

November 22, 2019

Town of Chester Planning Board  
1786 Kings Highway  
Chester, NY 10918

**RE: DONNELLY – BROCCOLI PATCH INC  
TOWN OF CHESTER  
COMMENT RESPONSE**

Dear Planning Board:

Attached hereto is the revised Sketch Plan for the above referenced project. Revisions have been made to this plan in accordance with the comment letter dated October 10, 2019 from the Orange County Department of Planning, comments dated September 15<sup>th</sup>, 2019 from McCarey Property Management and comments dated October 15<sup>th</sup>, 2019 from the Orange County Department of Public Works . The revisions/responses are as follows:

October 10, 2019 comments from the Orange County Department of Planning.

Please see the attached response letter submitted to OCDP from Mr. Donnelly. In addition, we offer the following responses to the Board.

1. Accurate Site Plan: There is no site plan dated October 7, 2019. The plan submitted to the Town that was referred to the OCDP is dated January 7, 2019 last revised October 1, 2019. This plan clearly shows the cemetery and wetlands. In regards to a tree survey, it is not our past experience that this is a county planning issue and is typically a function of the Town's Site Plan requirements. The trees that remain were saved as Mr. Donnelly is attempting to avoid them.
2. Water Supply
  - a. Mr. Donnelly did not indicate that he would be willing to pursue a water main extension of the water line along Kings Highway through the hamlet. At the last Planning Board meeting Mr. Donnelly did verbally agree to look at the option of public water to the property but that option is installing a new waterline from Creamery Pond Road through an existing easement to the proposed building.
  - b. Onsite wells will be tested in conformance with Orange County Health Department requirements for their review and approval.
3. Stormwater Management: Stormwater will be directed to the two onsite stormwater ponds noted by the OCDP and will not flow directly into Creamery Pond. Stormwater will be treated in accordance with NYSDEC requirements. The Southern Walkkill

Biodiversity Plan is not referenced in the County Comprehensive Plan or the Town Zoning. The project conforms in all aspects to the Town's adopted zoning ordinance.

4. Noise:

The applicant will comply with the Town of Chester Code regarding noise.

5. Safety:

Distilling occurs in multiuse buildings all over New York State and the design of the building will follow all NYS Building Codes to ensure safety. The OCDP incorrectly states that access to a fire started by trespasser this summer was through the neighboring property. That access is part of this site and both this site and the neighboring property have rights to use the driveway. A second driveway to the site exists and will be improved. See additional responses in the attached letter prepared by Tops Engineering.

Other comments

- The potential for Black Fungus is addressed in the attached letter prepared by Tops Engineering.
- Cemetery headstones and the cemetery fence are both shown on the plans and are not impacted. The slope from the cemetery on our site would make it impractical for other grave sites
- Parking is a local planning issue. The plan depicts the required parking per the Town Zoning.

It should be noted that the County comprehensive plan notes that Sugarloaf is considered a Local Priority Growth Area.

September 15<sup>th</sup>, 2019 from McCarey Property Management

IFC 2015 Comments

1. The height of the highest eave above grade is proposed to be less than 30ft above grade as defined by Fire Code. A note to this effect has been added to the plans as general note #8.
2. While the facility does not meet the criteria that would require aerial fire apparatus access, a fire truck turning figure (F-1) using a 47 ft ladder truck was provided with the previous submission and has been revised to address the recommendations of Tops Engineering and MPM LLC so that access is provided within 150 feet of any point of the building.
3. See response #2 above.
4. The closest public water supply for local fire department would be at the Lycian Center adjacent to the property or Creamery Pond Road 350 feet west of the site.
5. If operated at maximum permitted capacity, it is projected that the facility will produce an average of 1,480 gallons per week.
6. Regarding emissions please see attached letter by Tops Engineering attached.

Neighborhood Impact Comments

1. Kings Highway is under the jurisdiction of the OCDPW. The County DPW has reviewed the project by letter dated October 15, 2019 and a traffic study was not requested.

2. A Short Form EAF has been previously provided to the Town. No additional information has been requested.
3. Regarding raw material storage, see letter by Tops Engineering attached.
4. Regarding finished product storage, see letter by Tops Engineering attached.
5. The wastewater will flow to the municipal sewer system and therefore a SPDES permit is not required.
6. Stormwater runoff will be addressed within the SWPPP which will be provided with the detailed site design plans upon concept approval.
7. Hours of Operation are shown on the plan in the bottom right corner and are proposed to be Monday through Sunday 11 AM to 12 AM (Midnight). The distillery will normally operate during normal business 7 am to 6 pm.
8. The total permitted occupancy loads can only be determined once detailed architectural plans are prepared for building permit.
9. All storage of raw materials, finished product or millings will be indoors and per building code requirements. The location will be determined based on detailed design of the building as part of the detailed building permit plans.

Comments to be reviewed with local Zoning Law

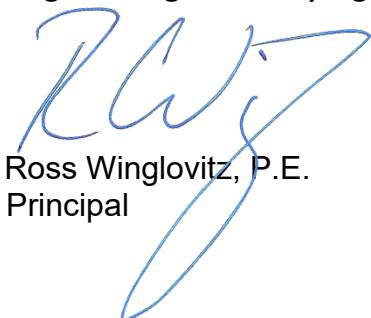
No response required.

Letter dated October 15<sup>th</sup>, 2019 from the Orange County Department of Public Works.

1. The proposed entrances have been revised to meet county commercial access standards. More detailed plans for the entrance will be provided upon sketch plan approval by the Town.
2. Sight distances are very good and have been added to the site plan.
3. The front property boundary has been revised to add approximately 0.112 acres which was a portion of lands previously offered to Orange County for dedication. This land area was never accepted by the County and has been deed back to the applicant/owner. A copy of the deed is attached.
4. Based on the additional property, the parking spaces are located within the parcel boundary.

If you have any additional questions and/or comments, please don't hesitate to contact this office.

Sincerely,  
Engineering & Surveying Properties, PC



Ross Winglovitz, P.E.  
Principal

Lewis J. Donnelly  
67 Leslie Road  
Newburgh, NY 12550  
Tel: 845.590.0927

6 November 2019

County Executive Steven M. Neuhaus  
225 Main Street  
Goshen, NY, 10924

Re: ID# CHT-09-19M; Applicant: Broccoli Patch, Inc; Project Name: Broccoli Patch

Dear County Executive Neuhaus:

My name is Lewis Donnelly. I am the current owner of the former Sugar Loaf Business Center located at 1355 Kings Highway next to the Sugar Loaf Performing Arts Center. I have been pursuing an exciting project in the hamlet of Sugar Loaf that will certainly help revitalize the currently struggling artisan community.

The project includes the restoration of the existing structure and a new addition for a farm-to-table restaurant, a farm distillery, a catering facility along with my personal residence. The structure will be tastefully designed to fit in with the current architecture and theme of the local community. The project is designed to look like a farmhouse and barn on the former Business Center site that has been vacant and in disrepair for many years. Not only will the project create jobs and opportunities for local citizens, it will help to bring back tourism activities to the hamlet of Sugar Loaf and neighboring Town and Village of Chester.

We have been pursuing our approvals for over a year now and recently we received a review letter from the Orange County Planning Department that in my opinion is overreaching and not consistent with the stated goals of the Planning Department nor the County's recently adopted Orange County Comprehensive Plan.

Below are our responses to the comments included in the "County Reply – Mandatory Review of Local Planning Action dated 10 October 2019 (above-referenced and attached):

1. Accurate Site Plan: There is no site plan dated October 7, 2019. The plan submitted to the Town that was referred to the Orange County Planning Department is dated January 7, 2019 last revised October 1, 2019. This plan clearly shows the cemetery and wetlands. There is no site plan requirement of the Orange County Planning Department that requires us to show individual trees and I question how the reviewer would even know there were five trees without trespassing on the property or by project opponent comments. Tree location and preservation is not an intermunicipal nor county wide planning issue. *(We ask to kindly check the Orange County Comprehensive Plan)*
2. Water Supply
  - a. Nowhere in any documents nor at any meetings have I indicated that I would be willing to pursue an extension of the water line along Kings Highway through the hamlet. I would like to clarify the false and inaccurate statement made by the reviewer. At the last Planning Board meeting held on 16 October (after report was issued) , I did verbally agree to look at the option

Lewis J. Donnelly  
67 Leslie Road  
Newburgh, NY 12550  
Tel: 845.590.0927

of running public water through my property and connecting it to an existing easement from Creamery Pond Road which was originally created for a possible water service some years ago. However, that option is installing a new waterline from Creamery Pond Road through the existing easement designed for water service through my property to the proposed building and to a new roadside fire hydrant located on the south end that will service the hamlet in the event of a fire emergency -- not a major construction project of installing a water line along Kings Highway through the center of the hamlet.

b. Please note upon review, use of onsite wells for water supply is a Town SEQR issue and an Orange County Health Department permit and not an intermunicipal county wide planning concern.

3. Stormwater Management: The author/reviewer indicates in her letter that there "...are two small stormwater management ponds onsite..." and that the stormwater will "flow directly in the Creamery Pond". However, the stormwater will not flow directly into the Creamery Pond as they will flow into the stormwater management ponds onsite as noted in the plan and by the reviewer herself. This is an inflammatory comment contradicted by the author/reviewer's own statement within the comment. Furthermore, the author/reviewer references the Southern Wallkill Biodiversity Plan and suggest that based on this study the development should be reduced. The project conforms in all aspects to the Town's adopted zoning ordinance. The Southern Wallkill Biodiversity Plan is not an official planning document and is not even referenced in the Orange County Comprehensive Plan just adopted in May of 2019. To make such a statement is overreaching, inflammatory, not consistent with the Towns law, and not even consistent with the County's own Comprehensive Plan.

4. Noise:  
We are fully aware of the proposed noise ordinance and will be more than happy to comply with the ordinance if, and when, it is adopted. Regardless, I will insulate the building and provide appropriate mitigation to ensure that neighboring properties are not negatively impacted as I look forward to being a good neighbor and my business being an intricate part of the community.

However, suggesting a landscape buffer along the rear property line (the pond, that is) is not consistent with the Town's proposed noise ordinance. In addition, noise is not identified anywhere I could find in the Orange County Comprehensive Plan as an issue of intermunicipal county wide planning concern.

5. Safety:  
Distilling occurs in multi-use buildings all over New York State and the design of the building will follow all NYS Building Codes to ensure safety. The author/reviewer incorrectly states that access to a fire which was started by a trespasser on July 4, 2019 was through the "neighboring" property. This is misleading as the access is shared as of right between myself and the neighboring property. Please note, a second roadway access drive to the north of the parking

Lewis J. Donnelly  
67 Leslie Road  
Newburgh, NY 12550  
Tel: 845.590.0927

area exists and will be improved to meet town access standards. These are matters for the Fire Code officials and the planning board -- not a matter of intermunicipal county wide planning concern. We question how the review appears to know this information. Where they at the fire?

Other comments:

- The author/reviewer mentioned Black Fungus. Again, this is not an issue of intermunicipal county wide importance and why would this be included in this review – it appears to have been prompted by someone other than the County;
- Cemetery headstones and the cemetery fence are both shown on the plans and are not impacted. The steep slope from the cemetery on our site would make it impractical for any other grave sites. Again, this is not an issue of intermunicipal county wide importance and appears to have been prompted by someone other than the County.
- Parking is a local planning issue. The plan depicts all the uses and the required parking per the Town Zoning. I am unaware why the County would have to verify parking and why this would be a intermunicipal county wide planning issue.

The most important point here is that Sugar Loaf is considered a “Local Priority Growth Area” in the Orange County Comprehensive Plan; this is not mentioned nor referenced even once in the author/reviewer comments. This review appears to have been entirely biased by someone or some group and should be withdrawn. For the author/reviewer to make items 1 through 5 mandatory for county planning approval recommendation is overreaching and not consistent with the Orange County Comprehensive Plan.

Therefore, I am asking you to rescind this report as this will severely and negatively impact the planning and public board and impede the revitalization of the great hamlet of Sugar Loaf community.

Very respectfully yours,

Lewis J. Donnelly  
President, Broccoli Patch Inc.



# **TOPS ENGINEERING, PLLC**

## **REPORT OF ENGINEERING SERVICES**

**CLIENT: Broccali Patch, Inc.**

**PROJECT: Review of Safety Issues Raised by Others**

**DATED: Nov. 19, 2019**

### **SUMMARY:**

Mr. Lewis Donnelly contacted Tops Engineering, PLLC for assistance in addressing safety concerns raised in connection with his plans to build the Broccoli Patch located at 1355 Kings Highway in the Hamlet of Sugar Loaf, Town of Chester, N.Y.

Various entities raised a number of concerns about the proposed project in written correspondence during September and October, 2019. This report will deal solely with those issues regarding the fire and explosion dangers of the distillery proposed for the subject project and concerns raised regarding black fungus.

In the letter from Mr. David Church, Orange County Department of Planning dated October 10, 2019 we agree that distilleries, as with any manufacturing facility handling flammable liquids, can pose a fire and explosion hazard. The requirement that sufficient alcohol-resistant foam be stored on site seems excessive. Adequate emergency access is being addressed and modified as noted below. The potential impacts of black fungus are known and should be contained due to the small size of this facility.

The letter from McCarey Property Management, LLC dated Sept. 15, 2019 has a number of points that require addressing. These include a) emissions calculations, b) occupancy ratings, c) comments regarding hazards posed by the Ethyl Alcohol solutions and the need for an emergency action plan, and d) the potential impacts of an explosion at the distillery. In summary, these concerns are overstated in the subject letter.

The end of this report contains a listing of the credentials for Mr. Ross Topliff, PE. Who has served on three emergency response teams, is a professional engineer and chemical engineer with over 40 years' experience, and has presented his program on the hazards of distilleries a number of times in New York and New Jersey.

## DETAILED DISCUSSION:

### A. Letter from the Orange County Department of Planning:

In this letter, Mr. David Church notes concerns regarding fire department apparatus access to the site responding to a fire in July, 2019. As the response letter from Mr. Donnelly (dated Nov. 6, 2019) notes, the access used is a shared right of way with the neighbor. Also, the site plan SK-4, dated Oct. 1, 2019 shows a second means of access that is entirely on the owner's property and is properly designed for fire apparatus access.

While reviewing this site plan, we noticed that it does not fully comply with the International Fire Code (IFC) section 503.1.1 requiring "The fire apparatus access road shall comply ... and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building..." With the current site plan, there are approximately 30 ft on the west (lake) side of the building that is not accessible within 150 ft. of a fire apparatus road. In discussing this with Mr. Donnelly, we recommended that the "compacted stone dust path" on the south side of the building be modified to include a section approximately 20 ft. wide by 20 ft. long adjacent to the parking lot as a fire apparatus road. This will provide complete access to all parts of the building required by the IFC within 150 ft. of an apparatus road.

Alcohol-resistant foam is the fire-fighting agent of choice for ethyl alcohol fires. Based on our experience in the fire service, most fire departments carry a significant amount of this foam on the responding apparatus. We recommend that the owner discuss with the local fire chief an offer to purchase additional foam concentrate that could be stored either at the fire department headquarters or at this location, based on the chief's preference.

The advisory comment regarding black fungus is appropriate. However, it should be noted that *B. compniacensis* is common in areas beyond distilleries. Also, given the small size of the proposed Broccoli Patch facility, it is unlikely that there will be adequate concentrations of alcohol vapors in the ambient air beyond the property boundaries to enhance the fungus growth. As Mr. Church notes, there are no known impacts other than cosmetic ones.

### B. Letter from McCarey Property Management, LLC. By Mr. Adam McCarey

The comments regarding Fire Department access are duly addressed either on the site plan dated Oct. 1, 2019 or our comments above. The maximum amount of product produced per week will be no more than the maximum allowed under the farm distillery license of 1480 gallons per week. The actual amount produced is expected to be less, particularly during the first year of operation.

Projected emissions are on the order of less than 2 pounds per hour (50 pounds per day) and will vary depending on what operations are under way on a particular day. The largest single source is expected to be from the barrel storage area. These are commonly estimated at 2% per



year from oak barrels. Assuming 350 barrels at 42 gallons each (maximum in two sprinklered control areas per IFC Section 414.2.5), emissions will be under 0.3 pound per hour (approximately 6 pounds per day). Adequate ventilation will be provided in the detailed building design to disperse these and other vapor emissions.

Other items requested include the location, type and quantities of raw materials and final product to be stored on-site. Raw materials will be primarily corn and rye grain. Initial plans are to purchase these in pallet quantities and store them in a basement storage area. As the business grows, plans include outdoor silos for both grains with means to feed the grain directly into the fermentation area. Silos are included in the Miscellaneous Group U for the IFC. A typical small brewery grain silo holds 8 tons of grain in a 15 ft tall x 9 ft diameter silo. Two of these silos will produce approximately 700 gallons of finished product (whiskey, etc.) per week using a 500 gallon spirit still running one batch per day. Final product storage will be sectioned into 7500 gallon control areas with two to eight of these sections in the building.

The reported occupancy ratings are largely correct. The distillation area will be rated as H-1B for handling alcohol solutions in excess of 55% ethyl alcohol, unless it contains less than 120 gallons (MAQ per NYSBC, section 307) at all times. In this case it will qualify for an F-1 rating. Sprinkler coverage is recommended for the still area.

The writer next refers to the 2016 Emergency Response Guidebook for evacuation distances. However, this is an inappropriate use of this reference. The full title of this guidebook is: "Emergency Response Guidebook: A Guidebook for First Responders During the Initial Phase of a Dangerous Goods/Hazardous Materials Transportation Incident". As such, this reference is intended for use with transportation emergencies not fixed facility planning. Fixed facilities, such as the proposed Broccoli Patch are governed by the various International Codes such as the IBC and IFC.

The writer recommends the preparation of an Emergency Action Plan required by OSHA for facilities with fixed fire extinguishing and/or detection systems. According to the IFC, section 403.6, this is required for F factory occupancies and H occupancies with over 500 persons on site at any one time. Requiring the development of an Emergency Action Plan is appropriate for this facility given the plans for sprinklers in the still and barrel storage areas. The suggestion of a recovery plan does not appear reasonable at this time.

The writer next addresses the potential for explosions at a distillery and specifically mentions the Silver Trail Distillery in Kentucky. While it is true that this 2015 explosion resulted in the destruction of the building and killed one employee, the cause of the incident was an improperly sized pressure relief valve on the still. This cause can easily be avoided by using a properly sized and installed pressure relief valve. This is normally provided by the still vendor to avoid this situation along with installation instructions. To give a little more perspective, the website <https://www.thespiritsbusiness.com> lists the ten worst distillery disasters in history. Of these ten, several occurred prior to 1950 and only the Silver Trail explosion was caused by problems with a still. The most common cause was warehouses struck by lightning.

The writer's comment that "the effects may be contained to a large facility as noted above or span through neighboring community in which it is located." The proposed Broccoli Patch is a small facility and any emergency incident impacts are not expected to reach beyond the property line.

Finally, regarding the chemicals that will be stored at the distillery - according to "Consolidated List of Chemicals Subject to the Emergency Planning and Community Right To-Know Act (EPCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and Section 112(r) of the Clean Air Act" found at [https://www.epa.gov/sites/production/files/2015-03/documents/list\\_of\\_lists.pdf](https://www.epa.gov/sites/production/files/2015-03/documents/list_of_lists.pdf), there is no established reportable quantity for ethyl alcohol or ethanol. All other chemicals stored on-site are expected to be well below the reportable quantities.

#### **CREDENTIALS FOR ROSS TOPLIFF:**

Mr. Ross Topliff is a chemical engineer and registered as a Professional Engineer in New York and New Jersey since 2008. He has over 40 years' industrial and consulting experience with bulk chemicals, pharmaceuticals, semi-conductor, medical devices, and consumer products. He opened his consulting business in 2010, based in Newburgh N.Y.

Mr. Topliff served on the Emergency Response Team (fire, first aid, and haz-mat incidents) for Nepera in Harriman, N.Y. as the Assistant Coordinator, responsible for pre-incident plans, coordination with surrounding community fire departments, and training for about five years. He also served in a similar capacity for the Emergency Response Team for Givaudan Flavors in East Hanover, N.J. for eight years. He was a member of the Orange County haz-mat team for three years. Mr. Topliff was also a member of the Winona Lake Fire Department, Newburgh, N.Y. for nine years, serving as Captain for three.

Mr. Topliff developed the presentation titled "Code and Technical Issues for Facilities Handling Flammables, Keeping Distilleries from Going Boom" in 2016 and has presented this to Building Code Officials across New York as well as at the American Distilling Institute annual conference in 2017. He has maintained his interest and involvement with safety training and issues in industrial environments for over 30 years. He also has a number of publications to his credit. More details are on the attached professional profile.

When not serving as a chemical engineer, he is a pastor for the United Methodist Churches in Monroe and Sloatsburg.

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This document has been prepared in accordance with good engineering practice including consideration of applicable industry standards and the requirements of the International Fire and Building Codes, 2015, adopted by New York State. Additional reference is the Recommended Fire Protection Practices for Distilled Spirits Beverage Facilities, 3<sup>rd</sup> Edition, Distilled Spirits Council.

Professional Engineer: Ross S. Topliff

Signature:

Ross S. Topliff

Date:

Nov 21, 2019





# ORANGE COUNTY CLERK

ANN G. RABBITT

## Receipt

\*\* Reprint \*\*

Receipt Date: 11/20/2019 03:14:03 PM

RECEIPT # 2727522

Recording Clerk: PM

Cash Drawer: CASH9

Rec'd Frm: HARDENBURGH TITLE AGENCY

Instr#: 20190081395 Bk/Pg: 14658/1776

DOC: DEED C

DEED STAMP: 3536

OR Party: FIRST SUGAR LOAF DEVELOPMENT

CO INC

EE Party: BROCCOLI PATCH INC

Recording Fees \$320.00

Transfer Tax \$0.00

DOCUMENT TOTAL: ----> \$320.00

### Receipt Summary

Document Count: 1

TOTAL RECEIPT: ----> \$320.00

TOTAL RECEIVED: ----> \$320.00

CASH BACK: ----> \$0.00

### PAYMENTS

Check # 9544 -> \$320.00

HARDENBURGH TITLE AGENCY

— Quitclaim Deed – Individual or Corporation (single sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 13<sup>th</sup> day of NOV in the year 2019

**BETWEEN**

FIRST SUGAR LOAF DEVELOPMENT COMPANY INC.

P.O. Box 509, 111 Main Street, Chester, NY 10918

party of the first part, and  
BROCCOLI PATCH, INC.

~~355 Mount Airy Road~~ 67 LESLIE ROAD  
~~New Windsor, NY 12553~~ NEWBORGH NY 12550

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Chester, County of Orange and State of New York bounded and described as follows:

See Schedule A attached.

This deed is given to correct an omission in deed made by First Sugar Loaf Development Company Inc. to James Murray and John L. Stage dated 8/28/92 and recorded on 9/3/92 in Liber 3660 page 335.

It was the intention of said deed to include the strip of land contained herein.

**TOGETHER** with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.



www.EngineeringPropertiesPC.com  
71 Clinton Street  
Montgomery, NY 12549  
phone: (845) 457-7727  
fax: (845) 457-1899

DATE: November 7, 2019  
W.O. # 1246.01

### **LEWIS DONNELLY NON-DEDICATED STRIP DESCRIPTION**

All that certain lot, piece or parcel of land, situate, lying and being in the Town of Chester, County of Orange and State of New York and being known and designated as a portion of land known as "Road Widening – Kings Highway – CO Road #13 – Lands to be Gratuitously conveyed to the County of Orange for Highway Purposed" on a map entitled, "First Sugarloaf Development Co., Inc.", dated September 29, 1988 and filed in the Orange County Clerk's Office on June 14, 1990 as Map No. 9926 and being more accurately bounded and described as follows:

Beginning at a point of intersection in the undedicated westerly sideline of Kings Highway (also known as County Road 13, as shown on the above described filed map) with the dividing line between the reputed lands of the Back Office Associates, LLC (to the south) and the reputed lands of Lewis J. Donnelly (to the north);

THENCE, from said point of beginning and through the reputed lands of First Sugarloaf Development Co., Inc. South 70 degrees 50 minutes 12 seconds East a distance of 14.55 feet to a point;

THENCE, along the assumed 1934 westerly sideline of Kings Highway, the following (4) four courses and distances:

1. along the general line of a stonewall, North 13 degrees 38 minutes 12 seconds East a distance of 77.02 feet to a point;
2. along the general line of a stonewall, North 08 degrees 21 minutes 24 seconds East a distance of 21.84 feet to a point;
3. along the general line of a stonewall, North 12 degrees 45 minutes 59 seconds East a distance of 79.62 feet to a point;
4. in part along the general line of a stonewall, North 13 degrees 49 minutes 16 seconds East a distance of 133.96 feet to a point;

THENCE, along the reputed lands of Zungoli, North 80 degrees 16 minutes 52 seconds West a distance of 18.30 feet to a point;

THENCE, along the aforementioned lands of Lewis J. Donnelly, South 12 degrees 25 minutes 20 seconds West a distance of 309.76 feet to the point or place of beginning;

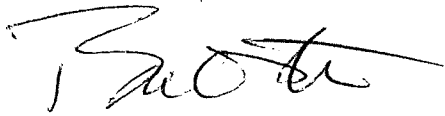
Containing 0.112 acres of land more or less as surveyed by Engineering & Surveying Properties, PC on March 14, 2019, adopting New York State Plane Coordinate System NAD83, Zone 3101 for the basis of bearing as determined by GPS observations.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:



\_\_\_\_\_  
First Sugar Loaf Development Company Inc.  
By: Benjamin Ostrer, President

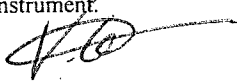
\_\_\_\_\_

\_\_\_\_\_

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of Orange, ss:  
On the 15th day of Nov. in the year 2019, before me, the undersigned, personally appeared Benjamin Ostrer

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
**VICTORIA J. HEDDRICKS**  
Notary Public, State of New York  
No. 01HE6284599  
Qualified in Orange County  
My Commission Expires June 17, 2021

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS  
TAKEN IN NEW YORK STATE

State of New York, County of \_\_\_\_\_, ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

Quitclaim Deed

Title No.

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of \_\_\_\_\_, ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

\*State of \_\_\_\_\_, County of \_\_\_\_\_, ss:  
\*(Or insert District of Columbia, Territory, Possession or Foreign County)  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

SECTION:  
BLOCK:  
LOT:  
COUNTY OR TOWN:





Combined Real Estate  
Transfer Tax Return,  
Credit Line Mortgage Certificate, and  
Certification of Exemption from the  
Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor	Name (if individual, last, first, middle initial) ( <input type="checkbox"/> mark an X if more than one grantor )	Social Security number
<input type="checkbox"/> Individual	First Sugar Loaf Development Company Inc.	
<input type="checkbox"/> Corporation	Mailing address	Social Security number
<input type="checkbox"/> Partnership	P.O. Box 509, 111 Main Street	
<input type="checkbox"/> Estate/Trust	City State ZIP code	EIN
<input type="checkbox"/> Single member LLC	Chester NY 10918	13-3390961
<input type="checkbox"/> Other	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
Grantee/Transferee	Name (if individual, last, first, middle initial) ( <input type="checkbox"/> mark an X if more than one grantee )	Social Security number
<input type="checkbox"/> Individual	Broccoli Patch Inc.	
<input type="checkbox"/> Corporation	Mailing address	Social Security number
<input type="checkbox"/> Partnership	67 LESLIE ROAD	
<input type="checkbox"/> Estate/Trust	City State ZIP code	EIN
<input type="checkbox"/> Single member LLC	NEWBURGH NY 12550	82-2197512
<input type="checkbox"/> Other	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
P/O 13-3-2	332289	Kings Highway	Chester	Orange

Type of property conveyed (mark an X in applicable box)

1 <input type="checkbox"/> One- to three-family house	5 <input type="checkbox"/> Commercial/Industrial	Date of conveyance	Percentage of real property conveyed which is residential real property _____% (see instructions)
2 <input type="checkbox"/> Residential cooperative	6 <input type="checkbox"/> Apartment building	11   13   19	
3 <input type="checkbox"/> Residential condominium	7 <input type="checkbox"/> Office building	month day year	
4 <input checked="" type="checkbox"/> Vacant land	8 <input type="checkbox"/> Other _____		

Condition of conveyance (mark all that apply)

a. <input type="checkbox"/> Conveyance of fee interest	f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)	l. <input type="checkbox"/> Option assignment or surrender
b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____%)	g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	m. <input type="checkbox"/> Leasehold assignment or surrender
c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____%)	h. <input type="checkbox"/> Conveyance of cooperative apartment(s)	n. <input type="checkbox"/> Leasehold grant
d. <input type="checkbox"/> Conveyance to cooperative housing corporation	i. <input type="checkbox"/> Syndication	o. <input type="checkbox"/> Conveyance of an easement
e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	j. <input type="checkbox"/> Conveyance of air rights or development rights	p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part 3)
	k. <input type="checkbox"/> Contract assignment	q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state
		r. <input type="checkbox"/> Conveyance pursuant to divorce or separation
		s. <input type="checkbox"/> Other (describe) _____

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B, Part 1 \$		
	Schedule B, Part 2 \$		

Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part 1 – Computation of tax due

- 1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, mark the exemption claimed box, enter consideration and proceed to Part 3) ..... ☐ Exemption claimed
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien) .....
- 3 Taxable consideration (subtract line 2 from line 1) .....
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3 .....
- 5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G) .....
- 6 Total tax due\* (subtract line 5 from line 4) .....

1.		0
2.		
3.		
4.		
5.		
6.		

Part 2 – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

- 1 Enter amount of consideration for conveyance (from Part 1, line 1) .....
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...
- 3 Total additional transfer tax due\* (multiply line 2 by 1% (.01)) .....

1.		
2.		
3.		

Part 3 – Explanation of exemption claimed on Part 1, line 1 (mark any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, New York State, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) ..... a ☐
- b. Conveyance is to secure a debt or other obligation..... b ☐
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c ☐
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts..... d ☐
- e. Conveyance is given in connection with a tax sale..... e ☐
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F ..... f ☐
- g. Conveyance consists of deed of partition..... g ☐
- h. Conveyance is given pursuant to the federal Bankruptcy Act..... h ☐
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property..... i ☐
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j ☐
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, § 1401(e) (attach documents supporting such claim) ..... k ☐

\* The total tax (from Part 1, line 6 and Part 2, line 3 above) is due within 15 days from the date of conveyance. Make check(s) payable to the county clerk where the recording is to take place. For conveyances of real property within New York City, use Form TP-584-NYC. If a recording is not required, send this return and your check(s) made payable to the NYS Department of Taxation and Finance, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-0045. If not using U.S. Mail, see Publication 55, Designated Private Delivery Services.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (mark an X in the appropriate box)

1. ☒ The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. ☐ The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:

a ☐ The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.

b ☐ The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).

c ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.

d ☐ The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

**Note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

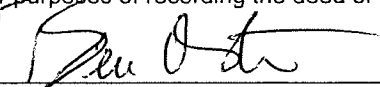
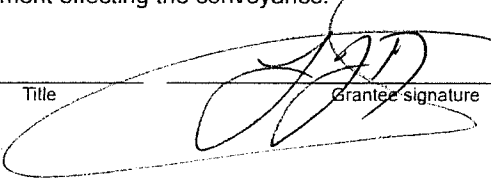
- e ☐ Other (attach detailed explanation).
3. ☐ The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:

a ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.

b ☐ A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. ☐ The real property being transferred is subject to an outstanding credit line mortgage recorded in \_\_\_\_\_ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is \_\_\_\_\_. No exemption from tax is claimed and the tax of \_\_\_\_\_ is being paid herewith. (Make check payable to county clerk where deed will be recorded.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

			
Grantor signature	Title	Grantee signature	Title
Grantor signature	Title	Grantee signature	Title

**Reminder:** Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you marked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place? If no recording is required, send this return and your check(s), made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Schedule D – Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, § 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

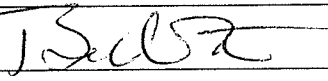
If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part 2, mark the second box under Exemptions for nonresident transferor(s)/seller(s), and sign at bottom.

Part 1 – New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Form TP-584, Schedule A (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, § 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature 	Print full name BENJAMIN OSTRER	Date 11/13/19
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, § 685(c), but not as a condition of recording a deed.

Part 2 – Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Form TP-584, Schedule A (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, § 663(c), mark the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, § 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, Nonresident Real Property Estimated Income Tax Payment Form, or Form IT-2664, Nonresident Cooperative Unit Estimated Income Tax Payment Form. For more information, see Payment of estimated personal income tax, on Form TP-584-I, page 1.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, § 663 due to one of the following exemptions:

- ☐ The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from \_\_\_\_\_ Date \_\_\_\_\_ to \_\_\_\_\_ Date \_\_\_\_\_ (see instructions).
- ☐ The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- ☐ The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

## FOR COUNTY USE ONLY

C1. SWIS Code

--	--	--	--	--	--	--	--	--	--

C2. Date Deed Recorded

Month	Day	Year

C3. Book

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C4. Page

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New York State Department of  
Taxation and Finance

Office of Real Property Tax Services

RP- 5217-PDF

Real Property Transfer Report (8/10)

## PROPERTY INFORMATION

1. Property  
Location

Kings Highway  
\* STREET NUMBER \* STREET NAME  
Chester  
\* CITY OR TOWN \* VILLAGE \* ZIP CODE

2. Buyer  
Name

Broccoli Patch Inc.  
\* LAST NAME/COMPANY \* FIRST NAME  
\* LAST NAME/COMPANY \* FIRST NAME

3. Tax  
Billing  
Address

Indicate where future Tax Bills are to be sent  
if other than buyer address(at bottom of form)  
\* LAST NAME/COMPANY \* FIRST NAME  
\* STREET NUMBER AND NAME \* CITY OR TOWN \* STATE \* ZIP CODE

4. Indicate the number of Assessment  
Roll parcels transferred on the deed

1

# of Parcels

OR

☒ Part of a Parcel

(Only if Part of a Parcel) Check as they apply:

4A. Planning Board with Subdivision Authority Exists

☐

4B. Subdivision Approval was Required for Transfer

☐

4C. Parcel Approved for Subdivision with Map Provided

☐5. Deed  
Property  
Size

\* FRONT FEET \* DEPTH \* ACRES  
X OR 0.00

6. Seller  
Name

First Sugar Loaf  
\* LAST NAME/COMPANY \* FIRST NAME  
\* LAST NAME/COMPANY \* FIRST NAME

\*7. Select the description which most accurately describes the  
use of the property at the time of sale:

D. Non-Residential Vacant Land

Check the boxes below as they apply:

8. Ownership Type is Condominium

☐

9. New Construction on a Vacant Land

☐

10A. Property Located within an Agricultural District

☐10B. Buyer received a disclosure notice indicating that the property is in an  
Agricultural District☐

## SALE INFORMATION

11. Sale Contract Date

--

\* 12. Date of Sale/Transfer

--

\*13. Full Sale Price

.00

( Full Sale Price is the total amount paid for the property including personal property.  
This payment may be in the form of cash, other property or goods, or the assumption of  
mortgages or other obligations.) Please round to the nearest whole dollar amount.

15. Check one or more of these conditions as applicable to transfer:

- ☐ A. Sale Between Relatives or Former Relatives  
☐ B. Sale between Related Companies or Partners in Business.  
☐ C. One of the Buyers is also a Seller  
☐ D. Buyer or Seller is Government Agency or Lending Institution  
☐ E. Deed Type **not** Warranty or Bargain and Sale (Specify Below)  
☐ F. Sale of Fractional or Less than Fee Interest (Specify Below)  
☐ G. Significant Change in Property Between Taxable Status and Sale Dates  
☐ H. Sale of Business is Included in Sale Price  
☐ I. Other Unusual Factors Affecting Sale Price (Specify Below)  
☐ J. None

Comment(s) on Condition:

14. Indicate the value of personal  
property included in the sale

.00

## ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 19

\*17. Total Assessed Value 250,000

\*18. Property Class 480

\*19. School District Name Warwick

\*20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))

P/O 13-3-2

## CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful  
false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

## SELLER SIGNATURE

SELLER SIGNATURE

DATE

## BUYER SIGNATURE

BUYER SIGNATURE

DATE

## BUYER CONTACT INFORMATION

(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or  
entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible  
party who can answer questions regarding the transfer must be entered. Type or print clearly.)

\* LAST NAME

\* FIRST NAME

\* AREA CODE

\* TELEPHONE NUMBER (Ex: 99999999)

\* STREET NUMBER

\* STREET NAME

\* CITY OR TOWN

\* STATE

\* ZIP CODE

## BUYER'S ATTORNEY

\* LAST NAME

\* FIRST NAME

\* AREA CODE

\* TELEPHONE NUMBER (Ex: 99999999)