

Thompson, Matthew A - DNR

From: Thompson, Matthew A - DNR
Sent: Wednesday, November 17, 2021 2:56 PM
To: Lisa Parsch
Subject: RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

Lisa,

Bob will take on responsibility for ensuring the VMS is operation once the transfer occurs. I can't speak to who should switch service over or how best to outline that process though. WPS may need him to call but that's outside my wheelhouse. I hope this is helpful, circle back if I can help further.

Thanks,
Matt

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Matt Thompson
Office: 715-492-2304
MatthewA.Thompson@wisconsin.gov

From: Lisa Parsch <Lisa.Parsch@ci.wausau.wi.us>
Sent: Wednesday, November 17, 2021 12:34 PM
To: Thompson, Matthew A - DNR <MatthewA.Thompson@wisconsin.gov>
Subject: RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

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Hi Matt,

A question has come to our attention. The CDA is currently paying a bill from WPS for the electricity use of the vapor mitigation system at 113 Callon Street. Upon transfer of the property at 303 S. 2nd Avenue from the CDA to Robert Voigt, can we assume that Mr. Voigt will be responsible for paying the electrical bill and whose responsibility is it to switch the bill? Thank you.

Lisa Parsch
Legal Assistant
City of Wausau
407 Grant Street
Wausau WI 54403
P: 715.261.6592
F: 715.261.0314

lisa.parsch@ci.wausau.wi.us

From: Thompson, Matthew A - DNR <MatthewA.Thompson@wisconsin.gov>
Sent: Tuesday, November 9, 2021 11:46 AM
To: Anne Jacobson <Anne.Jacobson@ci.wausau.wi.us>
Cc: Lisa Parsch <Lisa.Parsch@ci.wausau.wi.us>
Subject: [EXTERNAL] RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

Great, thanks!

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Matt Thompson

Office: 715-492-2304

MatthewA.Thompson@wisconsin.gov

From: Anne Jacobson <Anne.Jacobson@ci.wausau.wi.us>
Sent: Tuesday, November 9, 2021 11:45 AM
To: Thompson, Matthew A - DNR <MatthewA.Thompson@wisconsin.gov>
Cc: Lisa Parsch <Lisa.Parsch@ci.wausau.wi.us>
Subject: RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

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Thanks, Matt. I think this clarifies it for me. And I assumed a new owner would be held responsible by the DNR, no matter what. We will also inform Mr. Voigt at the closing, by way of letter, that he will remain responsible for both properties.

Anne

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ANNE L. JACOBSON
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From: Thompson, Matthew A - DNR <MatthewA.Thompson@wisconsin.gov>
Sent: Tuesday, November 9, 2021 10:37 AM
To: Anne Jacobson <Anne.Jacobson@ci.wausau.wi.us>
Cc: Lisa Parsch <Lisa.Parsch@ci.wausau.wi.us>
Subject: [EXTERNAL] RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

Anne,

Department regulations apply regardless of the agreement in place between the City/CDA and the Voigts. They will be responsible for maintaining both properties if they purchase the 303-305 S. 2nd Ave. property. The Department will not hold the City/CDA responsible once ownership is transferred.

If the City/CDA wants to continue to maintain the cap and VMS at 113 Callon they can- the Department just wants to ensure the cap and VMS are maintained.

Thanks,
Matt

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Matt Thompson
Office: 715-492-2304
MatthewA.Thompson@wisconsin.gov

From: Anne Jacobson <Anne.Jacobson@ci.wausau.wi.us>
Sent: Monday, November 8, 2021 1:20 PM
To: Thompson, Matthew A - DNR <MatthewA.Thompson@wisconsin.gov>
Cc: Lisa Parsch <Lisa.Parsch@ci.wausau.wi.us>
Subject: RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

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Hello, Matt:

Thank you for your quick review. Perhaps I was inartful in drafting the attached agreement, which, in para. 6, states that with the transfer of *either the former Kraft Cleaners Property* or 113 Callon, a subsequent property owner would have to enter into a new agreement and that the current, attached agreement, will terminate. It makes sense to me that because Voigt is purchasing the source property, they will be responsible for not only the source property, but for maintaining the cap and operating the VM system.

If they own both properties, they will be responsible to maintain both properties (113 Callon St.) and the adjacent property, whether or not the attached has terminated due to the sale of the Kraft Cleaners site, correct? I just don't want anything to be interpreted against the WDNR, that I am responsible for having drafted. I recall that being a requirement when I read the regulations at the time. Thank you,

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From: Thompson, Matthew A - DNR <MatthewA.Thompson@wisconsin.gov>
Sent: Monday, November 8, 2021 11:19 AM
To: Anne Jacobson <Anne.Jacobson@ci.wausau.wi.us>
Subject: [EXTERNAL] RE: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

Anne,

From the Department's perspective there is nothing the Voigts need to do before taking ownership of the property. The sub-slab depressurization system must be maintained and since they are buying the source property they will become responsible for ensuring the system is operated and maintained. They will also become responsible for maintaining the cap over the contamination- the CDA was responsible but since they did not cause the contamination they are no longer responsible after the Voigts take ownership.

I hope this clears things up, please call with questions.

Matt

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Matt Thompson

Office: 715-492-2304

MatthewA.Thompson@wisconsin.gov

From: Anne Jacobson <Anne.Jacobson@ci.wausau.wi.us>

Sent: Friday, October 15, 2021 9:12 AM

To: Thompson, Matthew - DOA <matthew.thompson@wisconsin.gov>

Subject: FW: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

Importance: High

Dear Matt:

Second request for your assistance, please. Thank you,

Anne L. Jacobson

City Attorney

407 Grant St.

Wausau, WI 54403

715.261.6593 ph.

715.261.0313 fax

From: Anne Jacobson

Sent: Friday, October 8, 2021 6:04 PM

To: 'matthew.thompson@wisconsin.gov' <matthew.thompson@wisconsin.gov>

Cc: Lisa Parsch <Lisa.Parsch@ci.wausau.wi.us>

Subject: Private Agreement between Responsible Party and Adjacent Property Owners - 303-305 S. 2nd Ave./WDNR BRRTS #02-37-000294

Importance: High

Dear Matt:

On May 15, 2020, the Wausau Community Development Authority, as responsible party, entered into a private agreement (attached) with Robert and Karen Voigt, owners of 113 Callon Street, adjacent to the former Kraft Cleaners property located at 303-305 S. 2nd Ave.

The WCDA has now approved a sale of the adjacent property located at 303-305 S. 2nd Ave., to the same people, Robert and Karen Voigt.

I have two questions:

- 1) According to No. 6, this agreement terminates upon the transfer of the Kraft Cleaners property to a new owner, correct? Even though it involves the same parties who signed the agreement for the adjacent property at 113 Callon Street? It also states the agreement is non-transferable and that any subsequent owners to the CDA would be required to enter into a new and separate agreement *with the City of Wausau*.
- 2) Did I err in that paragraph in requiring a new agreement with the *City* rather than the CDA? I believe the CDA approved this agreement, and you accepted it.

Please advise. Thank you,

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PRIVATE AGREEMENT BETWEEN RESPONSIBLE PARTY
AND ADJACENT PROPERTY OWNERS
VAPOR MITIGATION SYSTEM LOCATED AT 113 CALLON
ST.

CONTINUING OBLIGATIONS RESPONSIBILITY
RELATED TO AND REQUIRED BY WDNR
RE: FORMER KRAFT CLEANERS SITE, 303-305 SOUTH 2nd
AVENUE, WAUSAU, WI
WDNR BRRTS # 02-37-000294

This agreement is made this 15 day of May, 2020, by and between the Wausau Community Development Authority ("WCDA"), as the responsible party, and property owners, Robert and Karen Voigt, RKV Income Trust, of 113 Callon Street, Wausau, Wisconsin.

RECITALS

WHEREAS, as part of its request for closure of WDNR BRRTS No. 02-37-000294, the former Kraft Cleaners Site at 303-305 South 2nd Avenue, Wausau, Wisconsin, the Wausau Community Development Authority ("WCDA") as the responsible party ("RP"), submitted its Operation & Maintenance ("O & M") Plan for the sub-slab vapor mitigation system ("VMS") located at 113 Callon Street to the WI DNR through its consultant, AECOM, in response to the WI DNR Notification of Continuing Obligations and Residual Contamination which required continued operation and maintenance of a vapor mitigation system at 113 Callon Street; and

WHEREAS, in furtherance of that request for closure, WCDA wishes to make alternate arrangements for who is responsible for the long-term O & M, with the property owners of 113 Callon Street, upon which is located an apartment building, in which is operating a sub-slab vapor mitigation system ("VMS"), also known as a sub-slab depressurization system ("SSDS"), intended to interrupt the potential migration of sub-slab vapor exceeding Wisconsin regulatory standards into the building from the adjacent Former Kraft Cleaners site; and

WHEREAS, AECOM submitted to the property owners, on behalf of the WCDA, on December 6, 2019, the O & M and VMS for this site.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. The property owners shall be responsible to monitor the VMS

to ensure its proper and continuing operation, and if maintenance is required, are responsible for notifying the WCDA immediately at the number provided in the notices section of this agreement.

2. The WCDA shall be responsible to have completed an annual visual inspection of the site (the apartment building for obvious structural changes or damage) and entire VMS to look for visible signs of wear and tear (i.e., cracked or damaged piping; loose or broken brackets, fittings, couplings, and fan housings; obstructions to air flow; damaged or broken suction points). In compliance with s. NR 727.05(1)(b)3., Wis. Adm. Code, the WCDA shall complete the Continuing Obligations Inspection and Maintenance Log (DNR Form 4400-305) to document each annual VMS inspection, and keep a copy of the completed annual Continuing Obligations Inspection and Maintenance Log (DNR Form 4400-305) on file for as long as the VMS is in operation.
3. VMS repairs, modifications or shutdowns are prohibited without prior authorization from the Wisconsin DNR, following VMS failures, damage or other related emergencies. In the event the PROPERTY OWNERS notify the WCDA, or the WCDA discovers during its annual inspection that maintenance to the system is required, the WCDA shall be responsible to notify within 24 hours, by telephone:

Wisconsin DNR R & R Program
1300 W. Clairemont Avenue
Eau Claire, WI 54701
Contact: Matthew Thompson
Telephone: (715) 839-3750
Email: matthew.thompson@wisconsin.gov
4. After receiving authorization from WDNR, the WCDA shall be responsible to initiate the repair, component replacement or modifications necessary to continue VMS operation by the installer or a certified radon mitigation contractor listed by the Wisconsin Department of Health Services.
5. Any costs associated with repair, component replacement or modifications of the VMS shall be the sole responsibility of the WCDA.
6. This agreement shall terminate upon the transfer of either the former Kraft Cleaners Property or 113 Callon Street to a new

owner by either party or the removal or change of use of the existing apartment building at 113 Callon Street. This agreement is non-transferrable. Any subsequent property owners would be required to enter into a new and separate agreement with the City of Wausau.

7. A copy of this Agreement shall be provided to the WI DNR and made available on the DNR's database.

8. Any notices required to be provided under this Agreement, shall be provided to:

a. Wausau Community Development Authority

407 Grant Street

Wausau, WI 54403

Contact: Christian Schock, Director

Telephone: (715) 261-6683

E-mail: Christian.Schock@ci.wausau.wi.us

b. Wisconsin DNR R & R Program

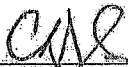
1300 W. Clairemont Avenue

Eau Claire, WI 54701

Telephone: (715)839-3750

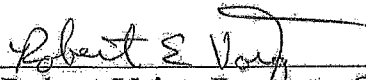
Email: matthew.thompson@wisconsin.gov

Wausau Community Development Authority



Christian Schock, Director, WCDA

RKV Income Trust



Robert Voigt, Property Owner



Karen Voigt, Property Owner