

THE LIMITED, INC.

THREE LIMITED PARKWAY
COLUMBUS, OHIO 43230
TEL 614 415 7000

September 18, 2002

VIA OVERNIGHT MAIL

Mr. Rob Solano
Lerner New York, Inc.
460 West 33rd Street
5th Floor
New York, NY 10001

Re: Lerner Store #7
83 Nassau Street
New York, New York 10038

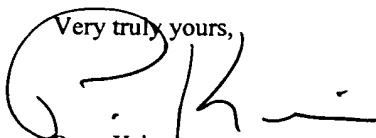
Dear Rob:

Please find attached a letter from the City of New York Department of Environmental Protection suggesting that the above referenced store had been inspected March 2, 2002 and debris from the collapse of the World Trade Center Towers was observed on the exterior surfaces of the building. The letter suggest that another inspection is scheduled for the near future, and if the store fails to pass that inspection and fails to clean up the debris, Lerner may be liable for fines of up to \$10,000.00 per day.

As we had discussed some months before, the City of New York is offering to clean the exterior of the building at no charge pursuant to the license agreement attached hereto. It would be prudent to take the time and effort to confirm that 83 Nassau Street is presently in a condition that would pass inspection. If not, I would highly recommend accepting the City of New York's offer.

If you have any questions or comments please do not hesitate to contact me at (614) 415-7320.

Very truly yours,



Peter Krier
Real Estate Attorney

PK:js

enclosures

cc: Chuck Woodworth
Jim Lee



**Department of
Environmental
Protection**

59-17 Junction Boulevard
Flushing, New York
11373-5108

**Christopher O. Ward
Commissioner**

**Robert C. Aveltroni
Deputy Commissioner**

**Bureau of
Environmental
Compliance**

**Tel (718) 696-4418
Fax (718) 696-4422**

September 3, 2002

**TO: New York and Co.
83 Nassau Street
New York, NY 10038**

RE: 83 NASSAU STREET

FINAL NOTICE

Dear New York and Co.:

I am writing with regard to 83 NASSAU STREET which was inspected by DEP on 03/02/02. During this inspection, debris from the collapse of the World Trade Center towers was observed on the exterior surfaces of the building.

You have been previously contacted with regard to participating in DEP's Lower Manhattan Building Cleaning Program. Under this program, contractors retained by DEP will clean all exterior building surfaces affected by World Trade Center debris at no cost to the building owner.

The Building Cleaning Program is now drawing to a close, and we have yet to receive a response from you regarding your participation. If you do not participate in the Program, the building will be scheduled for another DEP inspection in the near future. If that inspection shows that there is still visible debris from the World Trade Center on the exterior of the building, samples will be collected. If laboratory analysis of these samples shows that the debris is asbestos-containing material, you will then be issued a Commissioner's Order directing you to retain a contractor to clean the exterior of the building. Such cleaning would be at your expense, and failure to comply with the Commissioner's Order could result in the issuance of notices of violation carrying penalties of up to \$10,000 per day.

You are strongly urged to take advantage of the Building Cleaning Program. A blank License Agreement has been attached for your convenience. Please fill in the appropriate information and sign and return the form as soon as possible.

If you have any questions, please call 718-595-3682 during office hours, or the 24-hour Help Center at 718-DEP-HELP. Your cooperation is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Radhakrishnan".

R. Radhakrishnan, P.E.

Director

Asbestos Control Program



(www.nyc.gov/doh)

(718) DEP-HELP

LICENSE AGREEMENT

This License Agreement made this 11 day of Oct 2002 by and between the CITY OF NEW YORK (hereinafter called "the City"/Licensee), acting by and through the Department of Environmental Protection of the City of New York (hereinafter called "DEP"), with an office at 59-17 Junction Boulevard, Corona, New York 11368-5107 and Lerner New York Inc ("Landowner/Licensor") the owner of the premises at 83 NASSAU STREET (the "Premises").

WHEREAS, the facades, roofs and setbacks ("exterior areas") of many structures in close proximity to the site of the former World Trade Center have been found to contain debris, refuse and other deposits ("the foreign material") of unknown origin;

WHEREAS, the owners of said structures are desirous of having the foreign material removed;

WHEREAS, the City believes that it is in the interest of the public to undertake a clean up of these exterior areas;

WHEREAS, the City's willingness to undertake such a cleanup should not in any way be construed as an acknowledgment or admission that the City is any way responsible for any condition, environmental or otherwise, that may exist in or on the exterior areas or that the foreign material is a risk to the public health or safety;

NOW THEREFORE, it is hereby agreed by and between the parties to this agreement, for and in consideration of One Dollar and other good and valuable consideration, the receipt of which is hereby acknowledged,

1. **Permission to Perform Cleaning Work.** Subject to the terms and conditions hereof, Licensor hereby grants permission to Licensee and its authorized contractor(s) to perform the cleaning work on the exterior areas of the structure(s) located on the Premises, as described in the Scope of Work attached hereto as Exhibit A and made a part hereof (the "Cleaning Work").

2. **Grant of Access.** Subject to the terms and conditions hereof, Licensee and its agents, contractors and employees shall have the right, at all times while this License Agreement is in effect, to enter in and on the Premises, and to cross the Premises, with personnel, material and equipment, for the purpose of performing the Cleaning Work. It is expressly understood that the right granted under this Section 2 includes:

(a) the right to access all portions of the Premises deemed necessary by Licensee or its contractor(s) in order to properly perform the Cleaning Work, including (without limitation) roofs, parapets, window ledges, and other building exterior surfaces; and

cleaning of debris accumulations from the exterior surfaces of the structure(s) located on the Premises. Such sources shall include, but are not limited to, the Small Business Administration, private insurance, or any other local, state or federal assistance program. Licensor shall make claim for any applicable insurance coverage for these premises and shall report to Licensee any insurance settlements or other source of funding for the Cleaning Work that has been performed at Licensee's expense.

5. **Termination.** This license shall be terminable by the Licensor or Licensee on ten days written notice to the address set forth below by fax or certified mail. In the event of a default by either party, the license may be terminated immediately, without any prior notice.

6. **Waiver of Claims.** Licensor agrees that no claims or cause of action for damages shall accrue by reason of revocation or termination of this License.

7. **Term.** This license shall commence as of the latest date appearing at the end of the signature page and remain effect for a period of ninety (90) days unless or until terminated or revoked as hereinabove provided.

8. **Cleaning Work Not An Admission of Liability.** It is expressly understood and agreed by Licensor and Licensee that Licensee's performance of the Cleaning Work hereunder is not, and shall not be construed as,

(I) an admission or agreement by the Licensee that it is liable for the deposit of any dust, debris or other material in or on the Premises as a result of the events of September 11, 2001, at the World Trade Center complex, or the subsequent debris removal activity related thereto; or

(II) an admission or agreement by the Licensee that it is liable for any condition, environmental or otherwise, that may exist in or on the Premises as of the date hereof.

9. **Landmarks.** If the Premises are a designated landmark, Landowner gives its permission for DEP to file the "Application Form for Work On Designated Properties" with the New York City Landmarks Preservation Commission on Landowner's behalf.

10. **Notices:** Notices and correspondence regarding this License shall be directed by Certified Mail, Return Receipt Requested to the Licensor, at the following address:

and notices to the Licensee shall be addressed to R. Radhakrishnan, P.E., NYCDEP-ACP, 59-17 Junction Boulevard, 8th Floor, Corona, NY 11368-5643, with a copy to General Counsel, NYCDEP, 59-17 Junction Boulevard, 19th floor, Corona, New York 11368-5643.

IN WITNESS WHEREOF, the parties have caused this License Agreement to be executed and acknowledged on the day and year which first appears above.

Dated: 10-7-2002

LERNER NEW YORK
Licensor
By: [Signature]

Dated: 10-11-02

DEPUTY COMMISSIONER DEP
Licensee
By: [Signature]

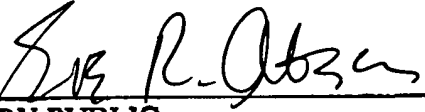
Approved as to Form

Acting Corporation Counsel

DATED: _____

STATE OF NEW YORK)
)s.:
COUNTY OF New York)

On this 7th day of October 2002, before me personally came the individual described in and who executed the foregoing instrument and acknowledged to me that he/she resides at 450 W. 33rd St. NY, NY and that he/she executed the foregoing instrument as the owner/licensor of the property.



NOTARY PUBLIC
STATE OF NEW YORK

EVE R. ABARCA
Notary Public, State of New York
No. 41-4988110
Qualified in Nassau County
Commission Expires November 4, 2007

STATE OF NEW YORK)
)s.:
COUNTY OF QUEENS)

On this 11 day of October 2002, before me personally came Robert C. Avaltroni and acknowledged to me that he/~~she~~ is the ~~First~~ Deputy Commissioner of the New York City Department of Environmental Protection, and that he/~~she~~ authorized to executed the foregoing instrument and that he/she did so on behalf of the City of New York pursuant to authority of law duly delegated.

Russell Pecunies
NOTARY PUBLIC
STATE OF NEW YORK

Russell Pecunies
Commissioner of Deeds,
New York City
4-6227
Term Expires December 13, 2013