

Document Number

DEED RESTRICTION

Declaration of Restrictions

In Re: See Legal Description attached as Addendum A.

STATE OF WISCONSIN)
) ss
COUNTY OF Kenosha County where document is signed]

WHEREAS, Kenosha Unified School District is the owner of the above-described property.

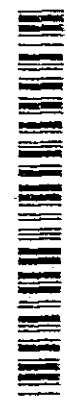
WHEREAS, arsenic, lead, polynuclear aromatic hydrocarbon (PAH) and volatile organic compound (VOC) discharges have occurred on this property. Arsenic, lead, PAH and/or VOC-contaminated soil is considered to remain beneath the entire property.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further soil remediation activities on the property at the present time.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

The following activities are prohibited on that portion of the property described above where a cap or cover has been placed, unless prior written approval has been obtained from the Wisconsin Department of Natural Resources or its successor or assign: (1) Excavating or grading of the land surface; (2) Filling on the capped area; (3) Plowing for agricultural cultivation; and (4) Construction or installation of a building or other structure with a foundation that would sit on or be placed within the cap or cover. In addition, the cap or cover shall be maintained in compliance with a plan prepared and submitted to the Wisconsin Department of Natural Resources by a responsible party, as required by section NR 724.13(2), Wis. Adm. Code (1997). See the Site Cap Maintenance Plan attached as Addendum B.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity



DOCUMENT

1437591

RECORDED

At Kenosha County, Kenosha, WI 53140
Louise I. Principe, Register of Deeds
on 6/20/2005 at 10:05AM
50027464 \$17.00

ALET

REGDEEDS

Recording Area

Name and Return Address

Patrick Finnamore
Kenosha Unified School District No.1
3600 - 52nd Street
Kenosha, WI 53144

09-4-0222-36-134-011

Parcel Identification Number (PIN)

17-

COPY

against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

By signing this document, _____ asserts that he or she is duly authorized to sign this document on behalf of _____ Kenosha Unified School District.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 15 day of June, 2005

Signature: _____

Printed Name: _____

Subscribed and sworn to before me
this 15 day of June, 2005

Kathleen A. DeSantis

Notary Public, State of Wisconsin

My commission 7-31-05

This document was drafted by the Wisconsin Department of Natural Resources.

[FILENAME :Z:\deeddocs\Deed restriction.doc][revised October 6, 1999]

ADDENDUM A

Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block 2 and Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block 3, all in NEWELL-HOYT SECOND INDUSTRIAL SUBDIVISION; Together with the vacated North-South alleys in said Block 2 and 3., Also the Abandon Chicago North Shore and Milwaukee Railroad being a strip of land 100 feet in width running North and South from the South line of 45th Street South to the North line of 50th Street. Also vacated 46th Street and part of vacated 48th Street. Also part of Lot 16 of the RE-SUBDIVISION OF BLOCK 4 IN NEWELL-HOYT INDUSTRIAL SUBDIVISION, all that above described being part of the Northeast 1/4 of Section 36, Town 2 North, Range 22 East of the Fourth Principal Meridian, and being more particularly described as follows; Beginning at the South line of 45th Street and the West line of 26th Avenue; thence South 1°09'25" East along said West line 860.90 feet to the North line of vacated 48th Street; thence North 89°54'32" West along said North line 140.00 feet to the Southeast corner of Lot 9, Block 3 of said Newell-Hoyt Second Industrial Subdivision; thence South 1°09'25" East 310.00 feet; thence North 89°54'32" West 211.02 feet to the East line of abandon Chicago North Shore and Milwaukee Railroad; thence South 1°37'52" East along said East line 372.06 feet to the North line of 50th Street; thence North 89°52'29" West along said North line 100.00 feet to the West line of said abandon railroad; thence North 1°37'52" West 1544.07 feet to the South line of 45th Street; thence South 89°47'40" East along said South line 460.74 feet to the point of beginning, said land lying and being in the City of Kenosha, County of Kenosha and State of Wisconsin.

Part of Tax Key No.: 09-4-0222-36-134-011

Addendum B
Edward Bain School of Language and Art
Site Cap Maintenance Plan

Site Cap Construction: The site construction incorporated three different types of cap construction that effectively cap the entire property. The school building with its sub-base, vapor barrier and concrete floor provides capping for contaminated materials beneath the school. The hard surface playground, access drives and parking areas and walkways were capped with pavement. Landscaped areas and athletic fields were capped with clean soil. The pavement caps were constructed with a minimum of 3 inches of concrete or bituminous pavement overlying 10 inches of crushed aggregate. Grass covered portions of the site were capped by 6 inches of topsoil overlying 6 inches of compacted clay obtained from an off-site source.

Site Cap Inspection: Routine maintenance activities at the property are conducted by Kenosha Unified School District (KUSD) personnel and Edward Bain School of Language and Art custodians. These activities include, but are not limited to, lawn mowing, landscaping and snow removal activities. Personnel performing routine maintenance activities will be made aware of the restriction outlined in the property deed and the necessity of maintaining the site cap integrity. If during the course of these routine activities a significant breach in the cap materials is noted, the Director of Facilities will be promptly notified and repairs to the cap will be made expeditiously.

Site Cap Maintenance: Cracks, holes and other small penetrations of paved portions of the site cap will be patched with compatible surface materials on an annual basis. Holes or erosion features in the grassed or landscaped portions of the site cap will be filled and graded with clay, soil or other compatible earth materials as soon as practical.

Excavation: Should excavation through the cap materials be necessary good judgment should be used. Soils below one foot in depth should be considered contaminated. Small excavations for landscaping purposes should avoid penetration of the one-foot thick clean soil cap, if possible. If soils below the one foot depth are removed, they should be placed back into the excavation and covered with one-foot of clean soil or paved.

Excavations that will result in the removal of large amounts of soil from below one foot will require practices to properly handle the contaminated material. The contaminated soil must be staged on, and covered by plastic sheeting until it can be placed back in the excavation or properly disposed. The excavations should be capped with one foot of clean soils or paved. Although the contaminated soil does not pose a risk to human health through short-term exposure, workers contacting the soil should be apprised of the presence of the contamination and directed to employ good hygiene practices to limit exposure.

Reporting: Since the routine cap maintenance activities are consistent with the standard grounds care practices of KUSD, period reporting of routine maintenance activities is not warranted. Large penetrations, catastrophic failures and/or breaches of the site cap will be reported to the Department of Natural Resources as soon as practical.