

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON, ex rel.
LEAH FELDON, DIRECTOR
DEPARTMENT OF ENVIRONMENTAL
QUALITY

Plaintiff,

v.

ACCESS HAWTHORNE LLC,

Defendant.

Case No. 21CV19316

CERTIFICATION OF COMPLETION

1. Findings

A. On May 20, 2021, the Multnomah County Circuit Court entered a Consent Judgment in Case No. 21CV19316 (the “Consent Judgment”) regarding *Prospective Purchaser Agreement (PPA) DEQ No. 20-14* entered into by the Oregon Department of Environmental Quality (DEQ) with Access Hawthorne LLC. PPA DEQ No. 20-14 concerns the property at 4615 SE Hawthorne Boulevard in Portland, Oregon (the “Site”). The Site has been assigned Environmental Cleanup Site Information (ECSI) file no. 2458 by DEQ. Under the terms of the PPA, Access Hawthorne LLC agreed to perform and comply with all applicable provisions of the Consent Judgment and to work under DEQ oversight to perform agreed upon measures at its own cost.

B. The Consent Judgment designated the work to be performed in a Scope of Work (SOW) attached to and incorporated by reference into the Consent Judgment as Attachment C. The Scope of Work requires Access Hawthorne LLC to maintain the existing passive sub-slab venting system beneath the southern part of the building. In the event dry cleaning operations in the northern part of the building ceased, Access Hawthorne agreed to complete indoor air testing to ensure site conditions are protective for the proposed site use, and to conduct additional cleanup, as

1 necessary, to meet cleanup requirements. In addition, any future soil-disturbing activities must be
2 conducted per a DEQ-approved contaminated media management plan.

3 C. In accordance with the Scope of Work, Access Hawthorne LLC recorded the Consent
4 Judgment on the Property deed on June 7, 2021. An Easement and Equitable Servitudes was
5 recorded on the property deed on June 16, 2021. Access Hawthorne also prepared a DEQ-approved
6 contaminated media management plan (CMMP) dated June 21, 2021. Currently required work
7 described in Section B, above, was fully performed and is documented in the reports and other
8 information submitted by Access Hawthorne LLC, and DEQ's inspection and oversight of activities
9 plans and reports in the Administrative Record. All plans and reports are referenced under the name
10 of Blacks Cleaners, ECSI No. 2458, in the files of DEQ's Environmental Cleanup Program at the
11 Northwest Region Office in Portland, Oregon.

12 D. Dry cleaning operations ceased in the northern part of the building and it was vacated
13 in September 2021. Between September 2023 and February 2024, upon written approval from
14 DEQ and consistent with the Consent Judgment and the Easement and Equitable Servitudes, Access
15 Hawthorne LLC converted the former dry cleaner space in the northern part of the building to a
16 commissary kitchen. Access Hawthorne LLC removed all drycleaning equipment and waste,
17 cleaned and sealed the floors, and completed indoor air testing to ensure that Site conditions are
18 protective of the new Site use.

19 E. On October 1, 2024, DEQ provided public notice and opportunity to comment on a
20 proposed Certification of Completion determination for the facility in accordance with
21 ORS 465.320 and 465.325(10)(b). Copies of the work plans and reports completed for the project
22 were available for review on DEQ's database and at DEQ's Northwest Region office in Portland.
23 The public notice was published on September 29, 2024 in the *Oregon Secretary of State's Bulletin*,
24 and in *The Oregonian* newspaper. The comment period was closed on October 31, 2024.
25 No comments were received.

26 F. Based on the reports and other information submitted by Access Hawthorne LLC and

1 upon DEQ's inspection and oversight of activities, DEQ finds that Access Hawthorne LLC
2 satisfactorily completed the required elements of the PPA scope of work.

3 **2. Conclusions**

4 A. Access Hawthorne LLC has satisfactorily completed currently required remedial action
5 at the Site as required under the Consent Judgment.

6 B. No further remedial actions are required at the Site to protect the public health, safety,
7 and welfare or the environment, except as provided under Section 3.B. of this Certification.

8 **3. Conditions**

9 A. This Certification of Completion applies only to the satisfactory completion of the
10 work conducted by Access Hawthorne LLC pursuant to the Consent Judgment.

11 B. Access Hawthorne LLC agrees to maintain the existing passive sub-slab venting
12 system beneath the southern part of the building. Future soil-disturbing activities will be conducted
13 per the DEQ-approved contaminated media management plan. Should the Site be developed for
14 residential use in the future, the Owner agrees to complete indoor air testing per DEQ-approved
15 plans to ensure site conditions are protective, and to conduct additional cleanup under DEQ
16 oversight as necessary to meet cleanup requirements. These controls ensure long-term protection of
17 human health and the environment, and are memorialized in an Easement and Equitable Servitudes
18 recorded on the property deed.

19 C. DEQ does not, by this Certification, assume liability for any claim arising from acts or
20 omissions of Access Hawthorne LLC or its officers, employees, agents, successors, subsidiaries, or
21 assigns relating to actions pursuant to the Consent Judgment.

22 **4. Notice**

23 This order constitutes Certification of Completion under ORS 465.325(10), and may be
24 appealed by any aggrieved person in accordance with ORS 465.325(10)(c).

1 **Issued By:**

2 State of Oregon
3 Department of Environmental Quality

State of Oregon
Department of Justice

4 By: Michael E. Kucinski
5 Michael E. Kucinski (Nov 19, 2024 13:19 PST)
6 Michael Kucinski
7 Interim Land Quality Division
8 Administrator
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11/19/2024
Date

By: Gary Vrooman
Gary Vrooman, OSB No. 075832
Assistant Attorney General
11/21/2024
Date

1 **CERTIFICATE OF SERVICE**

2 I certify that on November 21, 2024, I served a true copy of the foregoing of
3 CERTIFICATE OF COMPLETION in ACCESS HAWTHORNE, LLC, upon the party hereto
4 by the method indicated below, and addressed to the following:

5
6 Mr. R Scott Jerger
7 Field Jerger LLP
8 PO Box 13326
Portland OR 97213
Attorney for ACCESS HAWTHORNE, LLC

☐ Hand Delivery
☒ Mail Delivery
☐ Overnight Mail
☐ E-Mail

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10
11
12 *Gary Vrooman*

13 _____
14 Gary Vrooman, OSB #075832
15 Assistant Attorney General
16 Of Attorneys for Plaintiff
17 Department of Justice
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