Mr. Nick Zaferes
Vice President of Development and Construction
Campus-Seneca, LLC and Campus Apartments, Inc.
4043 Walnut Street
Philadelphia, PA 19104

Mr. Gary Guglielmi
City of Columbus
Department of Development
109 North Front Street
Columbus, OH 43215

**RE: Issuance of Covenant Not to Sue for the
Former Seneca Hotel Property
(NFA # 08NFA311; Project ID # 125-002322-003)**

RECEIVED

OCT 16 2008

OHIO EPA/CDO

Dear Msrs. Zaferes and Guglielmi:

I am pleased to inform you that on October 15, 2008, the Director of the Ohio Environmental Protection Agency (Ohio EPA) issued a covenant not to sue (Covenant) to Campus-Seneca, LLC, Campus Apartments, Inc. and the city of Columbus for the former Seneca Hotel property located at 361 East Broad Street, Columbus, Franklin County, Ohio. The Covenant was issued as final findings and orders pursuant to Ohio Revised Code (ORC) Chapter 3746 and Ohio Administrative Code (OAC) Chapter 3745-300.

Based on the no further action (NFA) letter and subject to all conditions outlined in the Covenant, Ohio EPA hereby covenants not to sue and releases Campus-Seneca, LLC, Campus Apartments, Inc. and the city of Columbus, and its agents, employees, officers, directors, successors and assigns, and successors and assigns of the property, from all civil liability to the State of Ohio to perform additional investigational and remedial activities at the property for the releases of hazardous substances or petroleum identified and addressed in the Phase I property assessment conducted in compliance with ORC Chapter 3746 and OAC Chapter 3745-300.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

You will find the certified copy of the Covenant enclosed. When filing the Covenant and its exhibits at the Franklin County Recorder's Office, please use the enclosed affidavit from Ohio EPA to guide the recording of the documents in the county's deed records.

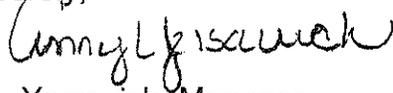
Request for Annual Notification to Ohio EPA of Asbestos Management Practices Implemented During Prior Year

- Although Ohio EPA's Voluntary Action Program (VAP) does not regulate or provide liability release for asbestos-containing materials (ACM) that are not contained in an environmental media (e.g., soil and groundwater,) we are aware that asbestos management practices will be followed at this property. Because the VAP is contacted concerning all types of environmental issues at any property that receives a Covenant, it would be beneficial to have information concerning the asbestos management practices at this property. Asbestos management practices include practices establishing worker training, signage, periodic inspections, and release prevention measures that are implemented in a manner consistent with 40 CFR Chapter 763 criteria, and for compliance with applicable law such as Occupational Safety and Health Administration (OSHA) and National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements. Therefore, I am requesting (but not requiring) an annual written notification of the asbestos management practices implemented at the property during the prior year. (This notification would not replace any notifications or other obligations required by applicable law, including but not limited to ORC Chapter 3745-20.) Please include, in this notification, information regarding any damage to ACM or any release of asbestos fibers that may have occurred. It is also requested the notification describe the affected areas and the measures taken to abate or repair the affected areas.
- The notification is requested to be submitted annually, beginning on the anniversary date of the effective date of the Covenant, or by November 1 of each year, for as long as ACM remains at the property. Please include with the notification a cover letter that identifies "*Notification of Asbestos Management Practices for Former Seneca Hotel Property, NFA Letter No. 08NFA311.*" You may send the notification by regular mail or by other reliable means to: Ohio EPA, 50 W. Town Street, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer, and Ohio EPA Central District Office, at the same address, Attention: DERR Site Coordinator for Former Seneca Hotel Property.

This action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Commission at the following address: Environmental Review Appeals Commission, 309 South Fourth Street, Room 222, Columbus, OH 43215.

Many persons within the agency, Campus-Seneca, LLC, Campus Apartments, Inc., the city of Columbus and HzW Environmental Consultants, LLC, among others, worked hard to remove the environmental barriers associated with redeveloping this property. Congratulations on the issuance of this Covenant. If you have any questions or concerns, please feel free to contact me at (614) 644-2285 or amy.yersavich@epa.state.oh.us.

Sincerely,



Amy Yersavich, Manager
Division of Emergency and Remedial Response
Voluntary Action Program

Enclosure

c: Matthew D. Knecht, Certified Professional, HZW Environmental Consultants, LLC, 6105 Heisley Road, Mentor, OH 44060
Joseph Reidy, Esq., Schottenstein, Zox and Dunn Co., LPA, 250 West Street, Columbus, OH 43215
Raymond R. Moreno, DERR-CDO
Deborah Strayton, DERR-CDO
Sue Kroeger, Legal Office
CO DERR-VAP Files

TO BE RECORDED IN DEED RECORDS,
PURSUANT TO R.C. 317.08(A)

AFFIDAVIT

STATE OF OHIO)
)
COUNTY OF FRANKLIN) ss:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency (Ohio EPA) and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue/Director's Final Findings and Orders issued by the Director and entered in the Ohio EPA Director's Journal on October 15, 2008 regarding the property known as Former Seneca Hotel, located at 361 East Broad Street in Columbus, Franklin County, Ohio, and further described in Exhibit 1 of the attached Covenant Not to Sue.

Tonya R. Lassiter
Tonya R. Lassiter
Records Management Officer
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this day of October 15, 2008.

S. C. Kroeger
Notary Public
State of Ohio

Permanent Commission
No expiration, R.C. 147.03

This instrument prepared by:
Sue Kroeger, Attorney
Ohio EPA Legal Office
P.O. Box 1049
Columbus, Ohio 43216-1049



SUSAN C. KROEGER
Attorney at Law
Notary Public
State of Ohio
Lifetime Commission

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Campus-Seneca, LLC
4043 Walnut Street
Philadelphia, Pennsylvania 19104

Campus Apartments, Inc.
4043 Walnut Street
Philadelphia, Pennsylvania 19104

City of Columbus
109 North Front Street
Columbus, Ohio 43215

Regarding property known as:

Former Seneca Hotel
361 East Broad Street
Columbus, Ohio 43215

Covenant Not to Sue

Director's Final Findings
and Orders

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By: *[Signature]* Date: 10-15-08

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency ("Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders").

FINDINGS

1. A No Further Action Letter, No. 08NFA311 ("NFA Letter"), was submitted on September 9, 2008 to the Director under the Voluntary Action Program on behalf of Campus-Seneca, LLC, Campus Apartments, Inc. and the city of Columbus (collectively, the "Volunteers"), by Matthew D. Knecht, CPG, a certified professional, No. CP 105, as defined in ORC 3746.01(E) and OAC 3745-300-01(A)(8) ("Certified Professional").
2. The Certified Professional submitted to the Director an addendum to the NFA Letter, dated October 9, 2008. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.

3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 0.518-acre property, currently known as the Former Seneca Hotel, located at 361 East Broad Street, Columbus, Franklin County, Ohio ("Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A property location map is attached hereto as Exhibit 2. Based on information in the NFA Letter, Campus-Seneca, LLC owns the Property.
4. The Certified Professional prepared pursuant to OAC 3745-300-13(J) an Executive Summary of the NFA Letter, which is attached hereto as Exhibit 3.
5. The Volunteers performed the voluntary action in conjunction with the Clean Ohio Council's May 1, 2006 award of grant funding for the Property under the Clean Ohio Fund, ORC 122.65 to 122.659.
6. Based upon the information contained in the NFA Letter, the Volunteers undertook or completed the following investigational and remedial activities regarding the Property.
 - a. A Phase I Property Assessment was performed in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property. The Volunteers and Certified Professional determined that there is no reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property or the release is *de minimis* pursuant to OAC 3745-300-06.
 - b. Remedial activities were performed, consisting of the abatement of asbestos-containing material (ACM) identified at the Property, in accordance with OAC Chapter 3745-20.
7. The NFA Letter information provides no reason to believe that a release of hazardous substances or petroleum occurred at the Property that required investigational activities pursuant to OAC 3745-300-06 (for any *de minimis* release) or OAC 3745-300-07 (for any identified area).
8. The NFA Letter information indicates that the ACM remaining at the Property is not required to be abated based on its location or condition. Building areas where ACM remains in place are summarized in the NFA Letter's Executive Summary. The NFA Letter indicates that an asbestos management plan will be prepared for the property owner's use in overseeing the ACM.

9. The Certified Professional has verified by affidavit that the investigational and remedial activities undertaken at the Property demonstrate there is no reason to believe a release of hazardous substances or petroleum has occurred or is occurring at the Property, that the Property is eligible to receive a covenant not to sue under the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
10. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, a covenant not to sue may be issued for the Property in accordance with ORC 3746.12(A), and the voluntary action for the Property is protective of public health and safety and the environment.

ORDERS

Covenant

1. Based on the NFA Letter and subject to the conditions set forth in these Findings and Orders, Ohio EPA hereby covenants not to sue and releases Campus-Seneca, LLC, Campus Apartments, Inc. and the city of Columbus, and their respective agents, employees, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio ("State") to perform additional investigational and remedial activities at the Property for the releases of hazardous substances or petroleum identified and addressed in the Phase I Property Assessment conducted in compliance with ORC Chapter 3746 and OAC Chapter 3745-300.

Conditions and Limitations

Requirement to Record These Findings and Orders / Covenant Not to Sue

2. Within thirty (30) days after the issuance of these Findings and Orders, Campus-Seneca, LLC shall:
 - a. File with the Franklin County Recorder's Office, for recording in the same manner as a deed to the Property pursuant to ORC 3746.14, a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map), and 3 (Executive Summary).
 - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter

that identifies "*Recorded - Covenant Not to Sue for NFA Letter No. 08NFA311.*" The submission shall be addressed and delivered by regular U.S. mail or by other reliable means to: Ohio EPA, 50 West Town Street, Suite 700, PO Box 1049, Columbus, Ohio 43216-1049, Attention: DERR Records Management Officer, and Ohio EPA Central District Office at the same address, Attention: DERR Site Coordinator for Seneca Hotel Property.

Scope of Covenant

3. The Covenant provided in Order No. 1 shall only apply to the approximately 0.518-acre Property described in the NFA Letter, these Findings and Orders, and the exhibits attached hereto, upon which the investigational and remedial activities specified in the NFA Letter were conducted.
4. Pursuant to ORC 3746.12(B), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders.
5. The Covenant shall not apply to releases of hazardous substances or petroleum:
 - a. That occur after the issuance of the NFA Letter to the Volunteers including but not limited to, releases of asbestos that may occur from asbestos-containing materials remaining at the Property that were not abated, or required to be abated, pursuant to OAC Chapter 3745-20.
 - b. On or emanating from the Property, that are not identified in the Phase I Property Assessment of the NFA Letter.
 - c. For which investigational or remedial activities were conducted that were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
6. The Covenant shall not apply:
 - a. To claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607 and 9613, as amended.
 - b. To claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency.

- c. As otherwise specifically provided in ORC Chapter 3746, including but not limited to obligations arising under other applicable laws.
- 7. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
- 8. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

Ohio EPA Access to Property

- 9. Pursuant to ORC 3746.21, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes.

Transfer

- 10. Pursuant to ORC 3746.14 and OAC 3745-300-13(L), the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

IT IS SO ORDERED:



Chris Korleski, Director
Ohio Environmental Protection Agency

OCT 15 2008

Date

Exhibit 1
Legal Description

Exhibit A

Legal Description

File Number: HTAC-20392

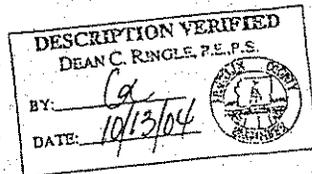
Situated in the City of Columbus, County of Franklin and State of Ohio, to-wit:

Located in the City of Columbus and further described as being Lots Numbers One (1) and Two (2) of Samuel Medary's Subdivision of Outlots 59, 60 and 61, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 38, Page 534, Recorder's Office, Franklin County, Ohio.

Parcel Nos. 010-004867 and 010-044660

Also known as: 361-375 East Broad Street, Columbus, Ohio 43215

G-29
all of
(010)
4867
44660

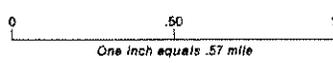
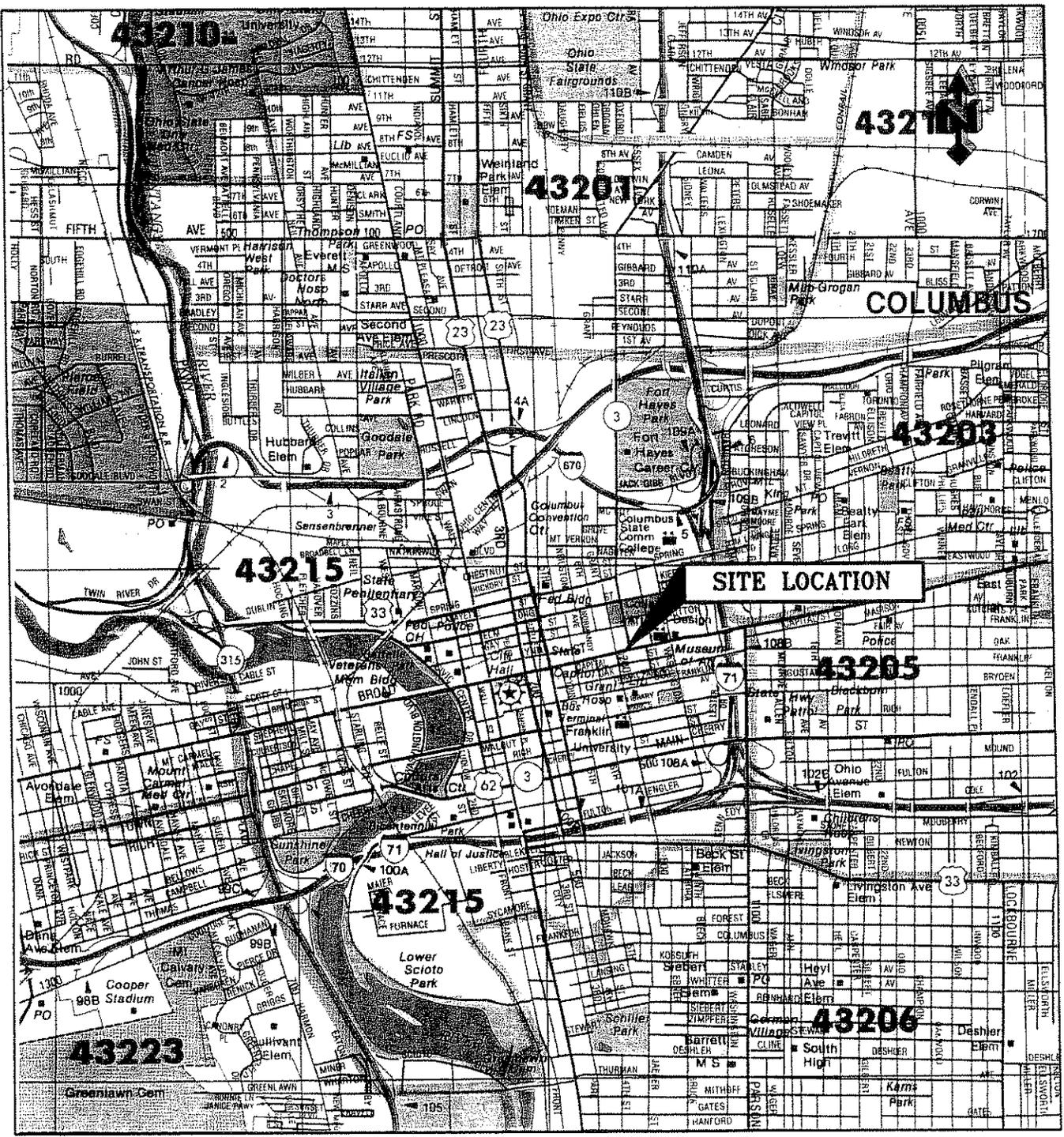


End Of Legal Description

Exhibit 2
Property Location Map

(DSV)

I:\HW\10604003\CADD\SS\ROADSIT



HW ENVIRONMENTAL CONSULTANTS, LLC

6105 Heisley Rd. • Mentor, OH 44060
 440-357-1260 • Fax 440-357-1510

FIGURE 1

SITE LOCATION MAP
 361 EAST BROAD STREET
 COLUMBUS, FRANKLIN COUNTY, OHIO

Exhibit 3
Executive Summary

SECTION B

EXECUTIVE SUMMARY

FORMER SENECA HOTEL

361 EAST BROAD STREET

COLUMBUS, FRANKLIN COUNTY, OHIO

VOLUNTEERS:

**CAMPUS-SENECA, LLC & CAMPUS APARTMENTS, INC.
4043 WALNUT STREET
PHILADELPHIA, PENNSYLVANIA**

and

**THE CITY OF COLUMBUS, OHIO
DEPARTMENT OF DEVELOPMENT
109 NORTH FRONT STREET
COLUMBUS, OHIO**

CERTIFIED PROFESSIONAL:

**MATTHEW D. KNECHT, CP0105
440-357-1260**

(AFFIDAVIT OF CP WAS INCLUDED EARLIER IN THIS NFA FORM)

EXECUTIVE SUMMARY

1.0 INTRODUCTION

This Executive Summary has been prepared to satisfy the requirements of Chapter 3745-300-13 of the Ohio Administrative Code (OAC), namely, to use a format prescribed by the Ohio Environmental Protection Agency (EPA) for submittal of a Voluntary Action Program (VAP) No Further Action (NFA) Letter, and that permits recording a summary of the NFA Letter by the Franklin County Recorder, as appropriate. Complete copies of the NFA Letter have been retained by the Volunteer and the Certified Professional.

Under authority of the VAP, an NFA Letter was submitted to Campus-Seneca, LLC, Campus Apartments, Inc., and the City of Columbus (herein referred to as the "Volunteers") on August 28, 2008 by Matthew D. Knecht of HzW Environmental Consultants, LLC (HzW), Ohio EPA Certified Professional No. 0105. The NFA Letter describes the Phase I Property Assessment and asbestos assessment and abatement activities conducted the Former Seneca Hotel, a multi-story complex of three buildings located at 361 East Broad Street in the City of Columbus, Ohio (herein referred to as the "Property"). The Property consists of two parcels (Permanent Parcel Numbers 010-004867 and 010-044660) comprising in aggregate 0.518 acres of land. A legal description of the Property is attached to this Executive Summary.

2.0 SUMMARY OF NO FURTHER ACTION LETTER

The Certified Professional (Matthew D. Knecht) issued an NFA Letter based upon the results of a Phase I Property Assessment and associated asbestos assessment and abatement activities conducted at the Property. Summaries of the Phase I Property Assessment and asbestos assessment/abatement activities are provided in Sections 2.1 and 2.5 of this Executive Summary. A complete copy of the Phase I Property Assessment (including an appendix which contains complete documentation of asbestos assessment and abatement activities) is included in the NFA Letter. Based upon the information presented in the Phase I Property Assessment report, the Certified Professional concluded that the Property met VAP applicable standards for an unrestricted residential land use in that no identified areas were indicated as being present either on the Property or associated with adjacent properties.

2.1 Summary of Phase I Property Assessment

The Phase I Property Assessment was prepared in accordance with OAC 3745-300-06. The initial VAP Phase I Property Assessment spanned a period from November 2004 through May 2005, and was prepared in support of a Clean Ohio Assistance Fund Application (COAF) for removal of asbestos-containing materials (ACMs) and miscellaneous demolition at the site. An updated final VAP Phase I Property Assessment was prepared in August 2008, to support the NFA Letter.

The purpose of a Phase I Property Assessment is to determine whether there is any reason to conclude that a release of hazardous substances or petroleum has occurred at a property, either from on-property or off-property sources. As part of both iterations of the VAP Phase I Property Assessment process, the Certified Professional performed a diligent inquiry of practically reviewable publicly available information as defined in OAC 3745-300-06(A)(2), (A)(5), and (A)(6). The methods used as part of the Phase I Property Assessment included the following elements as identified under OAC 3745-300-06:

Executive Summary

Page 2

1. Reviewing information to determine the historic and current uses of the Property, adjoining parcels, or surrounding parcels, and established a continuous history of these parcels, in accordance with OAC 3745-300-06. This included identification of the first industrial and/or commercial use of the Property and adjacent parcels.
2. Performing an environmental inquiry of applicable local, state and federal agency records in accordance with OAC 3745-300-06 (D)(1)(a), (D)(2)(a-e) and (D)(3).
3. Reviewing background information to identify general hydrologic, topographic and hydrogeologic conditions in the area.
4. Identifying (to the extent practical) potential constraints which may be placed on the future use of the Property due to on-site (or nearby) sensitive environmental areas or features.
5. Conducting interviews in accordance with OAC 3745-300-06 (D)(1)(c) and (D)(2)(f) relevant to the environmental conditions in the Property and surrounding areas.
6. Conducting an inspection of the Property in accordance with OAC 3745-300-06 (D)(5)(a-g).

A summary of historical information presented in the Phase I Property Assessment is presented below.

The Property was occupied by single-family or duplex-type residential dwellings until approximately 1918. In 1918, construction of a ten-story hotel was initiated on the western parcel (Parcel 010-004867). This hotel building, variously referred to as the "Seneca Hotel" or the "New Seneca Hotel", occupied the entire areal "footprint" of the western parcel, and was one of the first "high-rise" hotels constructed in the City of Columbus. Similarly in 1918, a two-story parking garage (listed as a "service station" on the 1925 historic fire insurance map) was constructed on the southern portion of the eastern parcel (Parcel 010-044660). This garage had the separate address of 372 East Capital Street. East Capital Street borders the Property on the south. This parking garage (referred to in historic city directories between 1918 and 1955 as the "Hotel Seneca Garage") was listed on all historic fire insurance maps of having a capacity of "35 cars", and used an overhead lift-type elevator (rather than an in-ground piston-type elevator or ramps) to move cars from the first to second floor.

The northern portion of the eastern parcel (again, Parcel 010-044660) remained undeveloped until some point between 1921 and 1937, when a four-story addition to the hotel complex was constructed on this portion of the Property. The four-story addition was connected to the ten-story hotel on Parcel 010-004867, with the second through fourth floors used by the hotel. The first floor portion of the four-story addition included a series of commercial shops facing East Broad Street, which included (according to historic city directories) a flower shop, a bakery, a retail clothing store, and a cigar shop.

The Seneca Hotel "complex" of three interconnected buildings continued in operation as a hotel until approximately 1974. Following its use as a hotel, the complex was used from approximately 1976 through 1986 as commercial office space (under the name "Seneca Towers Office Complex"). Tenants included the Ohio EPA, the Ohio Power Siting Commission, and the Ohio Attorney General, among others. Since approximately 1988, the Property has been vacant.

Executive Summary

Page 3

At the time of the initial VAP Phase I Property Assessment conducted in 2004, there were no tenants in any of the buildings, and both the interior and exterior of the structures were observed to be in various states of disrepair due to neglect and/or vandalism. The sidewalk along the west side of the Property (along South Grant Avenue) had been covered due to partial failure of the façade and to alleviate the risk of falling debris from the 10-story building to the street below. The interior of the building showed evidence of trespassers, vagrants, and vandals inside the building since it had been vacated. Anecdotally, the Property was included on a website of “old buildings in Ohio” that could be broken into and explored, and this website included multiple photographs of the interior of the building (including photographs from the roof) that were taken by trespassers to the site.

The final VAP Phase I Property Assessment for the Property considered all the information collected, reviewed, and assimilated as part of the original 2005 assessment and the subsequent updated information from the 2008 assessment. Based upon this information, the Certified Professional concluded that there were no areas – either on-Property or adjacent to the Property – which satisfied the definition of an “identified area” as outlined in OAC 3745-300-01(A)(22), namely:

“...a location at a property where a release of hazardous substances or petroleum has or may have occurred.”

The only hazardous substances on the Property were associated with structural, architectural, or mechanical components of the three buildings, including ACMs, fluorescent light ballasts, switches, capacitors, etc. There was no evidence, either from physical inspection, historical records, or interviews with previous occupants or owners of the Property, to suggest that there had been a release of hazardous substances from building components to an environmental medium (soil, groundwater, surface water, etc.). A potential existed for a release of asbestos (a VAP “hazardous substance”) to indoor air (an “environmental medium”) from building components and finishes, leading the Volunteers to proceed with abatement of ACMs in accordance with provisions outlined in the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), and codified in OAC 3745-20.

OAC 3745-300-02 lists the eligibility criteria for a property to participate in the VAP. A review of these criteria was performed to evaluate the VAP eligibility of the Property. In summary, the Property is deemed eligible to participate in the VAP, in that no portion of the Property:

1. Is identified on the National Priorities List (NPL);
2. Is subject to the requirements under the Underground Injection Control Program;
3. Is subject to federal or state corrective action permit obligations;
4. Is subject to federal enforcement;
5. Is subject to closure as a hazardous waste facility or solid waste facility
6. Is subject to the requirements for site assessment, removal or remediation under BUSTR regulations;
7. Is subject to the requirements for site assessment, removal or remediation of oil and gas wells; or
8. Is subject to a state enforcement letter.

2.2 Summary of Phase II Property Assessment

The purpose of a VAP Phase II Property Assessment is to conduct an investigation sufficient to determine whether applicable standards under the VAP are met in all identified areas and affected media on a property. Since no identified areas were determined to be present at the Property as part of the Phase I Property Assessment, and there was no evidence of the release of asbestos or other hazardous substances

Executive Summary

Page 4

to an environmental medium from building components and finishes, the Certified Professional concluded that it was not necessary to conduct a Phase II Property Assessment at the Property.

2.3 Determination of Applicable Standards and Points of Compliance

The Certified Professional determined that the appropriate applicable standards were compliance with the asbestos NESHAP as stated in VAP Technical Decision Compendium (TDC) document VA30000.04.001. VAP TDC VA30000.04.001 states that the potential future release of asbestos to indoor air may form the basis for abatement/remediation of ACMs under the VAP.

2.4 Determination of Compliance with Applicable Standards

VAP TDC VA30000.04.001 states that the Volunteer can demonstrate that asbestos remediation was conducted in compliance with all applicable laws and rules by a) concluding that there was no release to an environmental medium (a conclusion of the Phase I Property Assessment, as well as Sections 2.1 and 2.2 of this Executive Summary), and b) providing in the Phase I Property Assessment report written documentation that the requirements of OAC 3745-20-03 through OAC 3745-20-05 were met. Such documentation is included in Appendix W of the Phase I Property Assessment report, and summarized in Section 2.5, below.

2.5 Remedial Activities

Between 2004 and 2008, the Volunteer undertook the necessary steps to renovate the interior of the subject facility in order to convert the site to apartment units. The Volunteer pursued and obtained a grant through the COAF to remove/abate ACMs (and other hazardous substances associated with building components) in all three buildings on the Property. The Volunteer retained HzW to provide the necessary environmental consulting services such that abatement of ACMs was performed in accordance with the provisions of VAP TDC VA30000.04.001, such that the applicable standards of the asbestos NESHAP were achieved. All documentation referenced in this section is included as Appendix W to the Phase I Property Assessment report, which is a component of the VAP NFA Letter for the Property.

The services provided by HzW to the Volunteer at the Property consisted of the following:

1. Performing a survey of all buildings on the Property to identify ACMs.
2. Developing specifications for the abatement of select building materials identified as being ACMs.
3. Assisting the Volunteer in meeting the notification requirements in the asbestos NESHAP, and providing project oversight services during the abatement of select building materials identified as being ACMs prior to renovation/build-out.
4. Performing a final visual inspection and air monitoring following renovation and completion of all construction build-out activities that had the potential to disturb ACMs.

A synopsis of each of these elements is provided below.

2.5.1 Survey of the Buildings on the Property

During November and December 2004, representatives of HzW licensed as Asbestos Hazard Evaluation Specialists (AHES) by the Ohio Department of Health (ODH) surveyed the subject facility for ACMs.

Executive Summary

Page 5

The asbestos survey was performed in accordance with the asbestos NESHAP, and included all areas of the three buildings on the Property. The findings of the asbestos survey are documented in HzW's Report entitled *Report of Findings from the Asbestos Survey Conducted at the Building Located at 361 East Broad Street, Columbus, Franklin County, Ohio*, (Asbestos Survey Report) which is included as Attachment 1 in Appendix W of the Phase I Property Assessment report. The Asbestos Survey Report was issued to the Volunteer on December 28, 2004. This report identified asbestos in building materials associated with all three structures. The building materials identified as containing asbestos through sampling are listed in detail in the Asbestos Survey Report, but in summary consisted of drywall joint compound (ceiling and wall), floor tile and/or mastic, window glazing, black tar on roof wall caps, pipe/fitting insulation, black tar board on heater units, tank end insulation, black tar belt-like insulation, boiler gasket packing, electrical panel insulation paper, incinerator breeching insulation, ceiling plaster, wall plaster, floor sheeting, stair tread cover, textured ceiling material, tar coating on heater units, and textured coating. Building materials not sampled and, therefore, assumed to contain asbestos are listed in detail in the Asbestos Survey Report, but in summary consisted of various insulators associated with electrical switch panels, elevator door insulation and brake shoes, cabinet insulation paper, and window glazing.

2.5.2 Specification Preparation and Contractor Selection

Subsequent to the completion of the Asbestos Survey Report, HzW developed specifications for the removal/abatement of select building materials identified as containing asbestos. All building materials outlined in Section 2.5.1, above, were indicated in the specifications to be abated, *except* for the following building materials which were not to be disturbed:

Two-Story Building (Garage)

- asbestos-containing window glazing
- asbestos-containing black tar on wall caps of roof
- assumed asbestos-containing insulators on electrical switch panel in elevator penthouse

Ten-Story Building (Main Former Hotel Building)

- assumed asbestos-containing window glazing
- assumed asbestos-containing insulation in inner and outer doors, brake shoes, insulation on electrical switch panel in the man elevators and freight elevator
- asbestos-containing perimeter wall plaster¹
- asbestos-containing decorative ceiling plaster²
- asbestos-containing pipe and fitting insulation contained within decorative plaster clad perimeter wall pipe chases and decorative wood paneled clad perimeter wall pipe chases

Four-Story Addition

- asbestos-containing window glazing
- asbestos-containing perimeter wall plaster³

1 – Abatement by encasement behind new drywall partition walls

2 – Abatement by encapsulation/sealing with paint

3 – Abatement by encasement behind new drywall partition walls

On May 9, 2005, a pre-bid walkthrough with asbestos abatement contractors was performed at the Property. Based on the quotations received, the Volunteer entered into a contract with Precision Environmental Company (Precision), a licensed asbestos abatement contractor, to perform the abatement activities, as well as removal of other hazardous materials associated with the structures (e.g. ballasts, switches, etc.) and lead-based paint stabilization.

2.5.3 Project Oversight during Abatement and during Build-Out following Abatement

Following receipt of COAF grant funding in 2006, Precision entered into a formal contract with the Volunteer, and provided prior notification of abatement activities in accordance with the asbestos NESHAP. As part of the project, Precision filed the initial demolition/renovation notification with the Ohio EPA in January 2006, and filed multiple revised notifications to the Ohio EPA as the work progressed. Initial activities between January 2006 and May 2006 consisted primarily of demolition of non-ACMs. Asbestos abatement activities began in earnest in May 2006, and from May 2006 to November 2006, representatives of HzW licensed by the ODH as either an AHES or an Asbestos Hazard Abatement Specialist (AHAS) were on-site at the Property to provide the project oversight services. Documentation compiled during project oversight services is presented in HzW's Report entitled *Report of Findings from the Project Oversight Services Provided During the Abatement of Asbestos-Containing Materials and Hazardous Materials from the Former Seneca Hotel Located at 361 and 371 East Broad Street, Columbus, Franklin County, Ohio* (Project Oversight Report) which is included as Attachment 2 in Appendix W of the Phase I Property Assessment report.

Project oversight services provided by HzW consisted of monitoring site activities so that the project was conducted in accordance with federal, state and local regulations as well as in accordance with the project's specifications. As part of the project oversight services during abatement, "perimeter" and "final clearance" air sampling activities and "final clearance" surface sampling activities were provided on an ongoing basis during and/or following the asbestos abatement activities, respectively. Following abatement of ACMs from each containment or work area, HzW performed a visual inspection of the containment or work area to verify the absence of the designated ACMs as well as any visible debris. Upon "passing" visual inspection, "final clearance" air and surface sampling activities were subsequently performed.

During the project oversight activities additional suspect ACMs were identified. These suspect materials were sampled by HzW to determine each material's asbestos content, subsequently quantified and then abated by Precision if the suspect material was identified as an ACM. A table documenting the additional suspect ACMs identified during the project and the associated analytical reports for each suspect material are provided in the Project Oversight Report.

Based on the findings of the project oversight activities and the final clearance air and surface sampling results, the buildings on the Property were considered ready for re-development construction to commence following completion of the abatement activities performed by Precision. HzW recommended to the Volunteer that, 1) since a VAP NFA Letter was to be sought for the site, and 2) the build-out of the subject facility was to commence after the completion of the abatement activities, and 3) ACMs which would remain on-site were still present in buildings on-site, an additional visual inspection combined with air monitoring following "visual clearance" should be performed at the completion of build-out activities.

Executive Summary

Page 7

Construction/renovation build-out activities were initiated following substantial completion of asbestos abatement in December 2006. Construction/renovation build-out activities continued through June 2008. The nature of construction activities performed during this time is outlined in a notarized document from the Volunteer dated June 16, 2008. This document is included as Attachment 3 in Appendix W of the Phase I Property Assessment report.

During construction/renovation build-out activities, several building materials that were either assumed to contain asbestos or had been identified by HzW as ACMs were removed. These materials consisted of assumed asbestos-containing insulators, door insulation and brake shoes associated with the elevators were completely removed; and all but sixteen (16) windows (and associated glazings) were replaced.

Any assumed or identified ACMs disturbed during build-out activities were abated prior to disturbance as part of a contract between the Volunteer and Ohio Technical Services, Inc. (OTS), a licensed asbestos abatement contractor. A copy of OTS's project documentation for any ACMs removed during project construction/renovation build-out (and subsequently not directly observed by HzW) is also included as Attachment 3 of Appendix W of the Phase I Property Assessment report.

2.5.4 Final Visual Inspection and Air Monitoring

During June and July 2008, licensed AHES/AHAS personnel from HzW visited the Property to perform the final visual inspection and air sampling activities, in that construction/renovation build-out was substantially complete. The findings of the visual inspection and air sampling activities are documented in HzW's Report entitled *Revised Findings from the Visual Inspection and Air Sampling Activities Conducted at the Former Seneca Hotel Located at 361 East Broad Street, Columbus, Franklin County, Ohio*, dated August 15, 2008 (Visual Inspection and Air Sampling Report) which is included as Attachment 4 of Appendix W of the Phase I Property Assessment report.

The final visual inspection and air sampling activities were conducted following completion of the build-out activities as managed by the Ruscilli Construction Company (Ruscilli) and performed by various construction trades. The purpose of the final visual inspection was to document that all ACMs and assumed ACMs that remained within the subject facility following the asbestos abatement activities performed either by Precision or OTS were properly abated during construction/renovation build-out activities. A second objective of the final visual inspection was to re-confirm that there was no evidence of a release of asbestos to an environmental medium during construction/renovation build-out activities. The purpose of the final air sampling was to document that the asbestos fiber concentrations in buildings on the Property were below the filter background level, as defined in the Asbestos Hazard Emergency Response Act (AHERA).

2.6 Planned Remedies

There are no future planned remedies to be implemented at the Property

3.0 Conclusions

Based upon the voluntary action implemented at the Property, the Certified Professional reached the following conclusions:

Executive Summary

Page 8

1. In 2004, a voluntary action was initiated at the Property, which has the address of 361 East Broad Street, Columbus, Franklin County, Ohio. The Property consists of two parcels, which, in total, comprise 0.518 acres of land.
2. The Property was occupied by single-family or duplex-type residential dwellings until approximately 1918. In 1918, construction of a ten-story hotel was initiated on the western parcel, while a two-story parking garage was constructed on the southern portion of the eastern parcel. The northern portion of the eastern parcel remained undeveloped until some point between 1921 and 1937, when a four-story addition to the hotel complex was constructed.
3. The hotel "complex" of three interconnected buildings continued in operation as a hotel until approximately 1974. Following its use as a hotel, the complex was used from approximately 1976 through 1986 as commercial office space (under the name "Seneca Towers Office Complex"). Tenants included the Ohio EPA, the Ohio Power Siting Commission, and the Ohio Attorney General, among others. Since approximately 1988, the Property has been vacant.
4. A VAP Phase I Property Assessment was performed on behalf of the Volunteers. The Phase I Property Assessment was conducted in accordance with OAC 3745-300-06, and was completed in August 2008. This Phase I Property Assessment identified no identified areas, as that term is defined in OAC 3745-300-01.
5. A survey for ACMs was conducted in 2004, which culminated in a report identifying the location and quantity of ACMs on-site. A licensed asbestos abatement contractor was retained to remove select ACMs, while other ACMs remain on-site.
6. Based on the findings of HzW's visual inspection, all remaining ACMs or assumed ACMs were properly abated through implementation of one of the acceptable abatement techniques (enclosure, encapsulation, removal and/or repair). In addition, based on the findings from the air monitoring activities performed by HzW, all air samples were identified as having asbestos fiber concentrations below the filter background level, as defined in EPA AHERA.
7. Any potentially complete exposure pathways comply with VAP applicable standards without relying upon engineering or institutional controls. The voluntary action undertaken at the Property is protective of public health, public safety, and the environment.
8. The Certified Professional has determined that no further action is warranted at the Property with regard to VAP hazardous materials.



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

MEMORANDUM

TO: Shelley Wilson, Executive Administrator for Real Property, Tax Equalization Division, Dept. of Taxation

Amy Alduino, Office of Urban Development, Dept. of Development

FROM: ^{ca 10/15/08} Chris Korleski, Director, Ohio Environmental Protection Agency

DATE: OCT 15 2008

RE: Covenant Not to Sue Issued to Campus-Seneca, LLC, Campus Apartments, Inc. and the City of Columbus for the Former Seneca Hotel Property

As Director of the Ohio Environmental Protection Agency, I certify that Campus-Seneca, LLC, Campus Apartments, Inc. and the city of Columbus have performed investigational and remedial activities at the property listed below and have been issued a Covenant Not to Sue under the authority of Ohio Revised Code (ORC) Chapter 3746. This information is being provided in satisfaction of ORC 5709.87(B).

Property Name: Former Seneca Hotel

Property Address: 361 East Broad Street, Columbus, Ohio 43215

Property Owner: Campus-Seneca, LLC

Property Owner Address: 4043 Walnut Street, Philadelphia, PA 19104

Parcel Number(s): 010-004867 and 010-44660

County: Franklin

Taxing District: City of Columbus (010)

Date Covenant Not to Sue Issued: OCT 15 2008

Attached, for your information, is a copy of the legal description of the property along with parcel location figures.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

If additional information regarding the property or the voluntary action is required, I suggest you first contact Matthew D.Knecht, the certified professional for the property, at (440) 357-1260. In the alternative, you can contact Ray Moreno with the Ohio Environmental Protection Agency at (614) 728-3833.

- c: Nick Zaferes, Campus-Seneca and Campus Apartments, Inc.
4043 Walnut Street, Philadelphia, PA 19104
- Gary Guglielmi, City of Columbus, Dept. of Development
109 North Front Street, Columbus, OH 43215
- Matthew D. Knecht, HzW Environmental Consultants, LLC
6105 Heisly Road, Mentor, OH 44060
- Joseph Reidy, Schottenstein, Zox & Dunn
250 West Street, Columbus, OH 43215
- Joseph W. Testa, Franklin County Auditor
373 S. High Street, 21st Floor, Columbus, OH 43215
- Amy Yersavich, VAP Manager, Ohio EPA
DERR-CO, VAP Files 08NFA311

rev. 03/05, 11/05

RM/nsm Seneca hotel Tax Memo

Exhibit A

Legal Description

File Number: HTAC-20392

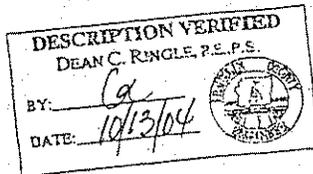
Situated in the City of Columbus, County of Franklin and State of Ohio, to-wit:

Located in the City of Columbus and further described as being Lots Numbers One (1) and Two (2) of Samuel Medary's Subdivision of Outlots 59, 60 and 61, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 38, Page 534, Recorder's Office, Franklin County, Ohio.

Parcel Nos. 010-004867 and 010-044660

Also known as: 361-375 East Broad Street, Columbus, Ohio 43215

G-29
all of
(010)
4867
44660



End Of Legal Description

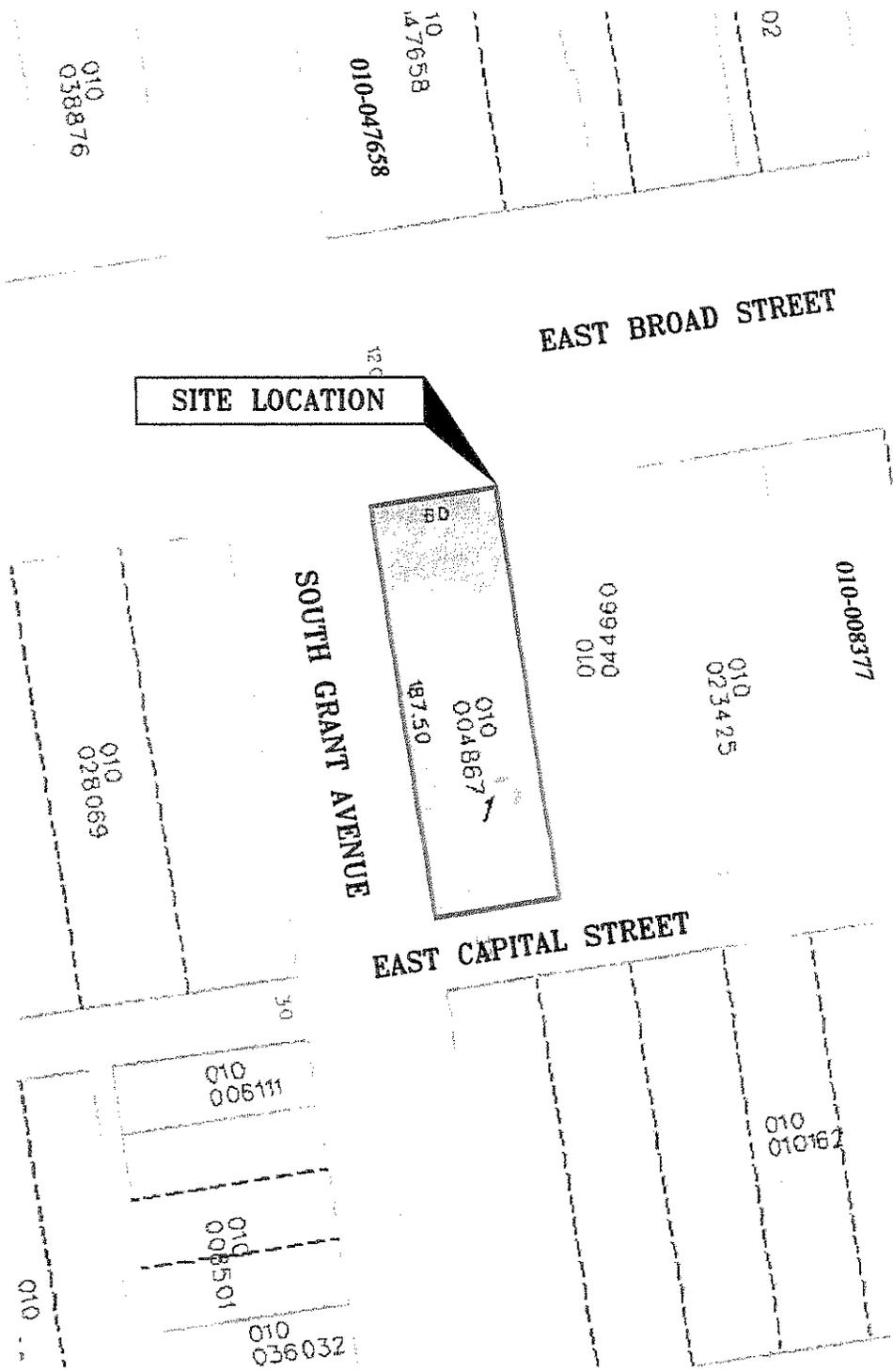
TAX MAP



1"=80'

(GMB) 7/17/08

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SITE LOCATION

**PARCEL 010-004867 GREEN COLOR BOUNDARY
PARCEL 010-044660 YELLOW COLOR BOUNDARY**

FIGURE 2

**TAX MAP
361 EAST BROAD STREET
COLUMBUS, FRANKLIN COUNTY, OHIO**



**HZW ENVIRONMENTAL
CONSTRUCTORS, LLC**