



Bureau of Water Protection and Land Reuse
Remediation Division

STATE OF CONNECTICUT
V.
GTJ Realty, LP

CONSENT ORDER No. 233

Date of Issuance: 4/10/2018

A. The Commissioner of Energy and Environmental Protection ("the Commissioner") finds:

1. GTJ Realty, LP ("Respondent") is a Connecticut limited partnership with a business address of 444 Merrick Road, Suite 370, Lynbrook, New York 11583. Respondent is a subsidiary of GTJ REIT, Inc., a New York corporation registered to do business in the state of New York with a business address of 60 Hempstead Avenue, Suite 718, West Hempstead, NY 11552. Respondent's registered mailing address is 60 Hempstead Avenue, Suite 718, West Hempstead, NY 11552.
2. Respondent is the certifying party under §22a-134a of the Connecticut General Statutes for property located at 470 Bridgeport Avenue in Shelton, Connecticut ("the parcel" or "the property" or "the establishment"), more fully described in a deed that is recorded at page 52 of volume 2929 of the Town of Shelton land records, and which is also identified as Lot #24 on Map #63 in the Shelton Tax Assessor's office. On January 28, 2013, the Commissioner received a Form III submittal for the parcel pursuant to §§22a-134 *et seq.* of the Connecticut General Statutes signed by Douglas Cooper Executive Vice President of GTJ REIT, Inc., on behalf of the Respondent as certifying party. The Commissioner acknowledged such submittal as complete in a letter to Douglas Cooper GTJ Realty, LP dated April 2, 2013 (the "Acknowledgement Letter").
3. As the certifying party described in paragraph A.2 above, on March 25, 2013, Respondent certified to the Commissioner, pursuant to §§22a-134 *et seq.* of the Connecticut General Statutes that Respondent would investigate the establishment in accordance with prevailing standards and guidelines and remediate the parcel and any pollution caused by any release at the establishment in accordance with the remediation standards regulations, Regulations of Connecticut State Agencies §§22a-133k-1 through 22a-133k-3 ("RSRs").
4. Section 22a-134a(g)(1) of the Connecticut General Statutes requires Respondent to complete the investigation and remediation of the parcel in accordance with a prescribed schedule. These requirements were also set forth in the Acknowledgement Letter. As further detailed in the Acknowledgement Letter, pursuant to §22a-134a(g)(1)(A), the Respondent was required to complete the investigation and submit to the Commissioner a final site investigation report ("Completion of Investigation Report" or "COI Report" or "Final Site Investigation Report") by April 2, 2015. Additionally, the Respondent was required to submit to the Commissioner a remedial action plan ("RAP") for the parcel and initiate remediation of the parcel in accordance with the RAP by April 2, 2016. The Respondent was required to perform these actions under the supervision of an environmental professional licensed pursuant to § 22a-133v of the Connecticut General Statutes ("licensed environmental professional" or "LEP"). The Commissioner has not received the COI Report and RAP for the parcel. Respondent has not completed investigation of

the parcel. Nor has Respondent initiated remediation of the parcel in accordance with the RAP.

5. On February 1, 2017 the Commissioner issued Notice of Violation (NOV) No. NOVWRSR1708 to the Respondent which instructed Respondent to, among other things:
 - a. Within one hundred and twenty (120) days of the date of NOV, submit to the Commissioner a Final Site Investigation Report under cover of a Completion of Investigation Transmittal Form ("COI-TF") signed by an LEP; and
 - b. Within one hundred and eighty (180) days of the date of the NOV, commence remediation of the parcel and submit to the Commissioner a RAP under cover of a RAP Transmittal Form ("RAP-TF") signed by the LEP.
 6. The Commissioner did not receive any response to the NOV.
 7. By virtue of the facts set forth in A.1 – A.6, above, the Respondent is in violation of §22a-134a(g)(1) of the Connecticut General Statutes.
- B. With the agreement of Respondent, the Commissioner, acting under §22a-6, §22a-424, §22a-434, and §22a-134a(j) of the Connecticut General Statutes, orders Respondent as follows:
1. Consultant retention. On or before **thirty (30) days** of issuance of this consent order Respondent shall retain an LEP to prepare documents and implement or oversee the actions required by this consent order and shall by that date, notify the Commissioner in writing of the identity of such LEP. Respondent shall retain one or more LEP(s) acceptable to the Commissioner until this consent order is fully complied with, and within ten (10) days after retaining any LEP other than the one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other LEP. Respondent shall submit to the Commissioner a description of a LEP's education, experience and training which is relevant to the work required by this consent order within ten (10) days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 2. Completion of Investigation. Within 1 year after the issuance of this consent order, the Respondent shall complete the investigation of releases at and from the entire parcel and submit to the Commissioner a COI and COI-TF signed and sealed by the LEP retained pursuant to paragraph B.1 of this order documenting that such investigation has been completed in accordance with prevailing standards and guidelines.
 3. Submission of Remedial Action Plan. Within 2 years after the issuance of this consent order, the Respondent shall submit to the Commissioner a RAP based on the COI for the property. Respondant shall submit the RAP under cover of a RAP-TF signed and sealed by the LEP. The RAP shall include a schedule to initiate and complete all necessary remedial action for all releases at and emanating from the parcel in accordance with the RSRs.
 4. Public notice. Respondent shall provide public notice of remediation in a manner consistent with § 22a-134a(i) of the Connecticut General Statutes no fewer than forty-five (45) days prior to the initiation of remediation. Respondent shall submit a copy of the public notice of remediation to the Commissioner immediately after publication of said notice.
 5. Progress reports. Commencing three (3) years after issuance of this consent order and on an annual basis thereafter until the Respondent has fully complied with this consent order, Respondant shall submit to the Commissioner written progress reports. The reports shall describe the actions Respondant has taken to comply with this consent order concerning the remediation and monitoring

of the establishment.

6. **Final Verification.** The Respondent shall submit to the Commissioner a Final or Interim Verification for the establishment as follows:
 - a. Within four (4) years after the issuance of this consent order, the Respondent shall have investigated and remediated the parcel sufficiently to support a verification as defined by Connecticut General Statutes § 22a-134(19) ("Final Verification"). The Respondent shall submit to the Commissioner on a form prescribed by the Commissioner such Final Verification signed and sealed by the LEP retained pursuant to paragraph B.1, above. Respondent shall submit with the Final Verification a report prepared by such LEP that describes the investigation and remediation that was performed ("Final Verification Report").
 - b. If the Respondent cannot submit a timely Final Verification, then, within four (4) years after issuance of this consent order, the Respondent shall have investigated and remediated the parcel sufficiently to support an interim verification as defined by Connecticut General Statutes § 22a-134(28) ("Interim Verification"). The Respondent shall submit to the Commissioner on a form prescribed by the Commissioner such Interim Verification signed and sealed by the LEP retained pursuant to paragraph B.1, above. Respondent shall submit with the Interim Verification a report prepared by such LEP that describes the investigation and remediation performed to date ("Interim Verification Report"). The Interim Verification Report shall include a schedule for conducting any groundwater monitoring necessary: (i) to determine the effectiveness of the remediation in preventing further pollution of groundwater; (ii) to monitor natural attenuation (if applicable); and (iii) to demonstrate compliance with the RSRs. Respondent shall perform all actions identified in the Interim Verification Report, including groundwater monitoring, in accordance with the schedule provided in the Interim Verification Report. Within thirty (30) days of completion of the actions required by the Interim Verification Report, including groundwater monitoring, Respondent shall submit a Final Verification Report and a Final Verification, rendered by the LEP, on forms prescribed by the Commissioner.
7. **Notification of certain conditions.** The Respondent shall immediately inform the Commissioner in writing if it discovers any pollution on or emanating from the property that meets any condition described in §22a-6u(b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1) or (h)(1) of the Connecticut General Statutes. The Respondent shall comply with this paragraph even though the property is not a "parcel" as defined in §22a-6u(3) of the Connecticut General Statutes.
8. **Submission of supporting documentation.** Within ten (10) days of receipt of a written request from the Commissioner, the Respondent shall provide to the Commissioner copies of all technical plans, reports and other supporting documentation relating to the investigation and remediation of the parcel as specified in the Commissioner's written request.
9. **Compliance with laws and regulations.** Respondent shall comply with the environmental laws and regulations governing the management of solid and hazardous wastes, including but not limited to, §22a-208a, §22a-208c and §22a-449(c) of the Connecticut General Statutes, and §22a-209-4, §22a-209-7, §22a-209-8, and §22a-449(c)-100 through 119, §22a-449(c)-11 of the Regulations of Connecticut State Agencies. Respondent shall not conduct activities requiring a permit from the Commissioner without first having the requisite permit(s) issued by the Commissioner.
10. **Full compliance.** Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed to the Commissioner's satisfaction and the Commissioner issues a written notice that no audit of the Final Verification will be conducted, or the Commissioner conducts an audit of the Final Verification and issues

written findings that the Final Verification was appropriate and is thereby accepted. If the Commissioner determines the Final Verification is not appropriate and thereby rejects the Final Verification, Respondent is not in compliance with this consent order.

11. Civil penalty. On or before 60 days after issuance of this consent order, Respondent shall pay a penalty of \$13,250 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in A.4 through A.6 of this consent order pursuant to §22a-134d of the Connecticut General Statutes.
12. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "Remediation Division, Bureau of Water Protection and Land Reuse civil penalty, consent order #233 ."
13. Sampling and sample analyses. All sampling and sample analyses which are required by this consent order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health to conduct such sampling and analyses. All sampling and sample analyses performed under this consent order shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with 40 CFR 136 or EPA document SW-846, as applicable. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible.
 - a. The Respondent shall use the reasonable confidence protocols as published on the website of the Connecticut Department of Energy and Environmental Protection ("Reasonable Confidence Protocols"). In all cases where the Reasonable Confidence Protocol method is used, a properly completed laboratory QA/QC certification form certified by the laboratory shall be provided to the Commissioner with the analytical data.
 - b. In cases where a Reasonable Confidence Protocol method has not been published by the Commissioner, the analytical data shall be generated using a method approved in writing by the Commissioner, and such method shall include and report a level of quality control and documentation equivalent to the Reasonable Confidence Protocols.
 - c. The reporting limit shall be consistent with the Reasonable Confidence Protocols and standard industrial and laboratory practices. The reporting limit used shall not be at levels greater than those used in such standard practices, as determined by the Commissioner in writing, in consultation with the Commissioner of Public Health, and in no case shall be greater than the applicable criteria or background concentration established in the RSRs.
14. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

15. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
16. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
17. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's responsible corporate officer, general partner, or proprietor, or a duly authorized representative of such person, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
18. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
19. False Statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
20. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the parcel or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
21. Commissioner's powers. Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to those described in this consent order. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented any pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate

pollution.

22. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
23. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance or prevent or abate pollution.
24. Access to Parcel. Any representative of the Department may enter the parcel without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
25. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons that are not parties to this consent order.
26. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
27. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
28. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Anthony Gyasi, Environmental Analyst
Department of Energy and Environmental Protection
Bureau of Water Protection and Land Reuse
Remediation Division
79 Elm Street
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice.

BY: LOUIS SHEINKER PRESIDENT
Douglas Cooper, General Partner of GTJ Realty, LP, Executive Vice President of
GTJ REIT, Inc.
by: 
3/29/2018
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.

Robert E. Kaliszewski
Robert E. Kaliszewski
Deputy Commissioner

4/10/18
Date

ORDER NO. SRD- 233
DISCHARGE CODE H
TOWN OF SHELTON
LAND RECORDS