



RALEIGH

August 31, 2013

NC Division of Waste Management
Brownfields Program
1646 Mail Service Center
Raleigh, NC 27699-1646

Re: Annual Land Use Restriction Update
Contemporary Art Museum, #13010-09-010
Notice of Brownfields Property

To Whom It May Concern:

Please find attached the certified Annual Land Use Restriction Update for the Contemporary Art Museum located at 409 W Martin Street in Raleigh. As indicated, to the best of our knowledge, we are in compliance with the land use restrictions and other terms of the Notice of Brownfields Property associated with the art museum property.

John Gallagher, PE, with Aptus Management, PLLC, assisted us in the preparation of the update. He is a professional engineer in North Carolina and helped us throughout the Brownfields Agreement process and the museum's redevelopment.

Sincerely,



Allen G. Thomas, Jr., Board Chair
Contemporary Art Foundation, Inc.



Brownfields Project #: 13010-09-92

Brownfields Property: Contemporary Art Museum, 409 West Martin Street

Property Owner (In whole or part): Contemporary Art Foundation, Inc.



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No use may be made of the Brownfields Property other than for art museum and residential purposes, and for industrial and, if the Department of Environment and Natural Resources (“DENR”) issues prior written case by case approval, other commercial purposes. Within the meaning of this restriction, the following definitions apply:

- a. “Art museum” refers to a facility designed for and displaying art work for the public’s enjoyment and edification.
- b. “Residential” refers to use for a permanent human dwelling of any single- or multi-unit building.
- c. “Industrial” refers to the manufacture or processing of goods or materials.
- d. “Commercial” refers to a business enterprise.

In compliance X Out of compliance _____

Remarks: _____

LUR 2: No building may be constructed on the Brownfields Property until DENR has been consulted regarding the potential for subsurface contamination at the Brownfields Property to contribute to the migration of vapor contaminants, and the potential for vapor intrusion to pose a health risk to future building users. If DENR determines that subsurface contamination at the Brownfields Property could pose a potential health risk in a planned building due to vapor intrusion, the building may not be constructed without:

- a. a vapor barrier and, if DENR determines it necessary, a mechanical or passive sub-vapor barrier venting system, neither of which shall be installed without advance written DENR approval, and the installation of each of which shall be followed within 30 days by provision to DENR of certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it; or

- b. a showing that meets with DENR's written satisfaction that no vapor-related measures are needed.

In compliance X Out of compliance _____

Remarks: A vapor barrier system was installed when the building was redeveloped and a report of the barrier installation was provided to DENR in July 2010.

LUR 3: Between 30 and 90 days after the heating and air conditioning system of the existing site building becomes operational, the Brownfields Property's then current owner shall conduct indoor air sampling in accordance with a plan approved in writing in advance by DENR, and shall, within 30 days after said sampling, submit a report subject to DENR approval setting forth the procedures used and the analytical results obtained. If the analytical results indicate to DENR the presence of indoor air contaminants associated with subsurface contaminants in excess of the screening levels DENR determines are appropriate, the Brownfields Property's then current owner shall, within a time period acceptable to DENR, assess and mitigate risks associated with said contaminants to DENR's written satisfaction.

In compliance X Out of compliance _____

Remarks: An indoor air contaminant evaluation was completed and provided to DENR in November 2011. The report of the evaluation concluded that no contaminants of concern with regard to the Brownfields Agreement had no concentrations in the indoor air that were above acceptable guideline levels.

LUR 4: Surface water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR

In compliance X Out of compliance _____

Remarks: _____

LUR 5: No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the

written satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR. If such results disclose to DENR contamination that might put at risk the Brownfields Property's suitability for the uses specified in LUR 1. above or public health or the environment, the proposed activities may not occur without the prior written approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance X Out of compliance _____

Remarks: _____

LUR 6: Soil at the Brownfields Property at a depth greater than three (3) feet may not be disturbed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. While such soil is disturbed, DENR may inspect and sample, or require sampling of, the subject soil for contaminants. If soil contamination is discovered that DENR determines might put at risk the Brownfields Property's suitability for the uses specified in LUR 1. above or public health or the environment, the Brownfields Property's then current owner shall take any actions that DENR requires to ensure the Brownfields Property's suitability for such uses and to fully protect public health and the environment, such as removing and disposing of as much soil as DENR requires in accordance with applicable law.

In compliance X Out of compliance _____

Remarks: No subsurface disturbance has occurred at the property.

LUR 7: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance X Out of compliance _____

Remarks: _____

LUR 8: No basements may be constructed on the Brownfields Property unless they are, as determined in writing by DENR, vented in conformance with applicable building codes.

In compliance X Out of compliance ____

Remarks: _____

LUR 9: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of the Brownfields Agreement ("Agreement"), may be used or stored at the Brownfields Property without the prior written approval of DENR, except in de minimis amounts for cleaning and other routine housekeeping activities.

In compliance X Out of compliance ____

Remarks: _____

LUR 10: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance X Out of compliance ____

Remarks: _____

LUR 11: The owner of any portion of the Brownfields Property where any existing, or later-installed, DENR-approved monitoring well is damaged shall be responsible for repair of any such wells to DENR's written satisfaction and within a time period acceptable to DENR.

In compliance X Out of compliance ____

Remarks: _____

LUR 12: Neither DENR nor any party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by, DENR may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Brownfields Property.

In compliance X Out of compliance ____

Remarks: _____

LUR 13: During January of each year after the year in which the Notice of Brownfields Property ("Notice") is recorded, the owner of any part of the Brownfields Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Wake County, certifying that, as of said January 1st, the Notice containing these land use restrictions remains recorded at the Wake County Register of Deeds office and that the land use restrictions are being complied with, and stating:

- a. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Brownfields Property during the previous calendar year.

N/A

- b. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Brownfields Property during the previous calendar year.

N/A

- c. whether any vapor barriers and/or sub-barrier venting systems installed pursuant to Land Use Restriction 2. above are performing as designed, and

whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how.
The vapor barrier to the best of our knowledge is working as designed and it has not been changed or modified.

In compliance X Out of compliance _____

Remarks: We are providing this to DENR as well as to Wake County

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Wake County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by Allen G. Thomas Jr on behalf of Contemporary Art Foundation, Inc., owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: CAM Raleigh

In the case of owners that are entities:

Signature of individual signing: Allen G. Thomas Jr
Name typed or printed: Allen G. Thomas Jr
Title: Chairman

In the case of all owners:

Date: 10/1/13

Contemporary Art Foundation, Inc.

By: Allen G. Thomas Jr

Name typed or printed:

Title typed or printed: Chairman

ATTEST:

Allen G. Thomas Jr

Name typed or printed:

Board Chair, Allen G. Thomas Jr, Contemporary Art Foundation, Inc.

NORTH CAROLINA, WAKE COUNTY

I, Hannah M Lewis, a Notary Public of the county and state aforesaid, certify that Allen G. Thomas Jr. personally came before me this day and acknowledged that he/she is the Board Chair of Contemporary Art Foundation, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its Board Chair and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this 1 day of Oct, 2013.

Hannah M Lewis

Name:
Notary Public

My Commission expires: 1-29-2018

[Stamp/Seal]

