

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

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MEMORANDUM OF COMPLIANCE W. CARTER
SCONDER

RE: 3405 RIDGE ROAD, HIGHLAND, LAKE COUNTY, IN;
BROWNFIELDS COMFORT LETTER DATED APRIL 14, 2000

Chicago Title Insurance Company

Gershman Brown Associates, Inc. ("GBA"), as developer of the above-referenced property, is recording this memorandum in fulfillment of the requirements of the Brownfields Comfort Letter issued by the Indiana Department of Environmental Management on April 14, 2000, a copy of which is attached hereto.

In further fulfillment of the requirements, GBA states that the above-mentioned property has been re-developed for commercial use; that such re-development was conducted in compliance with all applicable environmental laws; and that groundwater at the property is not used for any purpose.

STOP

Adrian F. Brown
Adrain F. Brown, Manager
Gershman-Brown Associates, Inc.

FILED

AUG 23 2000

STATE OF INDIANA }
COUNTY OF Hancock } ss _____
(Town)



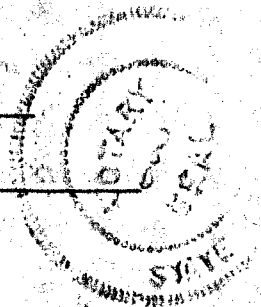
PETER BENJAMIN
LAKE COUNTY AUDITOR

Adrian F. Brown, Manager of Gershman Brown Associates, Inc., personally appeared before me and acknowledged that he executed this Memorandum of Compliance for the purposes therein contained.

The foregoing was subscribed and sworn to before me the 11th day of Aug., 2000 by Adrian F. Brown.

Phyllis A. O'Neal
Signature of Notary Public

PHYLIS A ONEAL
NOTARY PUBLIC STATE OF INDIANA
HANCOCK COUNTY
MY COMMISSION EXP. JAN. 10, 2007
Name of Notary Public
My Commission expires: _____



LITDOCS:1208305.1(PWC1011.DOC)

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AC

C.T.



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live

Frank O'Bannon
Governor

Lori F. Kaplan
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 232-8603
(800) 451-6027
www.state.in.us/idem

April 14, 2000

Gershman Brown & Associates
c/o CVS Corporation
250 East 96th Street, Suite 100
Indianapolis, IN 46240
Attn: Mr. C. Weisiger

Dear Mr. Weisiger:

**Document is
NOT OFFICIAL!**

This Document is the property of
the Lake County Recorder

Re: Brownfields Comfort Letter
Proposed CVS Pharmacy, Ridge Road
Highland
Lake County

In response to the request by Alt & Witzig Engineering, Inc. on behalf of Gershman Brown & Associates (c/o CVS Corporation) for assistance concerning the Proposed CVS Pharmacy (Site) located at the northeast corner of Grace Street and Ridge Road, the Indiana Department of Environmental Management (IDEM) has agreed to provide this brownfield comfort letter to clarify IDEM's position on the necessity of an environmental response action at the Site. Though not a legal release from liability, this letter will help to establish whether environmental conditions at the Site should be a barrier to redevelopment or transfer.

As part of Gershman Brown & Associates' (c/o CVS Corporation) request for assistance in determining the existing environmental impacts and potential liability at the subject property, IDEM's Brownfields Program staff have reviewed data from a Phase I Environmental Site Assessment and a Phase II Subsurface Investigation conducted by Alt & Witzig Engineering, Inc. Environmental concerns at the Site were limited to the migration of contaminated groundwater onto the Site. Groundwater samples were analyzed for benzene, toluene, ethylbenzene, and xylene (BTEX) in three temporary monitoring wells. Benzene, toluene, ethylbenzene, and xylene were all non-detect in temporary well TW-1. Benzene and ethylbenzene were non-detect in temporary well TW-2. Toluene (13 ppb) and xylene (43 ppb) were detected in TW-2, but below IDEM Voluntary Remediation Program's Tier II non-residential criteria (toluene - 20,440 ppb and xylene - 204,400 ppb). Benzene, toluene, ethylbenzene, and xylene were all non-detect in temporary well TW-3. Groundwater samples were also analyzed for methyl tertiary-butyl ether (MTBE). All three temporary monitoring wells sampled were non-detect for MTBE. The detection limit of 10 ppb is below IDEM's draft commercial/industrial groundwater cleanup objective of 715 ppb for MTBE. Additionally, the investigations concluded that there are no potential exposure pathways and that the groundwater contamination identified at the Site

presents no current threat to human health or the environment.

Historical records and aerial photographs indicate the Site has been developed for about 60 years and has always been used for residential and retail purposes. Two sites immediately west of the Site, the Highland Police Department and M & S Service Station, have a total of four underground storage tanks (USTs) on-site, one of which had a reported release of petroleum in February 1994. Both sites are hydrogeologically up-gradient of the Site. Groundwater sampling performed in association with the reported leak at the Highland Police Department indicated Benzene, Toluene, and Ethylbenzene concentrations above Maximum Contaminant Levels (MCLs). The leaking 2,000 gallon steel UST was removed from the Highland Police Department in February 1994. IDEM received an Underground Storage Tank Closure Report in October 1994 from the Highland Police Department. The report indicated that groundwater contained a benzene level of 3,600 ppm. IDEM's Leaking Underground Storage Tank Section sent a letter to the Highland Police Department in February 2000 requesting that groundwater be tested again for BTEX in order to obtain a No Further Action Letter.

IDEM concludes Gershman Brown & Associates (c/o CVS Corporation) has demonstrated to IDEM's satisfaction that:

- (1) no state or federal enforcement action at the site is pending;
- (2) no federal grant requires an enforcement action at the site;
- (3) no condition on the site constitutes an imminent and substantial threat to human health or the environment;
- (4) current levels of contaminants at the site meet current cleanup criteria as established by IDEM; and
- (5) neither the PRP nor an agent or employee of the PRP caused, contributed to, or knowingly exacerbated the release or threat of release of any hazardous substance or petroleum at the site.

As a matter of policy, IDEM will not hold an owner, lessor or tenant of the property responsible for contamination that migrates on to or through their site from an independent source. Based on the information submitted to IDEM, IDEM will utilize its enforcement discretion to not pursue Gershman Brown & Associates (c/o CVS Corporation) or any successor owners and operators for government response costs related to, or require those parties to respond to, the release of petroleum on the site, because the information submitted shows that:

- 1) the petroleum has come to be located on the property solely as the result of subsurface migration in a aquifer from a source outside the boundaries of the property;
- 2) Gershman Brown & Associates (c/o CVS Corporation) did not cause, contribute to, or exacerbate the release or threat of release of the petroleum; and
- 3) no "direct or indirect contractual relationship" exists between Gershman Brown & Associates (c/o CVS Corporation) and the responsible party or parties.

If IDEM later discovers that the investigations or other information submitted to IDEM were inaccurate, or if any activities undertaken by an owner or operator of the Site exacerbate the Site contamination, IDEM reserves the right to revoke this decision and pursue any responsible parties. Additionally, this decision does not apply to past or present contamination that is not described in this Comfort Letter, future releases, or closure requirements under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901.

IDEM encourages the redevelopment of this Site. Please be advised that any work performed at the subject property must be done in accordance with all applicable environmental laws. Redevelopment of this Site in a manner consistent with these standards will lessen the possibility that environmental conditions at the property could deteriorate in the future.

In order for this letter to be given effect by IDEM, Gershman Brown & Associates (c/o CVS Corporation) must record a memorandum describing the actions taken together with this letter in the miscellaneous record book in the Lake County Recorder's Office. Due to the petroleum levels remaining in the groundwater on-site, groundwater shall not be used at the Site. Please return a certified copy of the filed notice to Dana Reed Wise, Brownfields Section Chief, IDEM, Office of Land Quality, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN, 46206-6015.

IDEM is pleased to assist Gershman Brown & Associates (c/o CVS Corporation) with the redevelopment of the Proposed CVS Pharmacy. Should you have any questions or comments, please contact Tracy Concannon, Project Manager at IDEM's toll free number (800) 451-6027, ext. 233-2801.

Sincerely,


Mary Beth Tuohy, Assistant Commissioner
Office of Land Quality

cc: Samantha A. Shannon, Alt & Witzig Engineering, Inc.
Dana Reed Wise, Indiana Department of Environmental Management
Ralph McCullers, Indiana Department of Environmental Management