

SOUTH SIDE LOFTS  
DECLARATION OF CONDOMINIUM  
EXHIBIT 1

DECLARATION OF CONDOMINIUM  
FOR  
SOUTH SIDE LOFTS

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DECLARATION OF CONDOMINIUM

for

SOUTH SIDE LOFTS

ARTICLE I

SUBMISSION: DEFINED TERMS

Section 1.1. Declarant; Property; County; Name. SOUTH SIDE LOFTS, LP, a Pennsylvania Limited Partnership organized and existing under the laws of the Commonwealth of Pennsylvania (the "Declarant"), owner in fee simple of the real estate located in Allegheny County, known and municipally numbered as 2250 Mary Street Pittsburgh, Pennsylvania, which real estate is more fully described in Schedule "A" attached hereto, hereby submits the real estate described in Schedule "A" attached hereto together with and including all easements, rights and appurtenances thereunto belonging and the buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of the Pennsylvania Uniform Condominium Act, 68 PA C.S. §3101 et seq. (the "Act"), and hereby creates with respect to the Property a condominium, to be known as "South Side Lofts" (the "Condominium").

Section 1.2. Easements and Licenses. The following are the recorded easements and licenses affecting the Property hereby submitted to the Act:

- a. Coal and mining rights and all rights and privileges incident to the mining of coal heretofore conveyed or reserved by instruments of record.
- b. All matters set forth in the Development Plan for South Side Lofts of record in the Allegheny County Recorder of Deeds Office in Plan Book Volume \_\_, pages \_\_\_\_.
- c. Right of way of the Penn-Central Railroad, formerly the line of the Pittsburgh, Virginia and Charleston Railroad insofar as subject premises are affected thereby, particularly the rights of said Company to use additional width for cuts, fills, drains, slopes, etc., necessary in the operation of its railroad.
- d. Rights of the public, if any, in Edwards Way as referenced in the deed from Vera Brinn, widow to Charles I. Brinn and Rita Brinn, dated February 14, 1979 and recorded February 15, 1979 in Deed Book Volume 6069, Page 485.
- e. Easement for use of Edwards Alley for garden and patio areas as described in Resolution Number 757 effective November 18, 1999 of Pittsburgh City Council, copy attached as Schedule "B".

- e. Easement for use of Edwards Alley for garden and patio areas as described in Resolution Number 757 effective November 18, 1999 of Pittsburgh City Council, copy attached as Schedule "B".

Section 1.3. Defined Terms.

1.3.1. Terms Defined in the Act. Capitalized terms not otherwise defined herein or in the Plats and Plans shall have the meanings specified or used in Section 3103 of the Act, or if not defined in Section 3103 but used in the Act shall have the meanings used in the Act unless otherwise defined herein.

1.3.2. Statutory Terms. As used herein, the following terms shall have the specific definitions set forth below when used in this Declaration or any other Condominium Document.

- a. "Association" means South Side Lofts Condominium Association, an unincorporated association consisting of all Unit Owners of the Condominium.
- b. "Condominium" means the South Side Lofts as described in Section 1.1 above.
- c. "Declarant" means the Declarant described in Section 1.1 above and all successors to any Special Declarant Rights.
- d. "Declaration" means this document, as the same may be amended from time to time.
- e. "Executive Board" means the Executive Board of the Association.
- f. "Limited Common Elements" means the Common Elements serving exclusively a single Unit or more than one (but less than all) Units including the parking area and garage and the roof access areas as shown on the Plats and Plans.
- g. "Limited Common Expenses" means those expenses relating to the operation and management of certain Limited Common Elements which, pursuant to 2.5(d) of this Declaration are to be assessed against the Units to which such Limited Common Elements are assigned.
- h. "Plats and Plans" means the Plats and Plans attached hereto as Schedule "C" and made a part hereof, as the same may be amended from time to time.
- i. "Property" means the Property described in Section 1.1 above.
- j. "Unit" means a Unit as described herein and in the Plats and Plans.

- a. "Architectural Control Committee" or ACC means the committee established to exercise the architectural review powers set forth in Article 6.2 hereof.
- b. "Building" means any structure erected on the Property.
- c. "General Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocation for reserves, excluding, however, Limited Expenses.
- d. "Percentage Interest" means the percentage of undivided ownership interest in the Common Elements appurtenant to each Unit as set forth in Schedule "D" attached hereto, as the same may be amended from time to time.
- e. "Reserved Common Elements" means portions of the Common Elements that the Executive Board may designate as such from time to time pursuant to Section 3.3 hereof.
- f. "Permitted Mortgage" means any mortgage to the seller of a Unit and a first mortgage to (i) the Declarant; (ii) a bank, trust company, savings bank, savings and loan association, mortgage service institutional investor or lender; (iii) any other mortgagee approved by the Executive Board. All Permitted Mortgages must comply with the terms of Article VII hereof. A holder of a Permitted Mortgage is referred to herein as a "Permitted Mortgagee."
- g. "Regulated Architectural Modification" means (1) any change, alteration or construction to or on the exterior of any Unit, Common Elements or Limited Common Elements or to any interior structural elements of the Unit; or (2) erection, placement or posting of any structure, object, sign, antenna, clothesline, light, flag or thing on the exterior or roof of the building, in any windows (except window treatments as provided herein), or on any Limited Common Elements or any Common Elements; (3) any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities; (4) any modifications or alterations to any structural or load bearing portions of a Unit.
- h. "Roof Access Area" means the area labeled as such on Roof Plan Sheet No. 5 of 8 of the Plats and Plans. This area is a Limited Common Element available for use by the Owner of the area.
- i. "Roof Building Set Back" means the area as shown on Roof Plan Sheet 5 of 8 defining the area in which the Owner of the Roof Access Right can build a permanent structure. The size and type of any construction is limited to lightweight construction materials and methods as to be approved by the Declarant or the Architectural Control Committee.

- j. "Roof Deck Area" means the area labeled as such on Roof Plan Sheet No. 5 of 8 of the Plats and Plans. This is the common deck space available for use by all Unit Owners.
- k. "Roof Set Back" means a perimeter around the roof extending from the parapet wall eight feet onto the roof along the North and South parapet walls and four feet along the East and West parapet walls. This Roof Set Back area is a common element as shown on Roof Plan Sheet No. 5 of 8 of the Plats and Plans. Use of this area is prohibited to all Owners and Occupants for safety reasons.

## ARTICLE II

### ALLOCATION OF PERCENTAGE INTERESTS

### VOTES AND COMMON EXPENSE LIABILITIES;

### UNIT IDENTIFICATION AND BOUNDARIES;

### MAINTENANCE RESPONSIBILITIES

Section 2.1. Plats and Plans. The location and dimensions of the Building and other improvements comprising the and the location of the Units, Common Elements and Limited Common Elements of the Condominium are shown on the Plan attached hereto as Schedule "C".

Section 2.2. Percentage Interests. Attached as Schedule "D" hereto is a description of all Units and the Percentage Interest in the Common Elements appurtenant to each Unit. Each Unit shall have a percentage interest of 1/54<sup>th</sup> (1.858585%).

Section 2.3. Common Expense Liability. The Common Expense Liability appurtenant to each Unit is initially allocated on the basis of the percentage interest of that unit. The Common Expense Liability may be increased from time to time, so long as any changes to the Common Expense Liability maintain the ratio.

Section 2.4. Unit Boundaries. The title lines or boundaries of each Unit are situated as shown on the Plats and Plans and described as follows:

- a. Upper and Lower (Horizontal) Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical boundaries:
  - (1) Upper Boundary: The horizontal plane of the bottom surface of the concrete ceiling slab.
  - (2) Lower Boundary: The horizontal plane of the top surface of the unfinished concrete floor slab.



- b. Vertical Boundaries: The vertical boundaries of the Unit shall be the vertical planes, extended to intersections with each other and with the upper and lower boundaries, of the Unit-side surface of the exterior walls which do not separate the Unit from any other Unit and of the Unit-side surface of the stud framing of the party walls which separate the Unit from any other Unit, stairwell or hallway.
- c. Each Unit shall also include:
- (i) The air space enclosed within such boundaries, except the air space displaced by structural members, and utility shafts or similar conduits within or passing through such Unit and by other Common Elements.
  - (ii) All partitions which are wholly contained within such title lines, including, without limitation, door frames, window frames, hardware, electrical outlets and wiring, telephone outlets and conduits, and other items and devices in such partitions.
  - (iii) All glass, including the interior and exterior surfaces thereof, which is set in sash in the exterior walls of such Units and Unit-side surface of window sills.
  - (iv) All plumbing fixtures, and their water and waste connections, which serve only such Unit and which are not located in any exterior wall.
  - (v) All items of kitchen equipment, and their water, waste, gas and electrical connections, which serve only such Unit and which are not located within any exterior wall.
  - (vi) Bathroom and kitchen exhaust grills and registers.
  - (vii) Lighting devices, including, by way of illustration and not limitation, lamps and bulbs that are surface mounted on, recessed in, or suspended from, ceilings, walls and partitions within or on the perimeter of such Unit whether or not such lighting devices are themselves located within the boundaries of such Unit.
  - (viii) Wires, cables, conduits, circuits and related equipment transmitting electricity for lighting and power or transmitting electrical signals (except to the extent otherwise specifically provided herein), which serve only such Unit.
  - (ix) Telephone and television outlets, wires, cables and conduits serving only such Unit, whether or not such telephone outlets, wires, cables and conduits are located entirely within the boundaries of such Unit.

- (x) Surface mounted and recessed medicine cabinets (including, by way of illustration and not limitation, all associated lighting fixtures and accessories), whether or not such cabinets are located entirely within the boundaries of such Unit.
- (xi) Refrigerators, ranges, freezers, dishwashers and other appliances, and the portions of their water, waste, gas, electrical and exhaust connections which serve only such Unit and which are not located within any exterior wall.
- (xii) Wall, ceiling and floor coverings installed on the Unit-side surface of the boundaries set forth above including but not limited to paint, lacquer, varnish, wallpaper, paneling, tile, carpeting and any other material applied to wall, floor or ceiling areas.
- (xiii) The plaster or wallboard on the Unit side of the walls.

Section 2.5. Maintenance Responsibilities.

- a. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of §3307 of the Act, except as expressly set forth to the contrary herein. All maintenance, repair and replacement by Unit Owners shall be in a manner which will not impair the structural integrity or appearance of the Building or impair any mechanical, plumbing or electrical system therein. The materials and workmanship used in such maintenance, repair or replacement by Unit Owners shall be of the same type and quality as were originally provided in the Unit.
- b. The Executive Board shall have the right to interpret these maintenance responsibilities and shall publish from time to time a schedule of maintenance responsibilities, which shall be part of the rules and regulations of the Condominium.
- c. Any maintenance, repair or replacement which might affect the structural integrity or appearance of any Building or any other Unit or any mechanical, plumbing or electrical system shall require written approval of the Architectural Control Committee as described in Section 6.2 below. Each Unit Owner shall be required to repair or replace any portion of his or her Unit which, if not repaired or replaced, would adversely affect the exterior appearance of the Property or in any manner adversely affect another Unit and such repair or replacement shall require the written approval of the Association. If any Unit Owner fails to comply with the requirements of the preceding sentence, the Association may in its sole discretion make such repair or replacement and assess the expenses thereof against such Unit Owner. Any material improvement must be carried out pursuant to plans and specifications prepared by an architect or engineer licensed in

Pennsylvania and submitted to the Association for prior approval as per section 6.2 herein.

- d. All expenses associated with the maintenance of a Limited Common Element shall be assessed as Limited Expenses against the Units to which such Limited Common Element was assigned at the time the expense was incurred in the same proportions as the respective Percentage Interests of all such Units. Structural repairs or replacements of all General Common Elements, including but not limited to the roof, elevator, and landscaped areas shall be the responsibility of the Association (except in instances of damage caused by negligence of Unit Owner or Roof Access Area Owner which will be charged to the negligent party), the costs to be charged as General Common Expenses. Maintenance and Capital expenses for the parking and garage areas will be included as Common Expenses even though the parking and garage rights are Limited Common Elements as per section 3.2 below.

### ARTICLE III

#### DESCRIPTION, ALLOCATION AND RESTRICTION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 3.1. Common Elements. Common Elements, an undivided interest in which is hereby allocated to all Units on the basis of their respective Percentage Interests, shall, without limitation, include:

- a. Portions of the Property which are not included in any Unit, and which serve all Unit Owners;
- b. The foundations, structural parts, supports, walls, separating Units from other Units, or from Common Elements, all roofs (except balconies or roofs of a Unit-owner-constructed Roof Access Area structure which are limited common elements), lobbies, hallways, stairways, entrances and exits to the Property;
- c. Trees, shrubbery, grass, walkways, driveways, roadways, except those accepted for maintenance by a municipality, and similar improvements;
- d. Portions of the Property used exclusively for the management, operation or maintenance of the Common Elements or which are designated for use by all Unit Owners;
- e. All apparatus and installations existing for common use, including without limitation, exterior building improvements;

- f. All other elements of the Property necessary or convenient to its existence, management, operation, maintenance and safety or normally in common use for the benefit of more than one Unit Owner;
- g. Any utility or similar services and lines including but not limited to sewer, water, gas and electric services and lines, not within a Unit or which serve more than one Unit and such other facilities as are designated in this Declaration or the By-Laws as Common Elements; and
- h. Those areas otherwise designated as Common Elements in the Plats and Plans or so defined in the Act, and not otherwise designated herein.

Section 3.2. Limited Common Elements.

- a. The patio areas attached to Units, as shown on the Plats and Plans, are Limited Common Elements appurtenant to the Units they serve.
- b. The portion of the Common Elements on which there is located any portion of the air conditioning system exclusively serving a particular Unit or Units is assigned as Limited Common Element to the Unit or Units so served;
- c. Portions of the Common Elements are marked on the Plats and Plans as "Common Elements which may be assigned as Limited Common Elements". These portions of the Common Elements are all of the covered garage and outside parking spaces located on the Property and the Roof Access Area. Declarant reserves the right to make the initial assignment of parking and garage spaces and Roof Access Area as Limited Common Elements for the exclusive use of certain Unit Owners to whose Units these spaces are reserved. The Declarant may assign such Limited Common Element parking, garage and Roof Access Area pursuant to the provisions of Section 3209 of the Act by making such an assignment in a written instrument of assignment or in the deed to the Unit to which such Limited Common Element shall be appurtenant or by recording an appropriate amendment to this Declaration. Such assignments by the Declarant may be to Units owned by the Declarant. Unit Owners may reassign among themselves the parking and garage spaces and Roof Access Area subject to Section 6.7 thereof.
- d. Any structure, whether permanent or temporary, erected in a Roof Access Area are Limited Common Elements.

Section 3.3. Designation of Reserved Common Elements. Reserved Common Elements are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all of the Unit Owners or by non-owners of any Units for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board.

#### ARTICLE IV EASEMENTS

Section 4. 1. Additional Easements. In addition to and in supplementation of the easements provided for by Sections 3216, 3217 and 3218 of the Act, the following easements are hereby created:

- a. Declarant's Use for Sales Purposes. Declarant shall have the right to maintain sales offices, management offices and models throughout the Property. Declarant reserves the right to place models, management offices and sales offices on any portion of the Common Elements in such manner, of such size and in such locations as Declarant deems appropriate or to use any Unit for such purposes. Declarant may from time to time relocate models, management offices and sales offices to different locations within the Common Elements. Upon the relocation of a model, management office or sales office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom. Any fixtures not so removed shall be deemed Common Elements, and any personal property not so removed shall be deemed the property of the Association.
- b. Utility Easements. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, the Association, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section shall include, without limitation, rights of Declarant, the Association, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant, or so as not to materially interfere with the use or occupancy of the Unit by its occupants.
- c. Plumbing Easement. Second and third floor Units will have an easement allowing access to the plumbing stack located in the hallway wall of the first and second floor units in order to install an additional bathroom or powder room. This easement shall be limited to installation of essential plumbing for the purpose described and shall be governed by the Architectural Control Committee (or Declarant, if during Period of Declarant control) to ensure minimal intrusion into the air space of the Unit burdened. The dimensions of the volume of the easement are as

follows: from the hall wall extending for the width of the Unit to the first interior column line, a distance of eight feet six inches, more or less, and vertically downward from the concrete ceiling for a distance of two feet.

- d. Declarant's Easement to Correct Drainage. Declarant reserves an easement on, over and under those portions of the Common Elements not located within the Building for the purpose of maintaining and correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which the Declarant shall restore the affected property as closely to its original condition as practicable.
- e. Signs. Declarant shall have the right to maintain on the Property such advertising signs as Declarant in its sole discretion may deem appropriate, provided that such signs comply with applicable governmental requirements. Declarant may from time to time relocate such advertising signs.
- f. Construction Easement. Until the earlier of the sale of all Units in the Condominium to Unit Owners other than Declarant or the expiration of seven (7) years after the date hereof, the Declarant shall have an easement through the Units and the Common Elements for access or any other purposes necessary to complete any renovations or work to be performed by the Declarant.
- g. Encroachments and Support. Each Unit, and the Property included in the Common Elements shall be subject to an easement for encroachments created by construction, settling and overhangs as designed or constructed. A valid easement for said encroachments and for the maintenance, repair, improvement or replacement of same, so long as they stand, shall and does exist. In the event that a Building is partially or totally destroyed and then rebuilt, the Unit Owners of the Units so affected agree that minor encroachments of parts of the adjacent Unit or Common Elements due to removal, replacement, or construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Every portion of a Unit and/or Common Element contributing to the support of an abutting Unit and/or Common Element shall be burdened with an easement of support for the benefit of such abutting Unit and/or Common Element. There shall be an easement of support over every Unit in a Building in favor of the Common Elements. A valid easement shall and does exist in favor of each Unit Owner to make reasonable use, not inconsistent with the terms of this Declaration, of the exterior wall of any adjoining Unit where the outer unfinished surface of such wall shall serve and separate any portion of such Unit Owner's Unit appertaining thereto and such adjoining Unit, notwithstanding the inclusion of such wall within the vertical boundaries of such adjoining Unit.

- h. Maintenance Easements. The Condominium shall be subject to the following maintenance easements:
- (i) An easement over the Common Elements in favor of the Association and the agents, employees and independent contractors thereof for purposes of the inspection, operation, maintenance, repair, improvement and replacement of the Common Elements.
  - (ii) An easement over the Common Elements in favor of each Unit Owner for the installation, maintenance, use, repair, improvement, removal and replacement of pipes, ducts, heating, ventilating and air conditioning systems, electrical, telephone and other wiring and cables and all other utility lines and conduits which are a part of or serve a Unit and which pass across or through a different Unit, or the Common Elements.
  - (iii) An easement over the Units in favor of the Association and its agents, employees and independent contractors, (1) for inspection of the Units in order to verify the performance by Unit Owners for all items of maintenance, repair and replacement for which they are responsible, (2) for inspection, operation, maintenance, repair, improvement and replacement of the Common Elements and facilities contained therein situated in or accessible from such Units and (3) for correction of emergency conditions in one or more Units, or Limited Common Elements, or both, or casualties to the Common Elements and/or the Units; it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with a Unit Owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 4.1.h.(iii).
  - (iv) Wherever in this Declaration and the Plats and Plans a boundary of a Unit is described as being the Unit-side surface of a designated portion of the Property, or the plane formed thereby, an easement exists in favor of the Unit Owner for the purposes of decorating such surfaces and affixing thereto and removing therefrom flooring and floor coverings, wall board, paint, wallpaper, other decorative material, pictures, mirrors, fixtures, wall systems and decorative articles, all at the sole cost, expense and liability of the Unit Owner of such Unit. It is understood and agreed that the Association, acting on behalf of all Unit Owners, shall at all times while this Declaration is in effect retain the right and duty to maintain, repair, improve and/or replace the portions of the Property of which said surfaces are a part, notwithstanding the fact that such maintenance, repair, improvement or replacement may temporarily adversely affect the Unit Owner's aforesaid easement and right to use the Unit-side surface of such portion of the Property.

- i. **Additional Easement.** The Condominium shall also be subject to the following easement in addition to those otherwise set forth in this Article IV:

An easement over the Common Elements, (except those which exclusively serve certain Units and which for the purpose of this Section 4.1.i. shall be treated as Limited Common Elements) in favor of the Unit Owners and their tenants, employees, agents, licensees and invitees, and the Association and its employees, agents, licensees and invitees for access, egress and ingress over, through and across each portion thereof pursuant to such Rules and Regulations as the Association may from time to time promulgate.

## ARTICLE V

### AMENDMENT OF DECLARATION

Section 5.1. **Amendment Procedure.** This Declaration may be amended only in accordance with the procedures specified in Section 3219 of the Act, the other Sections of the Act referred to in Section 3219 thereof and the express provisions of this Declaration.

Section 5.2. **Rights of Permitted Mortgagees.** Subject to the limitations imposed by Section 3221 of the Act and except as set forth below, no amendment of this Declaration may be made without the prior written approval of all Permitted Mortgagees if and to the extent that such approval is required by the Act or if and to the extent that such amendment would be a material amendment as defined by the Federal National Mortgage Association or would have the effect of (i) terminating or abandoning the Condominium (except for termination or abandonment as a result of taking of all the Units by eminent domain); (ii) abandoning, encumbering, selling or transferring the Common Elements; (iii) partitioning or subdividing any Unit or the Common Elements; or (iv) changing the Percentage Interests of any Unit Owners. Such approval shall not be required with respect to any Amendment pursuant to Articles VI, VII or VIII below. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed to be a transfer within the meaning of this Section 5.2. A Permitted Mortgagee shall be conclusively deemed to have approved an amendment if the Permitted Mortgagee fails to submit a written response to the Association within thirty (30) days after the Permitted Mortgagee receives notice of a proposed amendment.

Section 5.3. **Other Amendments.** If any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of this Declaration or the Plats and Plans which is defective or inconsistent with any other provision hereof or appearing or failing to appear in the Plats and Plans which is incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to then current



requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with respect to Condominium projects, the Executive Board may, at any time and from time to time effect such amendment without the approval of the Unit Owners or Permitted Mortgagees, upon receipt by the Executive Board of an opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Plats and Plans. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgement by one or more officers of the Executive Board.

Section 5.4. Declarant's Right to Amend Plan. Declarant shall have the right to amend the Plan to conform to the requirements of all municipal regulations governing the same and to make such physical modifications to the Property as required by such municipal regulations or municipal authorities. All costs and expenses resulting therefrom shall be the sole responsibility of the Declarant.

Section 5.5 Right to Amend Plan to Record Assignments of Parking/garage Spaces and Roof Access Areas. In the event Parking/Garage spaces and Roof Access Rights are assigned by an amendment to the Declaration as permitted in section 3.2(c) above, the Declarant or Executive Board , may, at any time and from time to time effect such amendment without the approval of the Unit Owners or Permitted Mortgagees as necessary to record the change in ownership and assignment of parking/garage spaces or Roof Access Rights.

## ARTICLE VI

### USE RESTRICTIONS

Section 6. 1. Use and Occupancy of Units and Common Elements.

Each Owner of a Unit shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of the Condominium Instruments and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, as a result of such person's violation of the Condominium Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants. In addition to the following use restrictions, the Board of Directors may adopt rules and regulations in accordance with the terms hereof and as specified in the Bylaws. The occupancy and use of the Units and Common Elements shall be subject to the following restrictions:

a. Business Activities in Units. Each Unit shall be used for residential purposes. However, it is the intention hereof to permit Unit Occupants to engage in certain ancillary business activities, such as home offices, studios or workshops, which are consistent with the character of the Condominium, so long as:

(1) the existence or operation of the business activity is not overly disruptive, apparent or detectable by sight, sound, or smell from the exterior of the Unit;

(2) the business activity is limited to those items defined as "Home Occupations" in the City of Pittsburgh Zoning Ordinance section 912.05, and the business activity conforms to all other zoning requirements for the Condominium;

(3) any client, customer or employee visitation to the Unit related to the business activity is limited to the hours of 8:00 a.m. until 8:00 p.m., and the business activity does not involve visitation of the Unit by employees, clients, customers or other business invitees in greater volume than would normally be expected for guest visitation to a residential Unit without business activity or greater volume than permitted for a Home Business under the City of Pittsburgh Zoning Ordinance;

(4) the business activity does not involve assembly of more than five clients or customers at any time, group instruction, individual music instruction, storage of hazardous chemicals or materials, or retail or commercial sales to visitors to the Unit as a primary purpose of the business;

(5) the business activity does not increase traffic in the Condominium in excess of what would normally be expected for residential Units in the Condominium without business activity (other than reasonable deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(6) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(7) the business activity is consistent with the primarily residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the sole discretion of the Board; and

(8) the business activity does not result in a materially greater use of common facilities or Association services.

b. No signs, advertising or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Executive Board. The right is reserved by the Declarant or its agent or agents to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and on any part of the Common

Elements, and the right is hereby given to any Permitted Mortgagee, who may become the Owner of any Unit, to place such signs on any Unit Owned by such Permitted Mortgagee.

- c. There shall be no obstruction or alteration of the Common Elements nor shall anything be stored in or on the Common Elements without the prior consent of the Executive Board except as herein expressly provided. The use and the covering of the interior surfaces of windows, whether by draperies, shades or other items visible on the exterior of the Buildings, shall be subject to the Rules and Regulations of the Executive Board.
- d. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Property, or contents thereof, without the prior written consent of the Executive Board, which consent may be conditioned upon the Unit Owner of such Unit being required to bear the full amount of such increase. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will violate any law, statute, ordinance or regulation of any governmental body or which will result in the cancellation of any insurance maintained by the Executive Board. No waste shall be committed in the Common Elements.
- e. No person shall create a nuisance on the Property or engage in any use or practice which interferes with the peaceful possession or proper use of any of the Units or of the Common Elements. No use or practice shall be permitted on the Property which is a source of annoyance to Unit Owners or which unreasonably interferes with the peaceful possession and proper use of all or any part of the Property by its Unit Owners.
- f. No Unit Owner, shall (i) make any installation which extends beyond the boundaries of the Unit Owner's Unit, nor install any window or air conditioners, exhaust fans or any other item which protrudes through a window serving a Unit, nor shall any structure, addition, shade, curtain, blind awning, screen, canopy, shutter, antenna, flower bed or similar decoration be placed or maintained upon any exterior door, window or any outside wall of any Building without the prior written consent of the Executive Board; (ii) paint or otherwise alter the structure, form or appearance of the exterior portion of any wall, window, door or other portion of the Property which is visible from outside such Unit; or (iii) place any sign, notice, advertisement or the like on any part of the Property which is visible from outside of such Unit.
- g. No Unit Owner shall do any work or any other act that would jeopardize the soundness or safety of the Property or any part thereof, or impair any easement or hereditaments without the unanimous consent of all Unit Owners affected thereby.

- h. Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets, as determined by the Board, on any portion of the Condominium. The Board may adopt further regulations limiting or restricting the number or size of permitted pets. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left or kept unattended outdoors. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors on the Common Elements. Dogs shall not relieve themselves on the Common Elements. Any feces or urine left by the dog on the Common Elements must immediately be removed and cleaned by the owner of the dog or the person responsible for the dog. No potbellied pigs may be brought onto or kept at the Condominium at any time. No dogs determined in the Board's sole discretion to be dangerous dogs may be brought onto or kept on the Condominium at any time. Any pet which endangers the health of any Owner or Occupant of any Unit or which creates a nuisance or unreasonable disturbance, as may be determined in the sole discretion of the Board, must be permanently removed from the Condominium upon seven (7) days written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet. Any pet which, in the sole discretion of the Board, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.
- i. The Property is to be maintained in a clean and sanitary condition and no Unit Owner is to place any garbage, trash or rubbish in the Common Elements or permit any unsightly condition to exist therein or thereon except as expressly provided for. There shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements, without the prior consent of the Association, unless otherwise provided in the Rules and Regulations.
- j. Every Unit Owner shall be responsible for maintaining his or her Unit in good order and repair, at such Unit Owner's own expense, including, without limitation, cleaning and replacing all interior or exterior doors and glass window panes in or appurtenant to his or her Unit.
- k. Unless this Declaration is amended by the Executive Board pursuant to the Act, no visitor not a resident in the Condominium will be permitted to stay in any Unit for a period of more than thirty (30) days in any six (6) months.
- l. In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position

and at a minimum temperature setting of fifty-five (55°) degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two (32°) degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association.

## 6.2 Architectural Controls.

(1) During Declarant Control. During the Declarant Control Period there shall be no Architectural Control Committee ("ACC"). During such time, no Owner or Occupant shall make any Regulated Architectural Modification, except with the prior written approval of the Declarant. Granting or withholding such approval shall be within the sole discretion of the Declarant.

(2) After Declarant Control. After the Declarant Control period has expired, no Owner, Occupant, or any other Person, except for Declarant, may make any Regulated Architectural Modification, without first obtaining the written approval of the ACC, consisting of three members of the Association, which shall be appointed by the Executive Board. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography. Notwithstanding the above, Declarant shall not be required to obtain any approvals under this Paragraph.

Interior modifications may only be made in accordance with any construction guidelines as may be adopted by the Declarant or ACC. All building code requirements must be complied with and necessary permits and approvals secured for any modifications.

(a) Applications After Declarant Control. Applications for ACC approval of any Regulated Architectural Modification shall be in writing and shall provide such information as the ACC may reasonably require. The ACC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or ACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in

harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

The Board, subject to this subparagraph (2), may allow such encroachments on the Common Elements and Limited Common Elements as it deems acceptable.

If the ACC fails to approve or to disapprove such application within forty-five (45) days after the application and all information as the ACC may reasonably require have been submitted, its approval will not be required and this subparagraph (2) will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations.

(3) Condition of Approval. As a condition of approval for a Regulated Architectural Modification, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of Modification. In the discretion of the Declarant, Board or ACC, as applicable, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

(4) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and neither the Declarant, the Board of Directors or the ACC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, the ACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

(5) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of the Board of Directors, the ACC or the Declarant of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Declarant, the Board or ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar

proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(6) Enforcement. Any Regulated Architectural Modification made in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Declarant (during the Declarant Control Period), the Board or the ACC, Owners shall, at their own cost and expense, remove such unauthorized Regulated Architectural Modification and shall restore the property to substantially the same condition as existed prior thereto. Should an Owner fail to do so as required hereunder, the Declarant or the Board shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the unauthorized Regulated Architectural Modification. All costs thereof, including reasonable attorney's fees, may be assessed against the benefitted Unit and collected as an assessment pursuant to this Declaration.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph 6.2 and its decisions.

(7) The ACC structure, rules and governance will be determined by the initial Board after the Declarant control period.

Section 6.3. Additions, Alterations or Improvements to Units. Subject to the other provisions of this Declaration, Unit Owners may make alterations to the interiors of their Units, relocate the boundaries between adjoining Units, and subdivide their Units as follows:

- a. Alterations to the Interiors of the Units. If any Owner acquires an adjoining Unit, such Owner shall have the right and approval of the Declarant (subject to written approval of the Mortgagees of the Units involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or part, be part of the Common Elements, so long as no portion of any load bearing wall or column is materially weakened or removed and no portion of any Common Elements is damaged, destroyed or endangered, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium. The alterations permitted by this subparagraph shall not be deemed an alteration or relocation of boundaries between adjoining Units
- b. Relocation of Boundaries. Boundaries between adjoining Units may be relocated only in accordance with the provisions of the Act 68 PA C.S. Sec 3214 and, for so long as Declarant owns a Unit, only with the prior

written consent of the Declarant. The Declarant shall have the right to relocate boundaries between Units owned by the Declarant or its affiliates without the approval of the Association, and the Association shall execute the required amendment to the Declaration.

Section 6.4. Use and Occupancy of Parking and Garage Spaces. Pursuant to the Declaration, the Association is granted an easement over the parking area and garage adjacent to the Condominium for use by the Condominium residents. The individual parking/garage spaces as shown on the Plat Plan in Schedule C will be conveyed to Unit Owners as a limited common element. Sale proceeds of the original and subsequent conveyances of these spaces shall accrue to Declarant or subsequent Unit Owners and not to the Condominium Association. Each Residential Unit will be assigned one parking lot space or garage space by the Declarant. Each Unit's assigned space will be identified by a posted or marked identification number corresponding to the Unit to which the space is assigned. Each Owner or Occupant shall park only in their assigned parking spaces and may keep or bring onto the Condominium only the number of vehicles for which parking spaces are assigned to such Unit. Vehicles must be parked in designated parking spaces only, and no Owner or Occupant may park in any space designated as reserved for any other Owner or Occupant. The Board may adopt additional rules or restrictions regulating parking of vehicles at the Condominium.

If any vehicle is parked on any portion of the Condominium in violation of this subparagraph or in violation of the Association's rules and regulations, the Board may have the vehicle towed or booted immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 6.5. Rules and Regulations. Reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property, may be promulgated from time to time by the Executive Board, subject to the right of the Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

Section 6.6. Sale of Units. A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within ten (10) days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Paragraph shall not be



construed to create a right of first refusal in the Association or in any third party.

Within ten (10) days after receiving title to a Unit, the purchaser of the Unit shall give written notice to the Board of Directors of his or her ownership of the Unit. Upon failure of a Owner to give the required notice within the ten-day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

The Board of Directors is authorized to charge a reasonable fee to the Seller of a Unit for the cost of providing current Condominium package to the Purchaser.

Section 6.7. Sale or exchange of Garage/Parking space and Roof Access Area. Any Unit Owner who wishes to sell or exchange the garage/ parking space or Roof Access Area shall only do so subject to the following:

- a. Such garage/parking space or Roof Access Area may only be sold to or exchanged with another Unit Owner. Proceeds from the sale accrue to the Owner of the garage/parking space or Roof Access Area, or to the Declarant.
- b. The Unit Owner selling or exchanging the garage/parking space or Roof Access Area shall give the Association written notice of the name of the purchaser.
- c. Garage/parking transfers:
  - (i) Except as set forth herein, a garage or parking space may not be sold separate and apart from a Unit. Any conveyance of a Unit shall also include a transfer of a garage or parking space.
  - (ii) Each original Unit must retain at least one garage or parking space after the transfer.
  - (iii) This section does not prevent rental of a parking space or garage to another Unit Owner. Any rental of garage or parking spaces may be only to a Unit Owner or Occupant.
- d. Roof Access Area transfers:
  - (i) Any Roof Access Area on which a permanent structure has been constructed, or for which through-roof utility supplies or stairs have been installed shall be appurtenant to the Unit below and cannot be transferred to another Unit Owner separate from the Unit appurtenant.

- (ii) Any Roof Access Area on which only temporary, non-roof-penetrating decks or pads and fencing are located may be transferred between Unit Owners as allowed in sections a and b above and in section 3.2.

Section 6.8. Powers of the Executive Board to Enforce. The Executive Board shall have the power to enforce the above restrictions and the Rules and Regulations on behalf of the Association as it may deem to be reasonably necessary or desirable, and shall have the right to bring actions at law or in equity to enforce any matter contained in the Condominium Documents. The Executive Board shall further have the right to levy fines for violations, provided that the fine for a single violation may not, under any circumstances, exceed Fifty and No/100 (\$50.00) Dollars. Each day a violation continues after notice thereof may be considered a separate violation. Any fine so levied shall be deemed to be a Common Expense levied specifically against the particular Unit Owner involved, shall be immediately due and payable, and collection may be enforced by the Executive Board in the same manner as the Executive Board is entitled to enforce collection of Common Expenses, and the Executive Board may also pursue any other remedies under the law.

## ARTICLE VII

### MORTGAGES

Section 7.1. Permitted Mortgages. A Unit Owner other than the Declarant or the Association may not voluntarily encumber or subject his or her Unit to any lien, other than the lien of a Permitted Mortgage. Whether or not they expressly so state, all such Permitted Mortgages and the obligations secured thereby shall be deemed to provide, generally, that the Permitted Mortgage, and the rights and obligations of the parties thereto, shall be subject to the terms and conditions of the Act and the Condominium Documents, that the exercise of any rights of parties under the Condominium Documents shall not constitute a breach or an event of default under the Permitted Mortgage and shall be deemed to provide specifically, but without limitation, that the Permitted Mortgagee shall have no right (a) to participate in the adjustment of losses with insurers or in the decision as to whether or not or how to repair or restore damage to or destruction of the Property, (b) receive or apply the proceeds of insurance to the reduction of the mortgage debt or otherwise, except in the event and to the extent of either a distribution of such proceeds to the Unit Owners pursuant to Section 3312(g) of the Act or the availability of insurance proceeds in excess of the cost of the repair or restoration of the Unit (including its Percentage Interest in the Common Elements) encumbered by such mortgage, or (c) to accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere on the Property other than within the affected Unit, and the obligation secured shall be pre-payable, without penalty, upon the happening of any termination of the Condominium or determination not to restore or

replace the affected Unit. The insurance policies maintained on the Building and the Common Elements shall name the Association, the Unit Owners and the Permitted Mortgagees, as their respective interests may appear without specifically naming any individual mortgagee or Unit Owner. No Unit Owner shall deliver any Permitted Mortgage, or any obligation to be secured thereby, unless it has first notified the Executive Board of the name and address of the proposed Permitted Mortgagee. When such Permitted Mortgage is delivered to the mortgagee, the Unit Owner shall simultaneously provide executed or conformed copies of it to the Executive Board. Upon receipt of such copy of a Permitted Mortgage and the approval thereof by the Executive Board as to compliance with this Section 7.1, which approval shall be promptly given or denied, the Secretary of the Executive Board shall instruct the insurer of the Property to add the name of the Permitted Mortgagee to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Permitted Mortgagee with a Certificate of Insurance showing that the Permitted Mortgagee's name has been so added. The Secretary shall maintain a register of such Permitted Mortgages, showing the names and addresses of the Permitted Mortgagees and the amount secured thereby.

Section 7.2. Rights of Permitted Mortgagees. Upon the specific written request of a holder of a Permitted Mortgage on a Unit or its servicer to the Executive Board, the Permitted Mortgagee shall, at the expense of the Unit Owner, be entitled to receive some or all of the following as designated in the request:

- a. Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Executive Board to the Unit Owner of the Unit covered by the mortgage;
- b. Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Unit Owners;
- c. Copies of notices of meetings of the Unit Owners and the right to designate a representative to attend such meetings;
- d. Notice of the decision of the Unit Owners to make any material amendment to this Declaration;
- e. Notice of substantial damage to or destruction of any Unit (the repair of which would cost in excess of \$1,000) or any part of the Common Elements (the repair of which would cost in excess of \$10,000);
- f. Notices of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;
- g. Notice of any default by the Owner of the Unit which is subject to the mortgage, where such default is not cured by the Unit Owner within thirty (30) days after the giving of notice by the Association to the Unit Owner of the existence of the default;

- h. Notice of any decision by the Executive Board to terminate professional management and assume self-management of the Property.
- i. Notice of the lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of a Permitted Mortgagee or its servicer shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Executive Board. The Executive Board need not inquire into the authority for or validity of any request made by a Permitted Mortgagee hereunder.

Failure to comply with the requirements set forth above shall in no way invalidate otherwise proper actions of the Association or the Executive Board.

Section 7.3. Books and Records. Any Permitted Mortgagee shall have the right (exercisable by written notice to the Association and at such Permitted Mortgagee's sole cost and expense) to examine the books and records of the Association and to require that it be provided with a copy of each annual report of the Association.

Section 7.4. Existing Mortgage. The Property is currently subject to a mortgage in favor of Parkvale Savings Bank ("Parkvale"), dated June 18, 1999, and recorded in the Allegheny County Recorder of Deeds Office in Mortgage Book Volume 18823, page 391 and is in the original principal amount of \$3,000,000.00, as the same may be amended from time to time. All Units conveyed to Unit Owners together with the Percentage Interests in the Common Elements apportioned to such Units will be released from the lien of such Parkvale mortgage at or before the time of conveyance. For all purposes of this Declaration, such Parkvale mortgage shall be deemed in all respects to be a Permitted Mortgage. In the event that Parkvale shall obtain title to any Unit prior to the sale thereof by Declarant by the exercise of any rights or remedies contained in such Parkvale mortgage, then Parkvale shall also succeed, at its option, to all or some of the rights of Declarant hereunder or under the By-Laws or the Act, as provided in Section 3304 of the Act with respect to the transfer of Special Declarant Rights; PROVIDED, HOWEVER, that nothing contained herein shall impose any liability on Parkvale for Declarant's failure to conform to the Act or applicable law.

## ARTICLE VIII

### LEASING

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Paragraph.

(a) Definition. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than

the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Leasing Provisions. Leasing of Units shall be governed by the following provisions:

(i) General. A maximum of 25% of the Units may be leased. This provision applies to Units owned by Unit Owners, i.e., not to Declarant owned units (see subsection c below). All leases shall be for an initial term of not less than one year. All such leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and, upon request, shall provide to any Owner a form that is deemed acceptable. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board of Directors. Within seven (7) days after executing a lease agreement for the lease of a Unit, the Unit Owner shall provide the Board of Directors with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Unit Owner must make available to the lessee copies of the Declaration, Bylaws, and the rules and regulations.

(ii) Compliance with Declaration, Bylaws, and Rules and Regulations, and Liability for Assessments. Each Owner and each lessee, by occupancy of a Unit, covenants and agrees that any lease for a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Unit:

(A) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. Unpaid fines shall constitute a lien against the Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Pennsylvania law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof.

In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the Unit.

(B) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under Paragraph 10 herein as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(c) Inapplicability to Declarant and Holders of First Mortgages. This Article VII shall not apply to any leasing transaction entered into by Declarant or by the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

## ARTICLE IX

### BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

Section 9. 1. Annual Assessments. Each Unit Owner shall pay an Annual Assessment as to Common Expense and Limited Expenses levied by the Association that shall be due and payable in equal monthly payments on the first of each month. Annual Assessments shall commence as to all Units on the first day of the month following conveyance of the first Unit. Each Unit Owner shall be responsible for the pro rata portion of the Annual Assessment assessed on his or her Unit from and after the date on which settlement of his or her Unit occurs.

Section 9.2. Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover Common Expenses (including adequate reserves therefor) for any reason (including without limitation, any Unit Owner's non-payment of his or her assessment), the Executive Board shall have the power, at any time (and from time to time) it

deems necessary and proper, to levy one or more Special Assessments against each Unit Owner in accordance with his or her Unit's Percentage Interest.

Section 9.3. Use of Assessments. All monies collected hereunder as Annual Assessments or Special Assessments shall be used for the purpose designated herein.

Section 9.4. Failure to Fix New Assessments. If the Association shall fail to fix annual Assessments for the subsequent fiscal year before the expiration of any fiscal year, the Unit Owners shall continue to pay the same sums as were payable during the fiscal year then ended and such sums shall be deemed to be the new Annual Assessments for the succeeding fiscal year. If the Association shall change the assessment at a later date, such new assessment shall be treated as a Special Assessment pursuant to Section 9.2 hereof.

Section 9.5. Special Costs. Any expense incurred by the Association due to the negligence or misconduct of any Unit Owner or his or her tenants, guests or invitees or as otherwise provided for in any Condominium Documents may be assessed against the Unit Owner of the pertinent Unit and shall be deemed to be a Common Expense immediately due and payable by such Unit Owner.

Section 9.6. No Exemption By Waiver. No Unit Owner may exempt himself or herself from Common Expense Liability by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of his or her Unit or otherwise.

Section 9.7. Personal Liability of Unit Owners. All sums assessed pursuant to this Article IX, together with interest thereon at the lesser of (a) the maximum rate allowed by the Act, or (b) the then published "prime rate" of interest being charged from time to time by Mellon Bank, N.A. on short term loans to its substantial commercial borrowers from the thirtieth (30th) day following adoption of the resolution fixing such Assessment or from such date or dates (in the case of Assessments payable in installments) as may be provided in such resolution, shall constitute the personal liability of the Unit Owner of the Unit so assessed and also shall, until fully paid, constitute a lien against such Unit pursuant to Section 3315 of the Act. The Executive Board, on behalf of the Association, may take action for failure to pay any Assessment or other charges pursuant to Section 3315 of the Act and may assess a late charge for failure to pay any Assessment or other charge on the date on which it is due. The delinquent Owner shall be obligated to pay (i) all expenses of the Association, including reasonable attorneys' fees, incurred in the collection of the delinquent Assessment by legal proceedings or otherwise, and (ii) any amounts paid by the Association for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts, together with accrued interest before and after judgment, shall be deemed to constitute part of the delinquent Assessment and shall be collectible as such.

Section 9.8. Unpaid Assessments. Any unpaid Annual Assessment which cannot be promptly collected from the former Unit Owner may be reassessed by

the Association as a Common Expense to be collected from all of the Unit Owners, including, without limitation, the purchaser who acquired title at a Sheriff's sale, his successors and assigns, and any mortgagee under a Permitted Mortgage who comes into possession of a Unit by foreclosure sale or deed in lieu of foreclosure or assignment in lieu of foreclosure.

Section 9.9. Liability of Purchaser of Unit for Unpaid Assessments. Notwithstanding the provisions of Section 9.7 hereof, (but subject to the provisions of Section 3407(c) of the Act), upon the sale, conveyance or any other transfer of a Unit or any interest therein, any unpaid Annual Assessments shall continue to be a lien against the Unit which may be enforced in the manner set forth in §3315 of the Act.

Section 9.10. Subordination of Certain Charges. Any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Sections 3302(a)(10), (11) and (12) of the Act shall be subordinate to any Permitted Mortgage.

Section 9. 11. Common Expenses.

- a. Common Expenses shall be any expenditure made or liability incurred by the Association (including any allocations to reserves) pursuant to the Act, this Declaration or the By-Laws, including without limitation, the following:
  - (i) Expenses of administration, operation, maintenance, repair, improvement or replacement of the Common Elements;
  - (ii) Expenses declared Common Expenses by the Act or by this Declaration or by the By-Laws;
  - (iii) Expenses reasonably determined to be Common Expenses by the Executive Board and assessed against all Unit Owners;
  - (iv) Expenses for maintenance of the Property including ramps, driveways, parking lot, garage, sidewalks, lawns and gardens, collection of garbage, snow removal and exterior maintenance;
  - (v) Expenses incurred pursuant to Article XII hereof;
  - (vi) Salaries, wages and payroll taxes for employees and agents of the Association;
  - (vii) Legal, accounting and management fees incurred by the Association;
  - (viii) Insurance premiums;



- (ix) Costs and expenses incurred by or allocated to the Association or the Property pursuant to terms of the Covenants.

b. Utilities:

- (i) The expense of gas, water, heat, air conditioning, electric and sewage service and such other utility and electronic systems and services which may hereafter be supplied for the benefit and use of all Units and/or for the Common Elements shall be a Common Expense.
- (ii) Telephone Service and Cable TV to Units shall be the obligation of each Unit Owner.
- (i) In the event any gas, water, heat, electric, sewer or other utility service is now or hereafter separately metered, the Executive Board may by a vote of not less than three (3) of its Members and upon not less than thirty (30) days' prior written notice to all Unit Owners delete the cost thereof as a Common Charge based on Percentage Interest and thereafter the cost thereof shall be separately metered and payable by each Unit Owner according to such separate meter readings, provided however such costs shall otherwise remain Common Charges.
- (ii) Limited Expenses shall be assessed by the Association to the Unit or Units which have been assigned the Limited Common Elements or other benefits attributable thereto, except for utility expense for the parking lot and garage areas which will be treated as Common Expenses.

Section 9.12. Surplus. Any amounts accumulated by the assessments for Common Expenses and income for the operation of the Common Elements to which such Common Expenses pertain in excess of the amount required for actual Common Expenses and reserves for future Common Expenses shall be credited to each Unit Owner in accordance with their respective Percentage Interests, said credits to be applied to the next Annual Assessment of Common Expenses due from said Unit Owners under the next fiscal year's budget, and thereafter, until exhausted.

Section 9.13. Reserve Fund. The Association shall establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements which are anticipated to require replacement, repair or maintenance on a periodic basis. The reserve fund shall be funded by monthly payments as a part of Common Expenses, as provided in the By-Laws. The parking lot area and garage will be considered Common Elements for the purpose of the Reserve Fund and capital repairs.

Section 9.14. Working Capital Fund. Upon the initial transfer of title from Declarant to the purchaser of each Unit, the Association shall collect from such purchaser a non-refundable amount equal to one-sixth (1/6) of the

Annual Assessment due from the Unit Owner of such Unit for the fiscal year in which such conveyance takes place. Such monies shall be deposited into a working capital fund under the control of the Association.

Section 9.15. Accounting. Within One Hundred Twenty (120) days after the end of the fiscal year of the Association, the Executive Board shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding fiscal year actually incurred and paid together with a tabulation of the amounts collected pursuant to the annual budget or assessments and leases and sales of property owned or managed by the Executive Board on behalf of the Association, and showing the net excess or deficit of income over expenditures plus reserves.

## ARTICLE X

### EXECUTIVE BOARD OF THE ASSOCIATION

Section 10.1. Powers of the Executive Board. The Executive Board of the Association shall possess all of the duties and powers granted to the Executive Board by the Act and by the By-Laws, including without limitation, the power to promulgate Rules and Regulations. The Executive Board shall consist of five (5) members who shall serve for a term of three (3) years and shall be elected for staggered terms at annual meetings of the Association, except as provided in Article XI hereof. Each Executive Board member shall hold office pursuant to the provisions relating thereto in the By-Laws.

Section 10.2. Disputes.

- a. Between Owners. In the event of any dispute of disagreement between any Unit Owners relating to the Property or any questions of interpretation or application of the provisions of any of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Unit Owners provided, however, the Executive Board, at its option may decline to take jurisdiction in any such dispute. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief or order to assist it in carrying out its responsibilities under this Section 10.2. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.
- b. Between Owner and Board. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager,

if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the request.

Section 10.3. Amendments. Except as otherwise set forth in the Act, this Declaration may be amended only by the vote or written agreement of the Owners of at least 67% of the Percentage Interests. Notwithstanding the foregoing or any other provisions of this Declaration to the contrary, if any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provisions of the Condominium Documents that are defective, missing or inconsistent with any other provisions thereof or of the Act, or to meet any insurance requirements set by any holder of Permitted Mortgages, then at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners upon receipt by the Executive Board of an opinion from legal counsel to the effect that the proposed amendment is permitted by the terms of this Section 10.3. Each amendment of the type described in this Section 10.3 shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, which instrument has been executed and acknowledged by one or more officers of the Executive Board.

Section 10. 4. Managing Agent. The Executive Board, on behalf of the Association, may (but is not required to) engage a professional, experienced managing agent who shall oversee the daily operation of the Property, in accordance with the provisions of the Act and the Condominium Documents.

## ARTICLE XI

### DECLARANT'S RIGHTS

Section 11.1. Control. Election of the members of the Executive Board shall be subject to the following conditions

- a. Until the 60th day after conveyance of 25% of the Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Executive Board. Declarant may not unilaterally remove any members of the Executive Board elected by Unit Owners other than Declarant.

- b. Not later than 60 days after conveyance of 25% of the Units to Unit Owners other than Declarant, two of the five members of the Executive Board shall be elected by Unit Owners other than Declarant.
- c. Not later than the earlier of (i) seven years after the date of the recording of this Declaration, or (ii) 180 days after 75% of the Units have been conveyed to Unit Owners other than Declarant, all members of the Executive Board appointed by Declarant shall resign, and the Unit Owners (including Declarant to the extent of Units owned by Declarant) shall elect a new Executive Board.

## ARTICLE XII

### LIMITATION OF LIABILITY

Section 12.1. Limited Liability of the Executive Board. Except as provided to the contrary in Section 3303(a) of the Act, the Association, the members of the Association, the Executive Board, and its members in their capacity as members, officers and employees:

- a. Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Building, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;
- b. Shall not be liable to the Unit Owners as a result of the performance of the Executive Board members' duties for any mistake of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;
- c. Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;
- d. Shall not be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss of or damage to personal property left by such Unit Owner or his or her tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

- e. Shall have no personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties;
- f. Shall have no personal liability arising out of the use, misuse or condition of the Building, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence; and
- g. Shall have no liability by reason of being an officer, director, agent, employee or affiliate of Declarant.

Section 12.2. Indemnification. Each member of the Executive Board, in his or her capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him or her in connection with any proceeding in which he or she may become involved by reason of his or her being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he or she is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases where such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his or her duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he or she is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his or her conduct was unlawful. The indemnification by the Unit Owners set forth in this Section shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

Section 12.3. Defense of Claims. Complaints brought against the Association, the Executive Board or the Officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the holders of any mortgages on Units and such complaints shall be defended by the Association. The Unit Owners and the holders of mortgages on Units shall have no right to participate in such defense other than through the Association.

Section 12.4. Insurance. The Executive Board shall obtain insurance to satisfy the indemnification obligation of the Association and all Unit Owners set forth above, if and to the extent reasonably available.

Section 12.5. Cost of Suit. If any action is brought by one or more but less than all Unit Owners on behalf of all Unit Owners and recovery is had, the plaintiff's expenses, including reasonable counsel fees, shall be a Common Expense, but only to the extent that such expenses are less than the amount recovered on behalf of the Association. If, however, such action is brought against the Executive Board or any of its members, or the Association or any of its officers, employees or agents, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Unit Owners, the plaintiff's expenses, including attorneys' fees, shall not be charged to or borne by the other Unit Owners as a Common Expense or otherwise but shall be borne solely by the plaintiff. In the event any suit or action is brought by any one or more Unit Owners against the Association or the Executive Board or any member thereof, challenging any decision, determination, action or ruling, made by or on behalf of the Association or the Executive Board pursuant to the Act or any Condominium Document or against the Unit Owners by reason of their joinder herein, if such challenge is unsuccessful, the payment of all costs and legal fees incurred by the Association or the Executive Board or its members or the Unit Owners in defending against any such suit or action shall, to the full extent permitted by law, be the sole responsibility and liability of the Unit Owner or Owners initiating any such suit or action. The Executive Board may proceed to collect all sums payable in accordance herewith by all available means.

Section 12.6. Joint and Several Liability of Unit Owners and Lessees. Each Unit Owner shall be jointly and severally liable with any lessees of the Unit owned by such Unit Owner for all liabilities arising out of the ownership, occupancy, use, misuse or condition of such Unit or any portion of the Common Elements.

### ARTICLE XIII

#### INSURANCE AND EMINENT DOMAIN

Section 13. 1. Types and Amounts. The Association shall obtain the following types and amounts of insurance (but in all events all insurance required by Section 3312 of the Act):

- a. Hazard insurance, with an endorsement for extended coverage, or such other fire and casualty insurance as the Association may determine which provides equal or greater protection for the Unit Owners and holders of Permitted Mortgages, if any, in each case complying with the applicable requirements of Section 13.2 hereof. Such hazard insurance shall, if and to the extent reasonably available, provide coverage of all portions of the Property outside of the Units and any Common Elements and Limited Common Elements located within any Unit and the

betterments and improvements thereto. Such hazard insurance shall insure against all risks of direct physical loss commonly insured against, including without limitation, fire, vandalism, malicious mischief, wind, storm and water damage, and the costs of demolition and debris removal. If such hazard insurance becomes unavailable in the future, the Association shall obtain such comparable insurance as is then available. The amount of any such hazard insurance obtained pursuant to his Section 13.1 shall be reviewed annually by the Association, and shall be equal to the full insurance replacement value of the Common Elements and Limited Common Elements, without deduction for depreciation (i.e., one hundred (100%) percent of current "replacement cost" exclusive of land, foundation, excavation and other items normally excluded from coverage), with an "agreed amount endorsement" or its equivalent, if available, or an "inflation guard endorsement", if available. Such hazard insurance policy may, at the option of the Association, contain a "deductible" provision in an amount to be determined by the Association but not to exceed Five Thousand (\$5,000.00) Dollars. The proceeds of such policy shall be payable to the Association. Such hazard insurance policy may include a separate "loss payable endorsement" in favor of the holder of any Permitted Mortgage, modified to make the loss payable provisions in favor of such holders subject and subordinate to the loss payable provisions in favor of the Association.

- b. Comprehensive liability insurance, complying with the requirements of Section 13.2 hereof, insuring the Unit Owners, in their capacity as owners of the Common Elements and Limited Common Elements and as Association members, against any liability to the public or to other Unit Owners, their tenants, invitees or licensees, relating in any way to the ownership and/or use of the Common Elements and Limited Common Elements or any part thereof. Such insurance policy shall contain a "Severability of interest endorsement" or equivalent coverage which precludes the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or any Unit Owner. Limits of liability shall be at least One Million (\$1,000,000.00) Dollars covering all claims for personal injury (including medical payments) and/or property damage arising out of a single occurrence. Such insurance shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered. The scope and amount of coverage of all liability insurance policies shall be reviewed annually by the Association and may be changed in its discretion provided that such shall continue to comply with the requirements of this Section 13.1 and Section 13.2 hereof.
- c. A fidelity bond or insurance coverage against dishonest acts on the part of such persons (including without limitation, Executive Board and Association members, officers, trustees, agents, employees and volunteers) responsible for handling funds belonging to or administered by the Association. Such fidelity bond or insurance shall name the Association as the obligee or named insured and shall be written in an

amount sufficient to provide protection at least equal to the sum of three (3) months' assessments on all units in the Condominium plus the Association's Reserve Fund and Working Capital Fund. In connection with such coverage, an appropriate endorsement to such policy or bond in order to cover any persons who serve without compensation shall be added if the policy could not otherwise cover volunteers. In addition, such policy or bond must include a provision requiring at least ten (10) days' written notice to the Association before the policy or bond can be cancelled or substantially modified for any reason.

- d. Such worker's compensation insurance as applicable law may require.
- e. Insurance to satisfy the indemnification obligation of the Association and all Unit Owners set out in Section 12.4 hereof, if and to the extent available.

Section 13.2. Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

- a. Each Unit Owner shall be an insured party under such policies with respect to loss or liability arising out of his ownership of an undivided interest in the Common Elements and Limited Common Elements or membership in the Association.
- b. All policies shall be written with a company licensed to do business in the Commonwealth of Pennsylvania and for the hazard insurance policy described in Section 13.1(a) hereof, such company must hold a rating of Class B+ - VI or better by Best's Insurance Reports or by an equivalent rating bureau should Best's Insurance Reports cease to be issued.
- c. Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Association or its authorized representative. Prior to the adjustment of any such loss, the Association shall decide whether, if the Association uses a public adjuster in connection therewith, the proceeds of any applicable insurance policy on the Property are likely to be sufficiently increased through the efforts of such adjuster to warrant the additional expense of retaining such an adjuster. If such decision shall be in favor of using a public adjuster, the Association shall retain a public adjuster, licensed as such by the Commonwealth of Pennsylvania, which adjuster shall act solely in the capacity of advisor to the Association's authorized representative.
- d. Such policies shall contain an endorsement waiving all rights of subrogation against the Executive Board, the Association, any managing agent, the Unit Owners and their respective tenants, employees, agents and invitees.
- e. Such policies shall not be cancelled, invalidated or suspended by means of the conduct of any one or more Unit Owners, all defenses based upon co-



insurance or acts of the insured being waived by the insurer, and in no event shall cancellation, material modification, invalidation or suspension for any reason be effected without at least thirty (30) days' prior written notice to each Unit Owner and all holders of Permitted Mortgages whose names and addresses are on file with the insurer.

- f. Such policies shall not be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Association or any managing agent without a prior demand in writing that the Association or any managing agent, as the case may be, cure the defect, and without providing a reasonable period of time thereafter in which to cure such defect.
- g. Any "no other insurance" clause in such policies shall not prohibit Unit Owners from obtaining insurance on their individual Units.
- h. The name of the insured under each policy required pursuant to this Article XV shall be stated in form and substance similar to the following:

"South Side Lofts Condominium Association for the use and benefit of the individual owners of the Condominium Units contained in South Side Lofts."
- i. Each insurance policy required to be carried by the Association pursuant to this Article XV shall be endorsed to provide that all proceeds shall be payable to South Side Lofts Condominium Association.
- j. Coverage may not be prejudiced by (1) any act or neglect of one or more Unit Owners when such act or neglect is not within the control of the Association; or (2) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.
- k. All policies of property insurance shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such options shall not be exercisable (i) without the prior written approval of the Association, or (ii) when in conflict with any requirement of law.
- l. Insurance coverage obtained and maintained by the Association pursuant to the requirements of this Article XV may not be brought into contribution with insurance purchased by Unit Owners or their mortgagees.

Section 13.3. Unit Owner Insurance.

- a. The Association shall have the power to require all Unit Owner to carry such types of insurance on their Units as the Association may reasonably require, including without limitation, insurance on all portions of the Unit. All insurance carried by Unit Owners shall comply with the provisions of

Section 13.3(b) and 13.3(c) hereof and shall be carried with insurance companies satisfying the requirements of Section 13.2(b) hereof.

- b. Each Unit Owner shall obtain additional insurance at his or her own expense; provided, however, that (1) such policies shall not be invalidated by the waivers of subrogation contained in this Declaration; and (ii) no Unit Owner shall be entitled to exercise the right to maintain insurance coverage in such a way as to decrease the amounts which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.
- c. Any Unit Owner who obtains an individual insurance policy covering any portion of the Property other than the individual Unit of such Unit Owner or personal property belonging to such Unit Owner, shall be required to file a copy of an individual policy with the Association within thirty (30) days after purchase of such insurance.

Section 13.4. Eminent Domain. In the event that all or any portion of the Property is acquired by any governmental entity pursuant to the exercise of the power of eminent domain, then the Association shall represent all Unit Owners in any proceedings, negotiations, settlements, or agreements with respect to such condemnation. By acceptance of a deed for any Unit, each Unit Owner shall be conclusively presumed to have appointed the Association his or her attorney-in-fact for all matters concerning condemnation of all or any portion of the Property. Any proceeds or damages paid to the Association pursuant to any condemnation shall be disposed of in accordance with Section 3107 of the Act.

#### ARTICLE XIV

#### MISCELLANEOUS

Section 14.1. Interpretation. The provisions of this Declaration shall be liberally construed in order to effectuate Declarant's desire to create a uniform plan for development and operation of a condominium project. The headings preceding the various paragraphs of this Declaration and the table of contents are intended solely for the convenience of readers of this Declaration and shall have no effect on the meaning or interpretation of any provision hereof. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the case may be.

Section 14.2. Applicability of Condominium Documents. Each present and future owner, tenant, occupant and mortgagee of a Unit shall be subject to and shall comply with the provisions of the Act, the Condominium Documents and the covenants, conditions and restrictions set forth in the deed to such Unit; provided that nothing contained herein shall impose upon any lessee or mortgagee of a Unit any obligation which the Act and/or one or more of the

Condominium Documents make applicable only to Unit Owners. The acceptance of a deed or mortgage to any Unit, or the entering into a lease or the occupancy of any Unit shall constitute an agreement that the provisions of the Act, the Condominium Documents and the covenants, conditions and restrictions set forth in Section 1.2 hereof and in the deed to such Unit are accepted and ratified by such grantee, mortgagee or lessee. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

Section 14.3. Mechanics' Liens. Any mechanics' liens arising as a result of repairs to or improvements of a Unit by or on behalf of any Unit Owner shall be liens only against such Unit and shall be paid by the Unit Owner of such Unit. Except as expressly set forth herein to the contrary, any mechanics' liens arising as a result of repairs to or improvements of the Common Elements, if authorized in writing pursuant to a duly adopted resolution of the Association, shall be paid by the Association and shall be a Common Expense.

Section 14.4. Enforcement. The Association (and Declarant so long as Declarant is a Unit Owner), shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Condominium Documents. Failure by the Association or Declarant to so enforce shall in no event be deemed a waiver of the right to do so thereafter. Any right or power vested in the "Association" hereunder shall be deemed to be vested in the "Executive Board" unless expressly stated to the contrary or otherwise required by the Act.

Section 14.5. Effective Date; Severability. This Declaration shall become effective when it and the Plats and Plans have been recorded. In the event that any provision of this Declaration or of any other Condominium Document is determined to be invalid or unenforceable, it shall be considered severed and shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of the Condominium Documents and, in such event, all of the other provisions of the Condominium Documents shall continue in full force and effect as if such invalid provision had never been included herein. In the event of any conflict between the Condominium Documents and the Act, the Act shall control except in those instance where the Act by its terms permits variations.

Section 14.6 Existing Conditions. South Side Lofts is a residential condominium development in the South Side Flats District of the City of Pittsburgh. The Developer, South Side Lofts, LP, intends to convert an existing commercial/industrial warehouse into residential loft dwelling units. The area adjacent to and in the general vicinity of the proposed South Side Lofts Development is a mixed use area composed of mainly commercial/industrial uses as well as some residential uses.



Lawyers Title  
Insurance Corporation  
A LANDAMERICA COMPANY  
NATIONAL HEADQUARTERS  
RICHMOND, VIRGINIA

Schedule A  
Legal Description

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SCHEDULE A

ALL THAT CERTAIN lot or piece of ground situate in the 16th Ward of the City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, being bounded and described as follows:

BEGINNING at the southeasterly corner of South 22nd Street and Mary Street; thence eastwardly along Mary Street, a distance of 384 feet, more or less, to the westerly side of South 23rd Street; thence southwardly along South 23rd Street, a distance of 132 feet, more or less, to the line of the Penn-Central Railroad, formerly the line of the Pittsburgh, Virginia and Charleston Railroad; thence westwardly along the line of said railroad, a distance of 384 feet, more or less, to the easterly side of South 22nd Street; thence northwardly along South 22nd Street, a distance of 132 feet, more or less, to the northeasterly corner of South 22nd Street and Main Street, the place of BEGINNING.

BEING designated as Block 12-R, Lot 70 in the records of the Deed Registry Office of Allegheny County, Pennsylvania.

## RESOLUTION

Granting unto John Steiner, 171 S. 22<sup>nd</sup> Street, Pittsburgh, Pennsylvania 15203, their successors and assigns, an encroachment to construct, maintain and use at their own cost and expense, a patio and garden area in the rear of 171 S. 22<sup>nd</sup> Street on Edwards Way between 22<sup>nd</sup> and 23<sup>rd</sup> Streets in the 17<sup>th</sup> Ward, 3<sup>rd</sup> Council District of the City of Pittsburgh.

*Be it resolved by the Council of the City of Pittsburgh as follows:*

**Section 1.**

That the John Steiner, 171 S. 22<sup>nd</sup> Street, Pittsburgh, Pennsylvania 15203, their successors and assigns, is hereby granted the privilege to construct, maintain and use at their own cost and expense, a garden and patio area in the rear of 171 S. 22<sup>nd</sup> Street in Edwards Way (a paper street) between 22<sup>nd</sup> and 23<sup>rd</sup> Streets at a distance of 232.2' x 12' in length by 12' wide of right-of-way consisting of 2,786.40 square feet. There are no other adjoining property owners that will be affected, in the 17<sup>th</sup> Ward, 3<sup>rd</sup> Council District of the City of Pittsburgh. This encroachment also allows ingress and egress to the Norfolk and Southern Railroad lot and block 12-R-248.

The said encroachment shall conform to the provisions of their resolution and in accordance with the Plan identified as Accession D-378 on file in the Division of Surveys, Department of Public Works.

**Section 2.** The said Grantee prior to the beginning of the construction of said encroachment shall submit to the Director of the Department of Public Works of the City of Pittsburgh a complete set of plans, in triplicate, showing the location and all details of said construction. Said plans and said construction shall be subject to the approval and supervision of the Director of the Department of Public Works.

**Section 3.** The encroachment herein granted shall be subject and subordinate to the rights of the City of Pittsburgh and its powers and supervision over City streets, and also to Resolutions of the City of Pittsburgh relating thereto, and to the provisions of any general Resolutions which have been or may be hereafter passed relating to said construction, maintenance and its use on City streets and compensation for same.

**Section 4.** The said Grantee shall bear the full cost and expense of the repair of any street pavement damaged, repair of sewer, water lines and other surface and sub-surface structures which may be in any way damaged or disturbed by reason of the construction, maintenance, use and operation of said construction. All work, including the repaving and repairing of any portion of the street damaged, shall be done in the manner and at such times as the Director of the Department of Public Works may order and shall be subject to their approval and supervision.

**Section 5.** The rights and privileges granted by their Resolution are granted upon the express condition that the City of Pittsburgh, without liability, reserves the right to cause the removal of said construction upon giving to the said Grantee at least six (6) months written notice through the proper officers, pursuant to a resolution of Council, to the said John Steiner, their successors and assigns, to that effect and that the said Grantee shall when so notified at the expiration of the said six (6) months forthwith remove said construction and replace street to its original condition at their own cost and expense.

**Section 6.** That John Steiner shall be responsible for and shall assume all liability, either of said John Steiner or of the City of Pittsburgh, for damages to persons or property by reason of the construction, maintenance and use of said encroachment and it is a condition of their grant that the City of Pittsburgh assumes no liability for damage to either persons, or property on account of their grant, and that John Steiner, for himself, their successors and assigns, shall, by accepting the terms of their Resolution, hereby indemnify, save harmless and defend the City of Pittsburgh from any and all damages and claims for damages arising by reason of said construction, maintenance and use.

That John Steiner shall maintain in effect during the entire period of their license the following insurance for the protection of the City of Pittsburgh, all premiums being at the expense of the licensee, which insurance shall be non-cancelable except upon thirty (30) days written notice to said City and which insurance shall cover and name said City as an additional insured:

Public Liability	\$ 100,000.00 - \$ 300,000.00
Property Damage	\$ 50,000.00

Prior to commencement of their license and as required by said City, from time to time licensee shall submit proof of the above insurance in the form of a certificate, duly attested by the proper officers or authorized representatives of a responsible insurance company.

**Section 7.** The foregoing rights and privileges are granted subject to the following conditions, to wit: Their Resolution shall become null and void unless within 120 days after its approval the said John Steiner, their successors and assigns, shall file with the Department of Public Works their certificate of acceptance of the provisions thereof, said certificate to be executed by John Steiner.

SECTION 8. That any Resolution or Ordinance or part thereof conflicting with the provisions of this Resolution is hereby repealed so far as the same affects this Resolution. <

Enacted in Council, this 8th day of November, A.D. 1999

Bob O'Connor  
President of Council

ATTEST: Linda M. Johnson-Wasler  
Clerk of Council

MAYOR'S OFFICE November 8, 1999

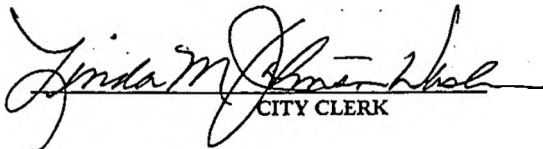
APPROVED: \_\_\_\_\_ Tom Murphy  
Mayor

ATTEST: M Linda Gangewere  
Secretary

Recorded in Resolution Book, Vol. 133 Page 885, 18th day of November, 1999.

EFFECTIVE DATE: November 18, 1999

I HEREBY CERTIFY THAT THE ABOVE  
IS TRUE AND CORRECT

  
CITY CLERK



CERTIFICATE OF ACCEPTANCE

Edwards Way Encr.

KNOW ALL MEN BY THESE PRESENTS

THAT John Steiner, an individual organized under the laws of the State of \_\_\_\_\_, having principal residence in the City of \_\_\_\_\_, said does hereby accept a certain resolution enacted by the Council of the City of Pittsburgh, November 8, 1999, and approved by the Mayor November 8, 1999; the said resolution being: Res. 757

The said John Steiner does hereby covenant and agree that it will do and perform all the things on its part to be done and performed under the terms and conditions of said resolution and that it will be bound by all the provisions and stipulations thereof.

This certificate of acceptance is executed pursuant to the terms of said resolution by

IN WITNESS WHEREOF, the said John Steiner has hereunto caused his signature to be affixed by his hand, this 12<sup>th</sup> day of January, 2000

By: John E. Steiner

Attest: Robert L. [Signature]

**ASSIGNMENT AND ASSUMPTION OF INTEREST IN EASEMENT  
ON EDWARDS WAY**

For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, **JOHN STEINER** ("Assignor") does hereby assign and transfer unto **SOUTH SIDE LOFTS, LP**, a Pennsylvania Limited Partnership ("Assignee"), all of Assignor's right, title and interest to the encroachment granted by Resolution 757 by the Council of the City of Pittsburgh, on November 8<sup>th</sup>, 1999 and recorded in Resolution Book, Volume 133 at Page 885, on November 18<sup>th</sup>, 1999. A copy of the Resolution and Certificate of Acceptance is attached to this Assignment.

Assignee does hereby assume and agree to perform all of Assignor's obligations under the Resolution and does hereby indemnify and agree to hold Assignor harmless from all subsequent liabilities, obligations and expenses thereunder or pertaining thereto for matters occurring after the date hereof.

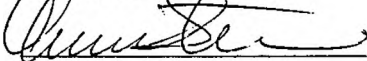
This Assignment and Assumption shall be binding upon and inure to the benefit of the parties hereto and their respective heirs and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 5<sup>th</sup> day of April, 2000.

ATTEST:



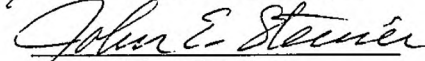
WITNESS/ATTEST:



ASSIGNOR: John Steiner

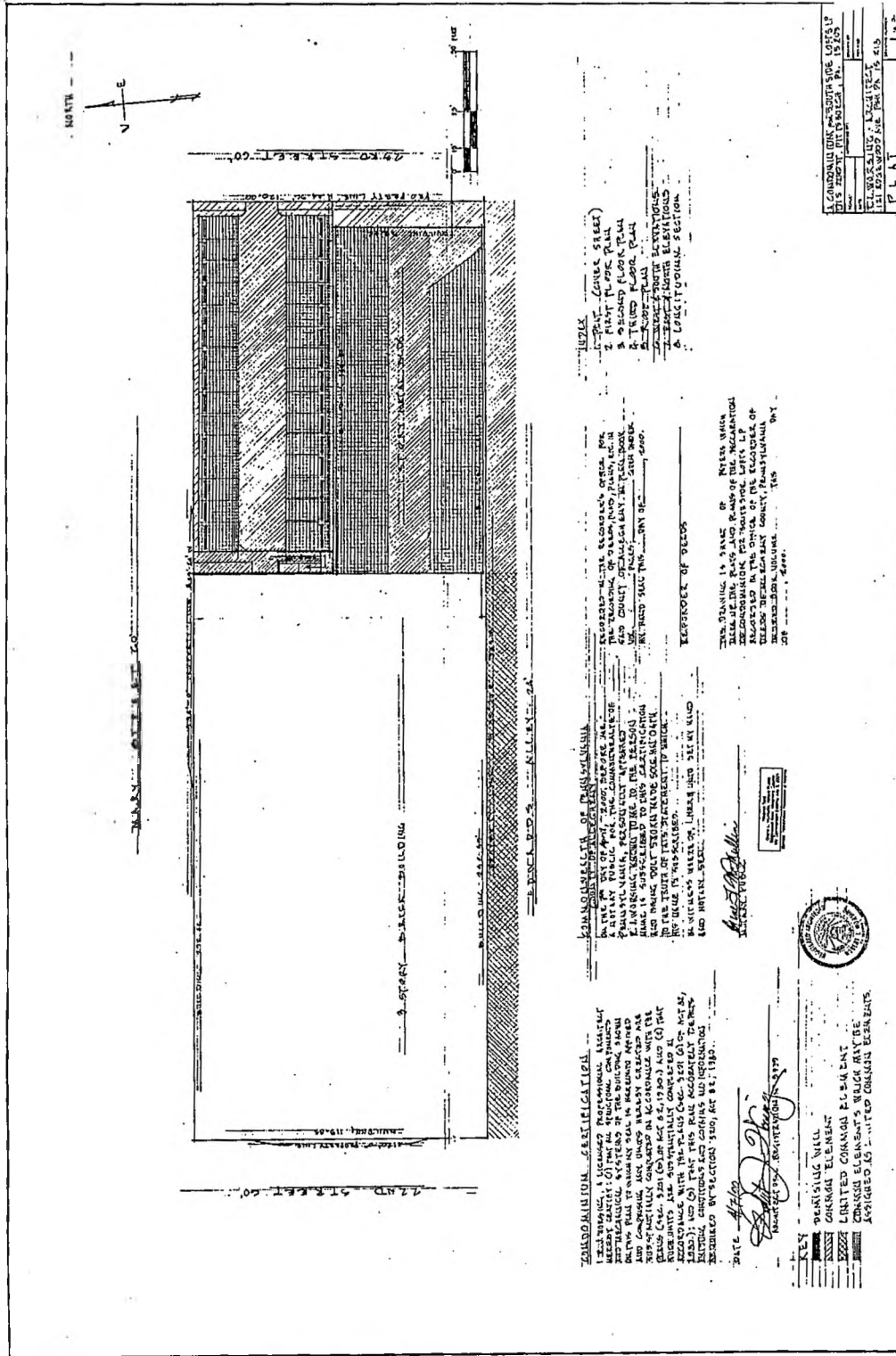


ASSIGNEE: South Side Lofts, LP



John E. Steiner, President  
SSL-GP, Inc. General Partner  
South Side Lofts, LP

SCHEDULE C PLAT & PLANS



**TRANSFORMATION CERTIFICATION**  
 I, the undersigned, Licensed Professional Architect, certify that the above described building is a building of historic interest and that the architectural systems of the building shown on this plan to which this title is assigned are of historic interest and are worthy of preservation. I have prepared this plan in accordance with the provisions of the Chicago Ordinance of 1937, and I have caused to be printed on this plan the name of the architect and the date of the plan. I have caused to be printed on this plan the name of the owner and the date of the plan. I have caused to be printed on this plan the name of the architect and the date of the plan. I have caused to be printed on this plan the name of the owner and the date of the plan.

DATE: 4/2/30  
 ARCHITECT: [Signature]  
 OWNER: [Signature]

**EXPLANATION OF SYMBOLS**  
 IN THE CITY OF CHICAGO, I, the undersigned, a Licensed Professional Architect, certify that the above described building is a building of historic interest and that the architectural systems of the building shown on this plan to which this title is assigned are of historic interest and are worthy of preservation. I have prepared this plan in accordance with the provisions of the Chicago Ordinance of 1937, and I have caused to be printed on this plan the name of the architect and the date of the plan. I have caused to be printed on this plan the name of the owner and the date of the plan. I have caused to be printed on this plan the name of the architect and the date of the plan. I have caused to be printed on this plan the name of the owner and the date of the plan.

DATE: 4/2/30  
 ARCHITECT: [Signature]  
 OWNER: [Signature]

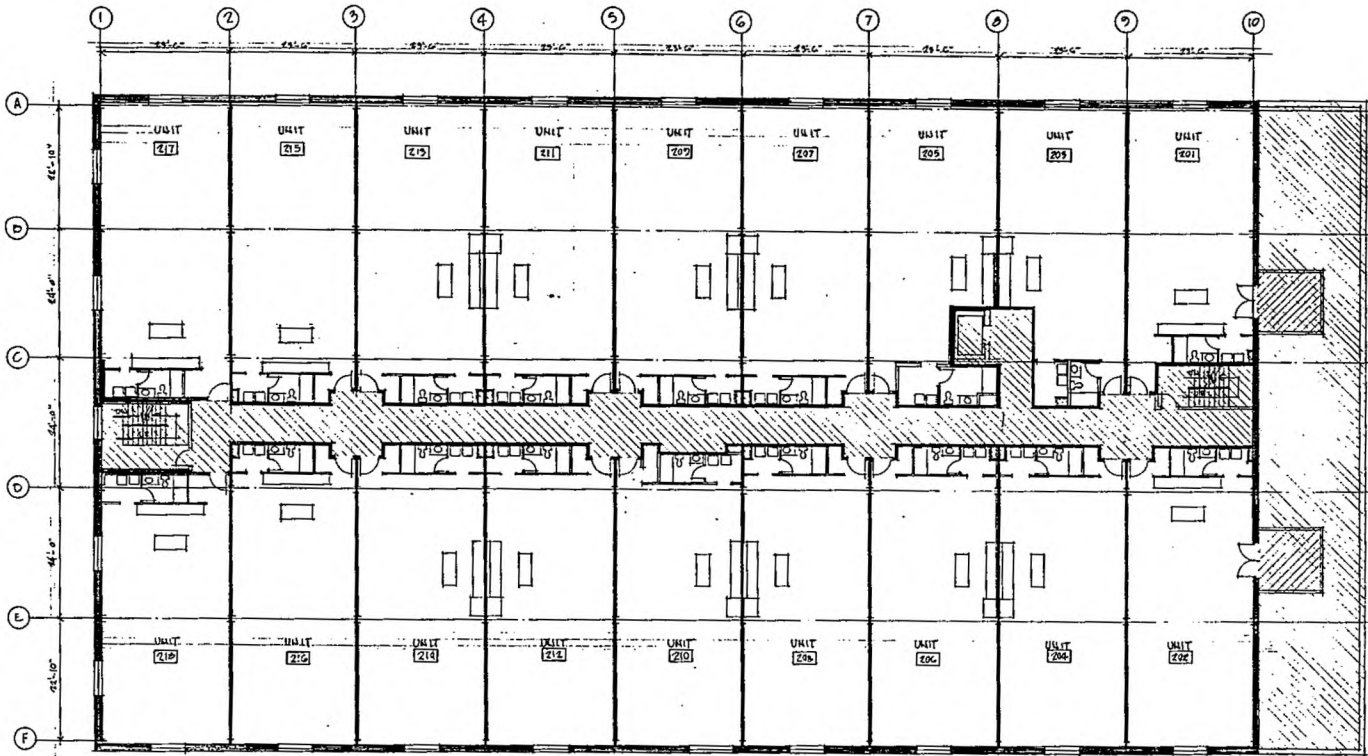
**KEY**  
 PLANKING WITH  
 CHINKS ELEMENT  
 LIMITED CORNICE ELEMENT  
 CORNICE ELEMENTS WHICH MAY BE  
 ASSIGNED TO LIMITED CORNICE ELEMENTS

**KEY**  
 1-PAV. (WOOD FLOOR)  
 2-PAV. (WOOD FLOOR)  
 3-PAV. (WOOD FLOOR)  
 4-PAV. (WOOD FLOOR)  
 5-PAV. (WOOD FLOOR)  
 6-PAV. (WOOD FLOOR)  
 7-PAV. (WOOD FLOOR)  
 8-PAV. (WOOD FLOOR)  
 9-PAV. (WOOD FLOOR)  
 10-PAV. (WOOD FLOOR)



CHICAGO	1930
PLAT	172
OWNER	CHICAGO
ARCHITECT	CHICAGO
DATE	1930





[Symbol] DOMINANT WALL  
 [Symbol] DOMAINS ELEMENT  
 [Symbol] LIMITED COMMON ELEMENT  
 [Symbol] SHARED ELEMENTS WHICH MAY BE  
 INCORPORATED AS LIMITED COMMON ELEMENTS

**COMMONWEALTH OF PENNSYLVANIA**  
**COUNTY OF ALLEGANY**

I, THE UNDERSIGNED, JOHN DEWEAR, JR.,  
 REGISTERED PROFESSIONAL ARCHITECT,  
 BEING DULY SWORN, DEPOSE AND AFFIRM THAT  
 THE FOREGOING IS A TRUE AND CORRECT  
 REPRESENTATION OF THE FACTS AND  
 CONDITIONS AS TO WHICH THIS CERTIFICATE  
 AND SAID PLAN RELATE, TO WIT: THAT  
 THE DRAFT OF THIS INSTRUMENT IS A TRUE  
 AND CORRECT COPY OF THE ORIGINAL  
 AS SUBMITTED TO ME BY THE ARCHITECT,  
 AND THAT I AM NOT PROVIDING ANY  
 ADVICE OR OPINION AS TO THE  
 LEGAL EFFECT OF THIS INSTRUMENT,  
 NOR AS TO THE VALIDITY OF THE  
 RIGHTS OR INTERESTS THEREIN,  
 NOR AS TO THE ADEQUACY OF THE  
 SAID PLAN OR THE ADEQUACY OF THE  
 SAID INSTRUMENT TO CARRY OUT THE  
 INTENT AND PURPOSE OF THE SAID  
 INSTRUMENT.

I, THE UNDERSIGNED, JOHN DEWEAR, JR.,  
 REGISTERED PROFESSIONAL ARCHITECT,  
 DO HEREBY CERTIFY THAT I AM A  
 REGISTERED PROFESSIONAL ARCHITECT  
 IN THE COMMONWEALTH OF PENNSYLVANIA  
 AND THAT I AM NOT PROVIDING ANY  
 ADVICE OR OPINION AS TO THE  
 LEGAL EFFECT OF THIS INSTRUMENT,  
 NOR AS TO THE VALIDITY OF THE  
 RIGHTS OR INTERESTS THEREIN,  
 NOR AS TO THE ADEQUACY OF THE  
 SAID PLAN OR THE ADEQUACY OF THE  
 SAID INSTRUMENT TO CARRY OUT THE  
 INTENT AND PURPOSE OF THE SAID  
 INSTRUMENT.

JOHN DEWEAR, JR.  
 REGISTERED PROFESSIONAL ARCHITECT  
 1000 W. MARKET STREET, SUITE 100  
 PITTSBURGH, PA. 15222

**CONDOMINIUM CERTIFICATION**

I, THE UNDERSIGNED, A LICENSED PROFESSIONAL ARCHITECT,  
 HEREBY CERTIFY THAT ALL STRUCTURAL COMPONENTS  
 AND MECHANICAL SYSTEMS OF THE BUILDING SHOWN  
 HEREON ARE IN ACCORDANCE WITH THE APPLICABLE  
 BUILDING CODES AND REGULATIONS IN EFFECT AT THE  
 TIME OF THE DESIGN AND CONSTRUCTION OF THE  
 BUILDING, AND THAT THE SAME COMPLY WITH THE  
 REQUIREMENTS OF THE PENNSYLVANIA CONDOMINIUM  
 ACT, 68 P.S. § 601, AND THE REGULATIONS THEREUNDER,  
 AND THAT THE PLAN ACCURATELY REPRESENTS THE  
 ACTUAL CONSTRUCTION OF THE BUILDING.

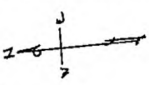
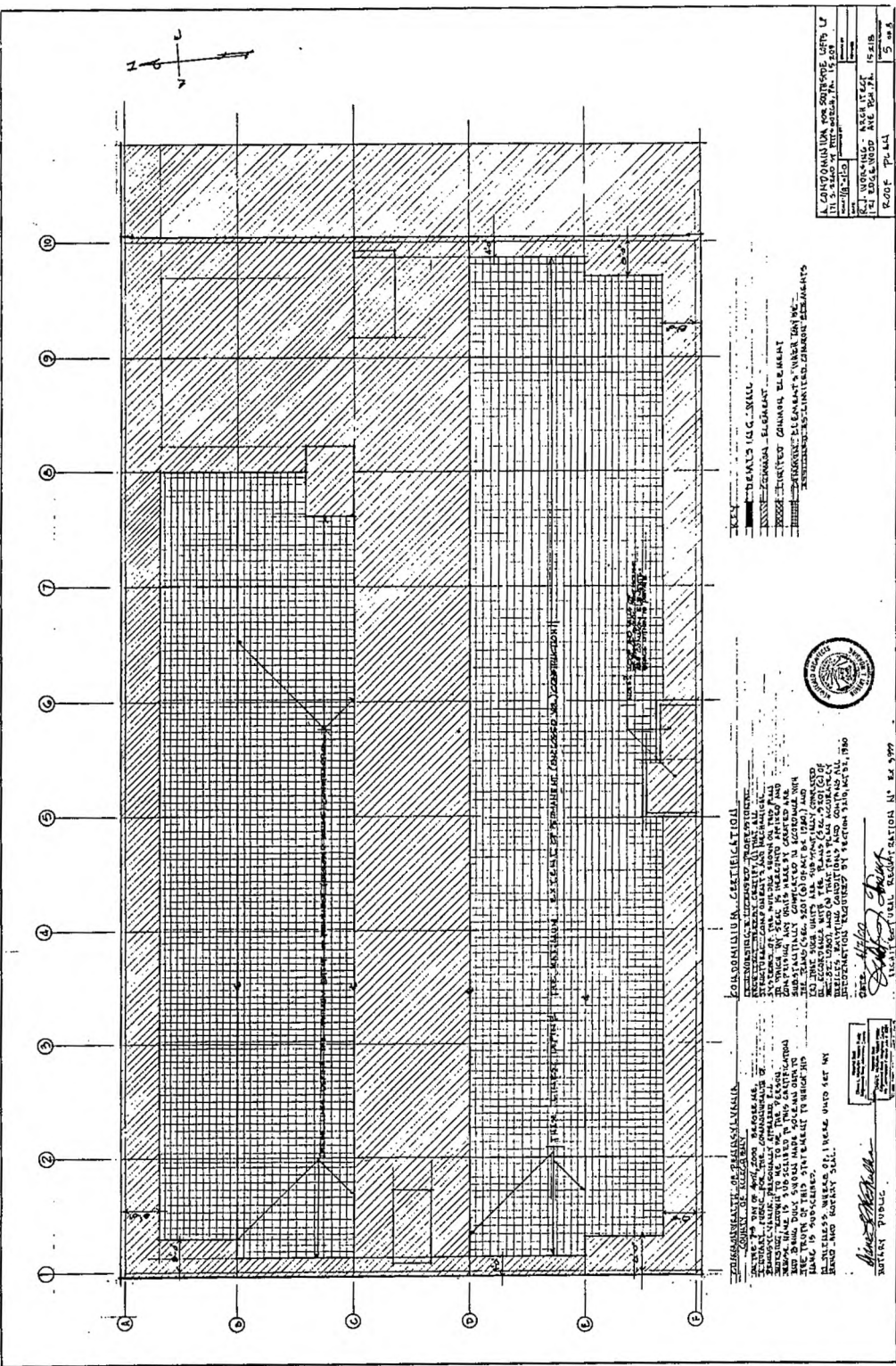
I, THE UNDERSIGNED, A LICENSED PROFESSIONAL ARCHITECT,  
 DO HEREBY CERTIFY THAT I AM A LICENSED  
 PROFESSIONAL ARCHITECT IN THE COMMONWEALTH  
 OF PENNSYLVANIA AND THAT I AM NOT PROVIDING  
 ANY ADVICE OR OPINION AS TO THE LEGAL  
 EFFECT OF THIS INSTRUMENT, NOR AS TO THE  
 VALIDITY OF THE RIGHTS OR INTERESTS  
 THEREIN, NOR AS TO THE ADEQUACY OF THE  
 SAID PLAN OR THE ADEQUACY OF THE SAID  
 INSTRUMENT TO CARRY OUT THE INTENT AND  
 PURPOSE OF THE SAID INSTRUMENT.

JOHN DEWEAR, JR.  
 REGISTERED PROFESSIONAL ARCHITECT  
 1000 W. MARKET STREET, SUITE 100  
 PITTSBURGH, PA. 15222



PROJECT NO. 19-00-1000  
 CONDOMINIUM FOR SOUTHWEST SIDE, UNITS 1-7  
 1111 S. 10TH STREET, PITTSBURGH, PA. 15209  
 ARCHITECT: JOHN DEWEAR, JR.  
 REGISTERED PROFESSIONAL ARCHITECT  
 1000 W. MARKET STREET, SUITE 100  
 PITTSBURGH, PA. 15222  
 DATE: 10/15/15  
 SHEET NO. 3 OF 3





**COMMISSIONER OF PATRIOTISM**  
**DEPARTMENT OF HEALTH**

THIS BUILDING IS SUBJECT TO THE REQUIREMENTS OF THE HEALTH AND SAFETY REGULATIONS OF THE DEPARTMENT OF HEALTH, SUBJECT TO THE REVISIONS THEREOF.

**KEY**  
 --- DEMO'S (U.C. WALL)  
 --- ZENONIA ELEMENT  
 --- CHANGES TO CONCRETE ELEMENT  
 --- STRUCTURAL ELEMENTS TO BE REWORKED

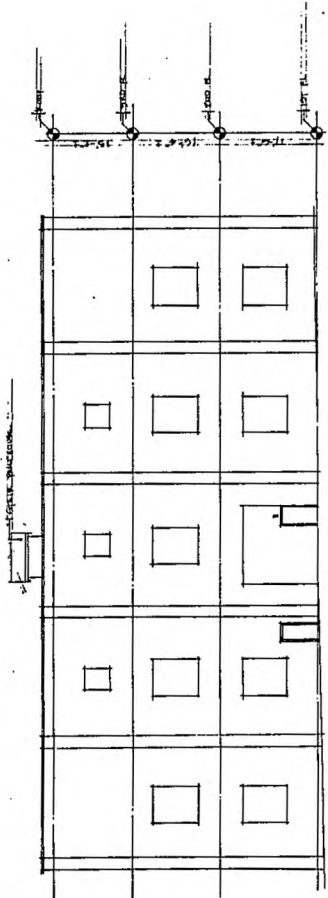
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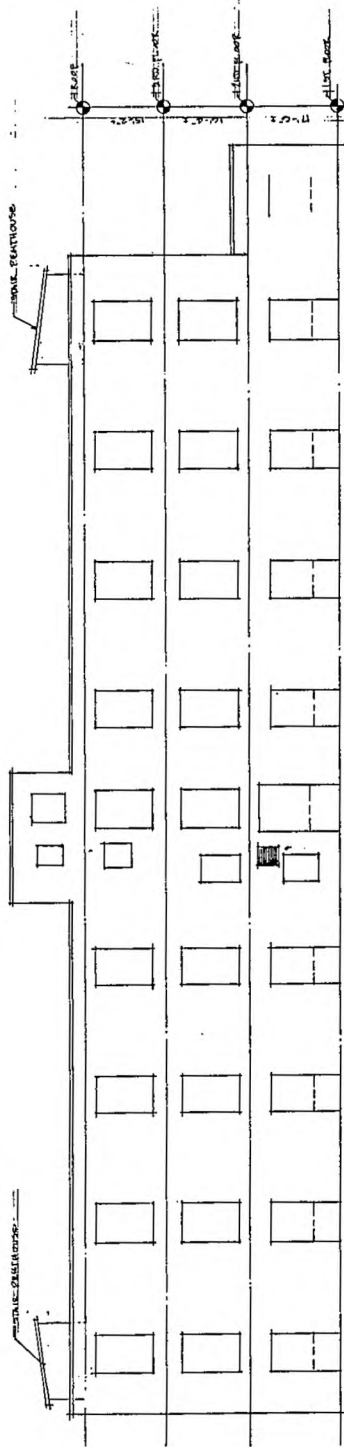
DATE: 12/10/88  
 DRAWN BY: J. J. ...  
 CHECKED BY: J. J. ...  
 SCALE: AS SHOWN

UNIVERSITY OF MICHIGAN LIBRARY





WEST ELEVATION (2450 ST.)



SOUTH ELEVATION (BONNEVILLE AVENUE)

ZONING REGULATIONS - 1928  
 IN THE CITY OF SALT LAKE CITY, UTAH  
 THE BOARD OF CITY PLANNING HAS ADOPTED THE FOLLOWING REGULATIONS:  
 1. ALL BUILDINGS SHALL BE CONFORMANT WITH THE ZONING REGULATIONS.  
 2. THE HEIGHT OF BUILDINGS SHALL NOT EXCEED THE HEIGHTS SPECIFIED IN THE ZONING REGULATIONS.  
 3. THE DISTANCE BETWEEN BUILDINGS SHALL BE AS SPECIFIED IN THE ZONING REGULATIONS.  
 4. THE SETBACKS FROM THE FRONT, SIDE AND REAR LINES SHALL BE AS SPECIFIED IN THE ZONING REGULATIONS.  
 5. THE ARCHITECTURAL DESIGN SHALL BE IN ACCORDANCE WITH THE ZONING REGULATIONS.  
 6. THE USE OF BUILDINGS SHALL BE AS SPECIFIED IN THE ZONING REGULATIONS.  
 7. THE BOARD OF CITY PLANNING HAS THE HONOR TO CERTIFY THAT THE ABOVE REGULATIONS ARE IN ACCORDANCE WITH THE CITY CHARTER AND ORDINANCES.  
 8. THE BOARD OF CITY PLANNING HAS THE HONOR TO CERTIFY THAT THE ABOVE REGULATIONS ARE IN ACCORDANCE WITH THE CITY CHARTER AND ORDINANCES.  
 9. THE BOARD OF CITY PLANNING HAS THE HONOR TO CERTIFY THAT THE ABOVE REGULATIONS ARE IN ACCORDANCE WITH THE CITY CHARTER AND ORDINANCES.  
 10. THE BOARD OF CITY PLANNING HAS THE HONOR TO CERTIFY THAT THE ABOVE REGULATIONS ARE IN ACCORDANCE WITH THE CITY CHARTER AND ORDINANCES.

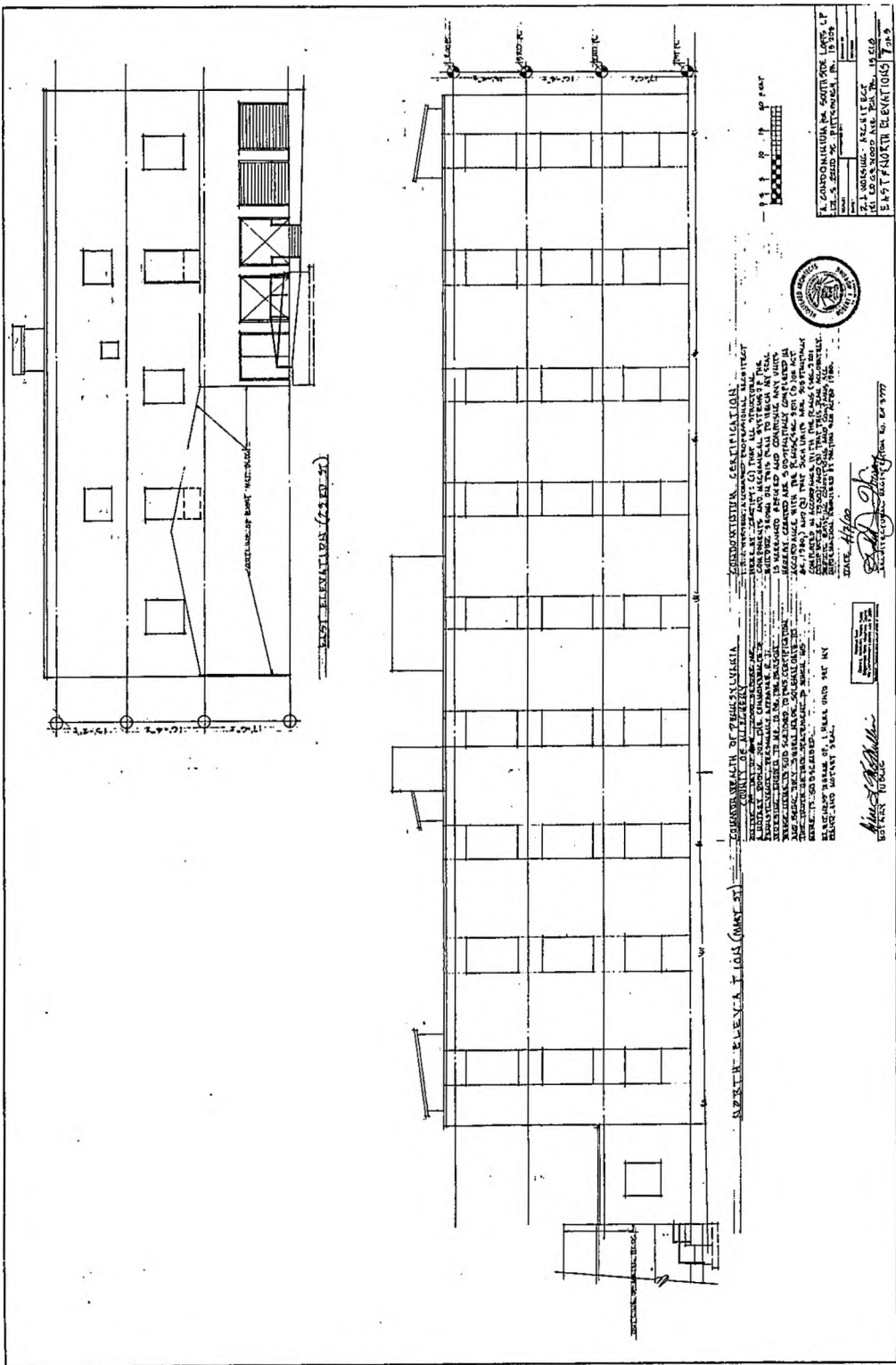
ZONING REGULATIONS - 1928  
 IN THE CITY OF SALT LAKE CITY, UTAH  
 THE BOARD OF CITY PLANNING HAS ADOPTED THE FOLLOWING REGULATIONS:  
 1. ALL BUILDINGS SHALL BE CONFORMANT WITH THE ZONING REGULATIONS.  
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 10. THE BOARD OF CITY PLANNING HAS THE HONOR TO CERTIFY THAT THE ABOVE REGULATIONS ARE IN ACCORDANCE WITH THE CITY CHARTER AND ORDINANCES.



CONSTRUCTION BY: [Name]  
 ARCHITECT: E. L. FRANKLIN  
 11 EXETER AVENUE, SALT LAKE CITY, UTAH  
 NEPTUNE BUILDINGS 600

717 N 15 ST  
 SALT LAKE CITY, UTAH





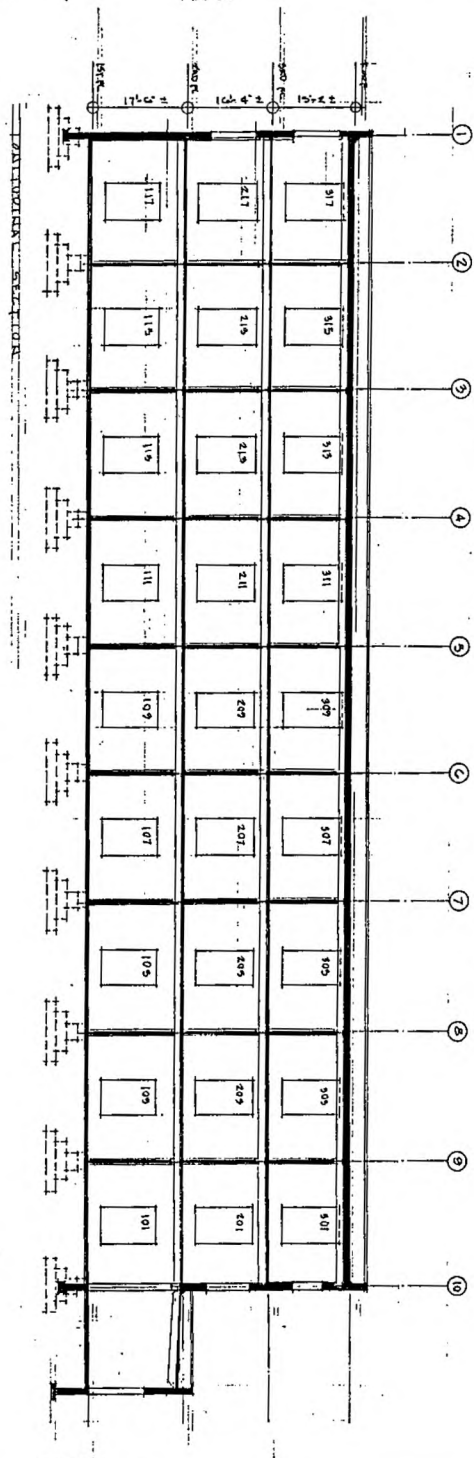
WEST ELEVATION (23' x 100')

CONDOMINIUM CERTIFICATION  
 I, the undersigned, being a duly qualified and licensed Architect, do hereby certify that the above described building is in accordance with the provisions of the Condominium Act, Chapter 486, Laws of 1962, and the rules and regulations thereunder, and that the same is ready for occupancy.  
 I HEREBY CERTIFY THAT THE ABOVE DESCRIBED BUILDING IS IN ACCORDANCE WITH THE PROVISIONS OF THE CONDOMINIUM ACT, CHAPTER 486, LAWS OF 1962, AND THE RULES AND REGULATIONS THEREUNDER, AND THAT THE SAME IS READY FOR OCCUPANCY.  
 DATE: 4/10/68  
 SIGNATURE: [Signature]  
 TITLE: ARCHITECT



CONDOMINIUM PLANS FOR THE SOUTH SIDE OF 17th ST. EAST 100th ST. EAST  
 EAST 100th ST. EAST  
 EAST 100th ST. EAST  
 EAST 100th ST. EAST

STATE OF NEW YORK  
 DEPARTMENT OF STATE  
 OFFICE OF THE STATE ARCHITECT  
 ALBANY, N.Y.



*[Signature]*  
 ARCHITECT  
 1000 ...  
 PHILADELPHIA, PA.



**CONTRACTOR'S CERTIFICATION**  
 I, William W. ..., Licensed Professional Engineer, State of Pennsylvania, License No. 25577, hereby certify that the above described structure was designed and constructed in accordance with the provisions of the Pennsylvania Building Code, 1968 Edition, and the applicable provisions of the Pennsylvania Building Code, 1968 Edition, and the applicable provisions of the Pennsylvania Building Code, 1968 Edition, and the applicable provisions of the Pennsylvania Building Code, 1968 Edition.

**OWNER'S CERTIFICATION**  
 I, ..., hereby certify that the above described structure was constructed in accordance with the provisions of the Pennsylvania Building Code, 1968 Edition, and the applicable provisions of the Pennsylvania Building Code, 1968 Edition, and the applicable provisions of the Pennsylvania Building Code, 1968 Edition.

K. GORON BLUM, Inc. 500 N. 31st St. Philadelphia, Pa. 19104  
 S. J. ...  
 ARCHITECTS AND PLANNERS  
 PHILADELPHIA SECTION

Schedule D

South Side Lofts

Initial undivided percentage interest in common elements

Unit #	approx. sq ft	Percentage Interest
101	1535	1.85185%
102	2126	1.85185%
103	1135	1.85185%
104	1765	1.85185%
105	1120	1.85185%
106	1254	1.85185%
107	1254	1.85185%
108	1254	1.85185%
109	1230	1.85185%
110	1230	1.85185%
111	1254	1.85185%
112	1254	1.85185%
113	1254	1.85185%
114	1980	1.85185%
115	1254	1.85185%
116	1820	1.85185%
117	1093	1.85185%
118	1508	1.85185%
201	1090	1.85185%
202	1254	1.85185%
203	1135	1.85185%
204	1254	1.85185%
205	1190	1.85185%
206	1254	1.85185%
207	1254	1.85185%
208	1254	1.85185%
209	1254	1.85185%
210	1230	1.85185%
211	1254	1.85185%
212	1254	1.85185%
213	1254	1.85185%
214	1254	1.85185%
215	1254	1.85185%
216	1254	1.85185%
217	1265	1.85185%
218	1138	1.85185%

<b>301</b>	1090	1.85185%
<b>302</b>	1254	1.85185%
<b>303</b>	1135	1.85185%
<b>304</b>	1254	1.85185%
<b>305</b>	1190	1.85185%
<b>306</b>	1254	1.85185%
<b>307</b>	1254	1.85185%
<b>308</b>	1254	1.85185%
<b>309</b>	1254	1.85185%
<b>310</b>	1230	1.85185%
<b>311</b>	1254	1.85185%
<b>312</b>	1254	1.85185%
<b>313</b>	1254	1.85185%
<b>314</b>	1254	1.85185%
<b>315</b>	1254	1.85185%
<b>316</b>	1254	1.85185%
<b>317</b>	1265	1.85185%
<b>318</b>	1138	1.85185%

## Exhibit 2

### BYLAWS OF SOUTH SIDE LOFTS CONDOMINIUM ASSOCIATION

#### BYLAWS

#### ARTICLE I Introductory Provisions

1.1. Applicability. These Bylaws provide for the governance of the Association pursuant to the requirements of Section 3306 of the Act with respect to the Condominium created by the recording of the Declaration among the land records of Allegheny County in Deed Book Vol.        at Page        .

1.2. Definitions. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws pertain or, if not defined therein, the meanings specified or used for such terms in the Act.

1.3. Compliance. Pursuant to the provisions of the Act, every Unit Owner and all Persons entitled to occupy a Unit shall comply with these Bylaws.

1.4. Office. The office of the Condominium, the Association, and the Executive Board shall be located at the Property or at such other place as may be designated from time to time by the Executive Board.

1.5. Incorporation of Statutory Law. Except as expressly provided herein, in the Declaration, or in the Act, the Association shall be governed by the provisions of the Non-profit Corporation Law of 1988 of the Commonwealth of Pennsylvania, 15 Pa. C.S. §5101 et seq., as it may be amended from time to time (the "Corporation Law"). The "Board of Directors" described therein shall be referred to herein and in the Declaration as the "Executive Board."

**ARTICLE II**  
**The Association**

II.1. Composition. The Association is hereby organized on the date hereof as an unincorporated association. The Association shall consist of all of the Unit Owners acting as a group in accordance with the Act, the Declaration and these Bylaws. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association pursuant to the Act and the Declaration. The foregoing responsibilities shall be performed by the Executive Board or Managing Agent as more particularly set forth in these Bylaws.

II.2. Annual Meetings. The annual meetings of the Association shall be held on the third Thursday of September of each year unless such date shall occur on a holiday, in which event the meetings shall be held on the succeeding *Monday*. At such annual meetings the Executive Board shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.3 of these Bylaws (subject to Article 11 of the Declaration) and such other business as may properly come before the meeting may be transacted.

II.3. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Executive Board.

II.4. Special Meetings.

II.4.1. The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon a petition signed and presented to the Secretary by Unit Owners entitled to cast at least *twenty-five percent* of the votes in the Association. The notice of any special meeting shall state the time, place and purpose thereof. Such meeting shall be held within forty-five days after receipt by the President of such resolution or petition; provided, however, if the purpose includes the consideration of the rejection of a budget or capital expenditure pursuant to Section 5.8 below, such meeting shall be held within fifteen days after receipt by the President of such resolution or petition. No business shall be transacted at a special meeting except as stated in the notice.

II.4.2. Within sixty days after conveyance of 14 (25.9%) of the Units to Unit Owners other than the Declarant, a special meeting of the Association shall be held at which *two (40%)* of the *five* members of the Executive Board designated by the Declarant shall resign (such members to be selected by the Declarant), and the Unit Owners, excluding the Declarant as a Unit Owner, shall thereupon elect a successor

member of the Executive Board to act in the place and stead of each member resigning. Such successor members shall serve until the annual meeting of the Association following the meeting at which they were elected.

II.4.3. Within sixty days immediately preceding the date by which all Declarant appointed members of the Executive Board must resign pursuant to §11.1(c) of the Declaration, a special meeting of the Association shall be held at which all of the members of the Executive Board shall resign, and the Unit Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect successor members of the Executive Board to act in the place and stead of those resigning. The two successor members receiving the highest numbers of votes shall serve until the third annual meeting of the Association following the date of the election of the successors to the members selected pursuant to Section 2.4.2 above, the two successor members receiving the next highest numbers of votes shall serve until the second annual meeting of the Association following the date of the election of the successors to the members elected pursuant to Section 2.4.2 above, and the successor member receiving the next highest number of votes shall serve until the first annual meeting of the Association following the date of the election of the successors to the members elected pursuant to Section 2.4.2 above.

II.4.4. Notwithstanding the foregoing, if any meeting required pursuant to Sections 2.4.2 and 2.4.3 above could be held on the date an annual meeting of the Association is scheduled, then such meeting(s) shall be held concurrently with such annual meeting.

II.5. Notice of Meetings. The Secretary shall give to each Unit Owner a notice of each annual or regularly-scheduled meeting of the Association at least ten but not more than sixty days, and of each special meeting of the Unit Owners at least ten but not more than forty-five days, prior to such meeting, stating the time, place and purpose thereof, including, without limitation, any proposed budget or assessment changes, the general nature of any proposed amendment to the Bylaws or Declaration, and any proposal to remove an Executive Board member or Officer. The giving of a notice of meeting in the manner provided in this Section and Section 8.1 of these Bylaws shall be considered service of notice.

II.6. Adjournment of Meetings. If at any meeting of the Association a quorum is not present, Unit Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than forty-eight hours after the time for which the original meeting was called.

II.7. Voting. Voting at all meetings of the Association shall be on a percentage basis and the percentages of the vote to which each Unit Owner is entitled shall be the Percentage Interest assigned to such Unit Owner's Unit in the Declaration. If the owner

of a Unit is a corporation, joint venture, partnership or unincorporated association, the natural person who shall be entitled to cast the vote for such unit shall be the natural person named in a certificate executed by such entity pursuant to its governing documents. If the owner of a Unit is a trust, the trustee or trustees shall be deemed to be the owner for voting purposes. Where the ownership of a Unit is in more than one Person, the Person who shall be entitled to cast the vote of such Unit shall be the natural person named in a certificate executed by all of the owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the natural person who shall be entitled to cast the vote of such Unit shall be the natural person owning such Unit who is present. If more than one of the multiple Owners is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to Section 3310(a) of the Act. There shall be deemed to be unanimous agreement if any one of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the Person presiding over the meeting by any of the other Owners of the Unit. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Subject to the requirements of the Act, wherever the approval or disapproval of a Unit Owner is required by the Act, the Declaration or these Bylaws, such approval or disapproval shall be made only by the natural person who would be entitled to cast the vote of such Unit at any meeting of the Association. Except with respect to election of members of the Executive Board and except where a greater number is required by the Act, the Declaration or these Bylaws, the Owners of more than fifty percent of the aggregate Percentage Interests in the Condominium voting in person or by proxy at one time at a duly convened meeting at which a quorum is present is required to adopt decisions at any meeting of the Association. Any specified percentage of the Unit Owners means the Unit Owners owning such Percentage Interests in the aggregate. In all elections for Executive Board members, each Unit Owner shall be entitled to cast for each vacancy to be filled at such election the number of votes allocated to the Unit or Units owned by such Unit Owner as provided in the Declaration. Those candidates for election receiving the greatest number of votes cast in such elections shall be elected and, if Executive Board members are being elected to unequal terms, the candidates receiving the highest number of votes shall be elected to the longest terms. Except as set forth in Section 2.4.2, if the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit or Units are entitled. No votes allocated to a Unit owned by the Association may be cast. There shall be no cumulative or class voting.

11.8. Proxies. A vote may be cast in person or by proxy. If a Unit is owned by more than one Person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. Such proxy may be granted by any Unit Owner in favor of only another Unit Owner, a holder of a mortgage on a Unit or the Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with



the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the Person presiding over the meeting of written notice of revocation from the grantor(s) of the proxy. No proxy shall be valid for a period in excess of one year after the execution thereof. A proxy is void if it is not dated or purports to be revocable without notice.

II.9. Quorum. Except as set forth below, the presence in person or by proxy of Unit Owners of twenty percent or more of the aggregate Percentage Interests at the commencement of all meetings shall constitute a quorum at all meetings of the Unit Owners Association. If a meeting is adjourned pursuant to Section 2.6 above, the quorum at such second meeting shall be deemed present throughout any meeting of the Association if persons entitled to cast ten percent of the votes which may be cast for the election of the Executive Board are present in person or by proxy at the beginning of the meeting.

II.10. Conduct of Meetings. The President (or in the President's absence, one of the vice-presidents) shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Act. All votes shall be tallied by tellers appointed by the President.

### **ARTICLE III Executive Board**

III.1. Number and Qualification. The affairs of the Association shall be governed by an Executive Board. The Executive Board shall be composed of *five* natural persons, all of whom shall be Unit Owners or designees of the Declarant.

III.2. Delegation of Powers; Managing Agent. The Executive Board may employ for the Condominium a "Managing Agent" at a compensation established by the Executive Board. The Managing Agent shall perform such duties and services as the Executive Board shall authorize, including, but not limited to, all of the duties listed in the Act, the Declaration and these Bylaws; provided, however, where a Managing Agent does not have the power to act under the Act, the Declaration or these Bylaws, such duties shall be performed as advisory to the Executive Board. The Executive Board may delegate to the Managing Agent all of the powers granted to the Executive Board by the Act, the Declaration and these Bylaws other than the following powers:

III.2.1. to adopt the annual budget and any amendment thereto or to assess any Common Expenses;

III.2.2. to adopt, repeal or amend Rules and Regulations;

III.2.3. to designate signatories on Association bank accounts;

III.2.4. to borrow money on behalf of the Association;

III.2.5. to acquire and mortgage Units;

III.2.6. to designate Reserved Common Elements;

III.2.7. to allocate Limited Common Elements.

Any contract with the Managing Agent must provide that it may be terminated with cause on no more than thirty days' written notice and without cause on no more than ninety days' written notice. The term of any such contract may not exceed one year.

### III.3. Election and Term of Office.

III.3.1. At the annual meeting of the Association, subject to Article 11 of the Declaration, the election of members of the Executive Board shall be held. The term of office of any Executive Board member to be elected (except as set forth in Section[s] 2.4.2 and 2.4.3 [and 3.5] hereof) shall be fixed at three years. The members of the Executive Board shall hold office until the earlier to occur of the election of their respective successors or their death, adjudication of incompetency, removal, or resignation. An Executive Board member may serve an unlimited number of terms and may succeed himself.

[III.3.2. Persons qualified to be members of the Executive Board may be nominated for election only as follows:

a. Any Unit Owner may submit to the Secretary at least thirty days before the meeting at which the election is to be held a nominating petition signed by Unit Owners owning at least ten Units in the aggregate, together with a statement that the person nominated is willing to serve on the Executive Board and a biographical sketch of the nominee. The Secretary shall mail or hand deliver the submitted items to every Unit Owner along with the notice of such meeting; and

b. Nominations may be submitted from the Floor at the meeting at

which the election is held for each vacancy on the Executive Board for which no more than one person has been nominated by petition.]

III.4. Removal or Resignation of Members of the Executive Board. Except with respect to members designated by the Declarant, at any regular or special meeting of the Association duly called, any one or more of the members of the Executive Board may be removed with or without cause by Unit Owners entitled to cast a majority of all votes in the Association and a successor may then and there be elected to fill the vacancy thus created. Any Unit Owner proposing removal of a Board member shall give notice thereof to the Secretary. Any member whose removal has been proposed by a Unit Owner shall be given at least ten days' notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A member of the Executive Board may resign at any time and shall be deemed to have resigned upon transfer of title to his Unit. The Declarant shall have the right to remove and replace any or all members appointed by the Declarant at any time and from time to time until the required resignation date specified in Section 11.1 of the Declaration.

III.5. Vacancies. Except as set forth in Section 3.4 above with respect to members appointed by the Declarant, vacancies in the Executive Board caused by any reason other than the removal of a member by a vote of Unit Owners shall be filled by a vote of a majority of the remaining members at a special meeting of the Executive Board held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Executive Board for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association at which such seat is to be filled upon expiration of the term of his predecessor. In the case of multiple vacancies, the member receiving the greatest number of votes shall be elected for the longest term.

III.6. Organization Meeting. The first meeting of the Executive Board following each annual meeting of the Association shall be held within ten days thereafter at such time and place as shall be fixed by the President (even if he is the outgoing President) at the meeting at which such Executive Board shall have been elected, and no notice shall be necessary to the newly elected members of the Executive Board in order legally to constitute such meeting, if a majority of the Executive Board members shall be present at such meeting.

III.7. Regular Meetings. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the members, but such meetings shall be held at least every four months during each fiscal year. Notice of regular meetings of the Executive Board shall be given to each

member, by mail or telecopy, at least three business days prior to the day named for such meeting.

III.8. Special Meetings. Special meetings of the Executive Board may be called by the President on at least three business days' notice to each member, given by mail or fax, which notice shall state the time, place and purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two members of the Executive Board.

III.9. Waiver of Notice. Any member may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Executive Board shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all members are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

III.10. Quorum of the Executive Board. At all meetings of the Executive Board a majority of the members shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute the decision of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. One or more members of the Executive Board may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other.

III.11. Compensation. No member of the Executive Board shall receive any compensation from the Association for acting as such, but may be reimbursed for any expenses incurred in the performance of his duties.

III.12. Conduct of Meetings. The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board meetings, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Executive Board if and to the extent not in conflict with the Declaration, these Bylaws or the Act.

III.13. Action Without Meeting. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the

members of the Executive Board shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

**III.14. Validity of Contracts with Interested Executive Board Members.** No contract or other transaction between the Association and one or more of its Executive Board members or between the Association and any corporation, firm or association in which one or more of the Executive Board members are directors or officers, or are financially interested, shall be void or voidable because such Executive Board member or members are present at any meeting of the Executive Board which authorized or approved the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

III.14.1. The fact that an Executive board member is also such a director or officer or has such financial interest is disclosed or known to the Executive Board and is noted in the minutes thereof, and the Executive Board authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Executive Board member or members; or

III.14.2. The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

**III.15. Inclusion of Interested Board Members in the Quorum.** Any Executive Board member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.14 hereof.

#### **ARTICLE IV Officers**

**IV.1. Designation.** The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Executive Board. The Executive Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice President shall be members of the Executive Board. Any other officers may, but need not, be Unit Owners or members of the Executive Board. An officer other than the President may hold more than one office.

**IV.2. Election of Officers.** The officers of the Association shall be elected

annually by the Executive Board at the organization meeting of each new Board and shall hold office at the pleasure of the Executive Board.

IV.3. Removal of Officers. Upon the affirmative vote of a majority of all members of the Executive Board, any officer may be removed, either with or without cause, and a successor may be elected at any meeting of the Executive Board called for such purpose.

IV.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Executive Board and have all of the general powers and duties which are incident to the office of president of a corporation organized under the laws of Pennsylvania including without limitation the power to appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall cease holding such office at such time as the President ceases to be a member of the Executive Board.

IV.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other member of the Executive Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated or assigned to the Vice President by the Executive Board or by the President. The Vice President shall cease holding such office at such time as the Vice President ceases to be a member of the Executive Board.

IV.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board, have charge of such books and papers as the Executive Board may direct, maintain a register setting forth the place to which all notices to Unit Owners and holders of mortgages on any Units hereunder shall be delivered and, in general, perform all the duties incident to the office of secretary of a corporation organized under the laws of Pennsylvania. The Secretary shall, upon request, provide any Person, or cause to be provided to any Person entitled thereto a written statement or certification of the information required to be provided by the Association pursuant to Sections 3315(g), 3407(a) and 3407(b) of the Act and Sections 5.6 and 5.11 below.

IV.7. Treasurer. The Treasurer shall have the responsibility for the safekeeping of Association funds and securities, be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data and be responsible for the deposit of all monies in the name of the Executive Board, the Association or the Managing Agent, in

such depositories as may from time to time be designated by the Executive Board and, in general, perform all the duties incident to the office of treasurer of a corporation organized under the laws of Pennsylvania.

IV.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of \$5,000 shall be executed by any two officers of the Association. All such instruments for expenditures or obligations of \$5,000 or less may be executed by any one officer of the Association.

IV.9. Compensation of Officers. No officer who is also a member of the Executive Board shall receive any compensation from the Association for acting as such officer, but may be reimbursed for any out-of-pocket expenses incurred in performing such officer's duties; provided, however, the Secretary and Treasurer may be compensated for their services if the Executive Board determines such compensation to be appropriate.

## ARTICLE V Common Expenses; Budgets

V.1. Fiscal Year. The fiscal year of the Association shall be *the calendar year* unless otherwise determined by the Executive Board; provided, however, that the first fiscal year shall begin upon the recordation of the Declaration.

V.2. Preparation and Approval of Budget.

V.2.1. On or before the first day of November of each year (or sixty days before the beginning of the fiscal year if the fiscal year is other than the calendar year), the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Executive Board to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. The budget shall segregate General Common Expenses and Limited Expenses.

V.2.2. On or before the next succeeding *fifth day of November* (or fifty-five days before the beginning of the fiscal year if the fiscal year is other than the calendar year), the Executive Board shall make the budget available for inspection at the Association office and shall send to each Unit Owner a copy of the budget in a reasonably itemized form that sets forth the amount of the Common Expenses. Such budget shall constitute the basis for determining each Unit Owner's assessments for General Common Expenses and Limited Expenses for the Association and shall automatically take effect at the beginning of the fiscal year for which it is adopted, subject to Section 5.8 below.

V.2.3. The Executive Board shall make reasonable efforts to meet the deadlines set forth above, but compliance with such deadlines shall not be a condition precedent to the effectiveness of any budget.

V.3. Assessment and Payment of Common Expenses.

V.3.1. General Common Expenses. The Executive Board shall calculate the monthly assessments for General Common Expenses against each Unit by multiplying (a) the total amount of the estimated funds required for the operation of the Property set forth in the budget adopted by the Executive Board for the fiscal year in question, after deducting any Limited Expenses and income expected to be received from sources other than Common Expense assessments and the operation of the Limited or Reserved Common Elements to which the Limited Expenses pertain, by (b) the Percentage Interest (expressed in decimal form) allocated to such Unit, and dividing the resultant product by (c) the number of calendar months in such fiscal year. Such assessments shall be deemed to have been adopted and assessed on an annual basis payable in monthly installments, shall be due and payable on the first day of each calendar month and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration. Within ninety days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each record holder of a mortgage on a Unit who has registered an address with the Secretary an itemized accounting of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to General Common Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners in accordance with their Percentage Interests and shall be payable in one or more monthly assessments, as the Executive Board may determine.

V.3.2. Limited Expenses. The Executive Board shall calculate the monthly assessments for Limited Expenses against each Unit obligated to pay Limited Expenses by multiplying (a) the total amount of the estimated funds required for Limited Expenses set forth in the budget adopted by the Executive Board for the fiscal year in question, after deducting any income expected to be received from the operation of the



Limited or Reserved Common Elements to which the Limited Expenses pertain other than Limited Expense Assessments, by (b) the share of Limited Expenses (expressed in decimal form) allocated to each such Unit, and dividing the resultant product by (c) the number of calendar months in such fiscal year. Such assessments shall be deemed to have been adopted and assessed on an annual basis payable in monthly installments, shall be due and payable on the first day of each calendar month and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration. Within ninety days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each record holder of a mortgage on a Unit who has registered an address with the Secretary an itemized accounting of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to Limited Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners obligated to pay Limited Expenses in accordance with their allocable share of Limited Expenses and shall be payable in one or more monthly assessments, as the Executive Board may determine.

V.3.3. Reserves. The Executive Board shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may be charged first against such reserves. If the reserves are deemed to be inadequate for any reason, including non-payment of any Unit Owner's assessments, the Executive Board may at any time levy further assessments for General Common Expense and/or Limited Expense which shall be assessed against the Unit Owners either according to their respective Percentage Interests with regard to General Common Expenses or in accordance with allocable shares of Limited Expenses with regard to Limited Expenses (whichever is appropriate), and shall be payable in one or more monthly assessments as the Executive Board may determine.

V.4. Further Assessments. The Executive Board shall serve notice on all Unit Owners of any further assessments pursuant to Sections 5.3.1, 5.3.2 or 5.3.3 or otherwise as permitted or required by the Act, the Declaration and these Bylaws by a statement in writing giving the amount and reasons therefor, and such further assessments shall, unless otherwise specified in the notice, become effective with the next monthly assessment which is due more than ten days after the delivery of such notice of further assessments. All Unit Owners so assessed shall be obligated to pay the amount of such assessments. Such assessments shall be a lien as of the effective date as set forth in the preceding Sections 5.3.1 and 5.3.2.

V.5. Initial Budget. At or prior to the time assessment of Common Expenses commences, the Executive Board shall adopt the budget, as described in this Article, for the period commencing on the date the Executive Board determines that

assessments shall begin and ending on the last day of the fiscal year during which such commencement date occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as is provided in Section 5.3 above.

V.6. Delivery of Approved Budget and Notice of Capital Expenditure; Effect of Failure to Prepare or Adopt Budget. The Executive Board shall deliver to all Unit Owners copies of each budget approved by the Executive Board and notice of any capital expenditure approved by the Executive Board promptly after each such approval. The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay such Unit Owner's allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each assessment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

V.7. Accounts; Audits. All sums collected by the Executive Board with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund. All books and records of the Association shall be kept in accordance with good and accepted accounting practices, and the same shall be audited at least once each year by an independent accountant retained by the Executive Board.

V.8. Rejection of Budget; Limitations on Expenditures and Borrowing. Anything herein to the contrary notwithstanding, the Association, by majority vote of all votes in the Association, may reject any budget or capital expenditure approved by the Executive Board, within thirty days after approval by the Executive Board. The power of the Executive Board to expend funds, incur expenses or borrow money on behalf of the Association is subject to the requirement that the consent of Unit Owners entitled to cast at least two-thirds of the votes in the Association obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to (i) expend funds or incur expenses that it is reasonably anticipated will cause the aggregate amount of all expenses in the budget (including reserves) to be exceeded by more than 5% of such aggregate amount after taking into account any projected increases in income, and (ii) to borrow money so that loans of the Association then outstanding would exceed 5% of such aggregate amount.

V.9. Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses assessed by the Executive Board pursuant to the provisions of this Article V. No Unit Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance by him in fee of such Unit. The purchaser of a Unit shall

be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of such recordation, without prejudice for the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within five days following a written request therefor to the Executive Board or Managing Agent and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments with respect to the time period covered by such statement, in excess of the amount therein set forth; and, provided further that, subject to Section 3315(b)(2) of the Act, each record holder of a mortgage on a Unit who comes into possession of a Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such holder comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit.

V.10. Collection of Assessments. The Executive Board or the Managing Agent, at the request of the Executive Board, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than thirty days from the due date for payment thereof. Any assessment not paid within five days after its due date shall accrue a late charge in the amount of five percent of the overdue assessment in addition to interest at the rate of fifteen percent per annum or such other rate as may be determined by the Executive Board.

V.11. Statement of Common Expenses. The Executive Board shall promptly provide any Unit Owner, contact purchaser or proposed mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Executive Board may impose a reasonable charge for the preparation of such statement to cover the cost of its preparation, to the extent permitted by the Act.

## **ARTICLE VI Compliance and Default**

VI.1. Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of Declaration, these Bylaws, the Rules and Regulations and the Act, as any of the same may be amended from time to time. In addition to the remedies provided in the Act and the Declaration, a default by a Unit Owner shall entitle the Association, acting through its Executive Board or through the Managing Agent, to the following relief:

VI.1.1. Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of his tenants, guests, invitees or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Executive Board. Such liability shall include any increase in casualty insurance premiums occasioned by improper use, misuse, occupancy or abandonment of any Units or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

VI.1.2. Costs and Attorney's Fees. In any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the court.

VI.1.3. No Waiver of Rights. The failure of the Association, the Executive Board or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws, the Executive Board Rules and Regulations or the Act shall not constitute a waiver of the right of the Association, the Executive Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Executive Board or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws, the Rules and Regulations or the Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration, these Bylaws, the Rules and Regulations or the Act or at law or in equity.

VI.1.4. Abating and Enjoining Violations by Unit Owners. The violation of any of the Executive Board Rules and Regulations adopted by the Executive Board, the breach of any Bylaw contained herein or the breach of any provision of the Declaration or the Act shall give the Executive Board the right, in addition to any other rights: (a) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

**ARTICLE VII**  
**Amendments**

VII.1. Amendments to Bylaws. These Bylaws may be modified or amended only by vote of Unit Owners entitled to cast a majority of the votes in the Association, except as otherwise expressly set forth herein or in the Act; provided, however, that until the date on which all Declarant-appointed Board members voluntarily resign or are required to resign pursuant to Article 14 of the Declaration, (i) Section 2.4, (ii) Section 3.1, and (iii) this Section 7.1 may not be amended without the consent in writing of the Declarant. Additionally, if any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of these Bylaws that is defective, missing or inconsistent with any other provision hereof, or with the Act or the Declaration, or if such amendment is necessary to conform to the requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with respect to condominium projects, then at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any liens on all or any part of the Property, upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this sentence.

VII.2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights and interests of record holders of mortgages on Units. Such provisions in these Bylaws are to be construed as covenants for the protection of such holders on which they may rely in making loans secured by such mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of such a holder shall be adopted without the prior written consent of such holders who have registered an address with the Secretary.

VII.3. Amendments to the Declaration. Any two officers or Executive Board members of the Association may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

**ARTICLE VIII**  
**Miscellaneous**

VIII.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt, postage prepaid (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Owner, or (ii) if to the Association, the Executive Board or to the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one Person, each such Person who so designates a single address in writing to the Secretary shall be entitled to receive all notices hereunder.

VIII.2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

VIII.3. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

**Exhibit 3**  
**South Side Lofts**  
**Projected Operating Budget for**  
**the date of Conveyance and One year after the Date**

	1st Year	2nd Year
<b>Operating</b>		
Elevator	\$ 1,860	\$ 1,900
Garbage and Trash removal	\$ 720	\$ 720
Lighting	\$ 8,400	\$ 9,000
Water & Sewage	\$ 15,000	\$ 16,000
Gas	\$ 1,800	\$ 2,000
Custodial	\$ 12,000	\$ 12,000
<b>Administrative</b>		
Supplies & Phone	\$ 1,000	\$ 1,000
Legal & Accounting	\$ 1,200	\$ 1,200
Management	\$ 6,000	\$ 6,000
Miscellaneous	\$ 1,000	\$ 1,000
<b>Maintenance</b>		
Repairs	\$ 10,000	\$ 10,000
Insurance	\$ 8,000	\$ 9,000
Snow removal	\$ 1,500	\$ 1,500
<b>Replacement Reserve</b>		
roof reserve	\$ 6,500	\$ 6,500
	\$ 8,500	\$ 8,500
Year Totals	\$ 83,480	\$ 86,320
Per unit Year Total	\$ 1,546	\$ 1,599
Monthly Unit assessment	\$ 129	\$ 133

Exhibit 4 Roof Report



Michael/Howard, Inc.

174 Sandy Creek Road • Verona, Pennsylvania 15147

January 04, 2000

Southside Lofts - LP  
SSL-GP  
121 Edgewood Avenue  
Pittsburgh, PA 15218

Attention: Mr. John E. Steiner

Project: Roof of the main building  
2250 Mary St., Pgh. 15203

Dear Mr. Steiner:

After the inspection of the roof system at 2250 Mary St., I offer the following opinions and comments:

- 1) The existing ballasted roof system currently on the roof since 1988, is in good physical condition. Basic inspection two times a year is suggested (spring & fall). Roof inspection cost would be \$225 per inspections (includes clearing of drains and a written report).
- 2) In 1999 the parapet walls and the stairwells were redone to bring roof back into shape.
- 3) With a routine maintenance program (2 times per year) this roof should last another five years with no major problems.
- 4) At today's prices in the roofing industry, to reroof all the flat roof areas (approx. 28,000 square feet) the cost is as follows: Remove existing EPDM roof system and install a new roof system with 1/2" insulation, new .045 EPDM, all flashings and terminations, with a 10 year warranty, total price would be \$84,900. This also includes the take down and the re-installation of the wooden deck on the roof.

Should you have any questions or require any further information, please feel free to give me a call.

Sincerely,

Jeff Majocha  
Roofing Dept.



may be necessary or desirable to establish the title to the estate or interest.

(i) to pay or otherwise settle with other parties for or in the name  
continued on next page of cover sheet

**Lawyers Title**  
**Insurance Corporation**  
A LANDAMERICA COMPANY  
NATIONAL HEADQUARTERS  
RICHMOND, VIRGINIA  
OWNER'S POLICY

**Exhibit 5**  
**Title Policy**

SCHEDULE A

CASE NUMBER	DATE OF POLICY	AMOUNT OF INSURANCE	POLICY NUMBER
185684	June 18, 1999	\$ 925,000.00	136-01-281202

1. NAME OF INSURED:

South Side Lofts, L.P.

2. THE ESTATE OR INTEREST IN THE LAND WHICH IS COVERED BY THIS POLICY IS FEE SIMPLE.

3. TITLE TO THE ESTATE OR INTEREST IN THE LAND IS VESTED IN:

South Side Lofts, L.P.

4. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

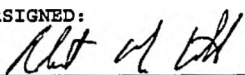
ALL THAT CERTAIN lot or piece of ground situate in the 16th Ward of the City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, being bounded and described as follows:

BEGINNING at the southeasterly corner of South 22nd Street and Mary Street; thence eastwardly along Mary Street, a distance of 384 feet, more or less, to the westerly side of South 23rd Street; thence southwardly along South 23rd Street, a distance of 132 feet, more or less, to the line of the Penn-Central Railroad, formerly the line of the Pittsburgh, Virginia and Charleston Railroad; thence westwardly along the line of said railroad, a distance of 384 feet, more or less, (continued)

Issued at Pittsburgh, Pennsylvania  
Pittsburgh Branch Office

LAWYERS TITLE INSURANCE CORPORATION

COUNTERSIGNED:

  
Robert M. Wilson, Branch Counsel  
/mlh

This policy is invalid  
unless the cover sheet and  
Schedule B are attached

Policy 136 / ALTA Owner's Policy (10-17-92)

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# Lawyers Title Insurance Corporation

A LANDAMERICA COMPANY

NATIONAL HEADQUARTERS

RICHMOND, VIRGINIA

OWNER'S POLICY

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SCHEDULE A (continued)

to the easterly side of South 22nd Street; thence northwardly along South 22nd Street, a distance of 132 feet, more or less, to the northeasterly corner of South 22nd Street and Main Street, the place of BEGINNING.

BEING designated as Block 12-R, Lot 70 in the records of the Deed Registry Office of Allegheny County, Pennsylvania.

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Policy Number: 136-01-281202

Case Number: 185684

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# Lawyers Title Insurance Corporation

A LANDAMERICA COMPANY

NATIONAL HEADQUARTERS

RICHMOND, VIRGINIA

OWNER'S POLICY

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## SCHEDULE B

### Exceptions from Coverage

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Easements or servitudes which are unrecorded or are apparent from an inspection of the premises and any variation in location or dimensions, conflict with lines of adjoining property, encroachments, projections or other matters which might be disclosed by an accurate survey of the premises.
2. All rights or claims of parties in possession of any portion of the land.
3. Any reservations, restrictions, limitations, conditions or agreements set forth in the instrument by which title is vested in the Insured.
4. Any taxes for the current year which may be hereafter assessed.
5. Current water and sewer rents.
6. Rights of the public, if any, in Edwards Way, as referenced in the deed from Vera Brinn, widow to Charles I. Brinn and Rita Brinn, dated February 14, 1979 and recorded February 15, 1979 in Deed Book Volume 6069, Page 485.
7. Right of way of the Penn-Central Railroad, formerly the line of the Pittsburgh, Virginia and Charleston Railroad insofar as subject premises are affected thereby, particularly the rights of said Company to use additional width for cuts, fills, drains, slopes, etc., necessary in the operation of its railroad.
8. Mortgage from South Side Lofts, LP, A Pennsylvania Limited Partnership, to Parkvale Savings Bank dated June 18, 1999 and recorded June 18, 1999 in Mortgage Book Volume 18823, Page 391 in the amount of \$3,000,000.00.
9. Assignment of Rents and Leases from South Side Loft, LP, to Parkvale Savings Bank dated June 18, 1999 and recorded June 18, 1999 in Deed Book Volume 10506, page 28.
10. UCC from South Side Loft, LP, to Parkvale Savings Bank, recorded June 18, 1999 at UCC99-4395.
11. 1999 School Taxes.

THIS PAGE CONSTITUTES THE LAST PAGE OF SCHEDULE B.

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Policy Number: 136-01-281202

Case Number: 185684

Policy 136 / ALTA Owner's Policy (10-17-92)

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# Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS  
RICHMOND, VIRGINIA

**1992 ALTA  
Owner's Policy**

Owner's Policy Number  
**136 - 01 - 281202**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, LAWYERS TITLE INSURANCE CORPORATION, a Virginia corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company also will pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

#### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including, but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**CONDITIONS AND STIPULATIONS—CONTINUED**

the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the president, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**16. SEVERABILITY.**

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

**17. NOTICES, WHERE SENT.**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to its Corporate Headquarters, 6630 West Broad Street, Richmond, Virginia 23230. Mailing address: P.O. Box 27567, Richmond, Virginia 23261.

IN WITNESS WHEREOF the Company has caused this policy to be signed and sealed, to be valid when Schedule A is countersigned by an authorized officer or agent of the Company, all in accordance with its By-Laws.

Attest:

Secretary



**Lawyers Title Insurance Corporation**

By:

President



**POLICY OF TITLE INSURANCE**

**A WORD OF THANKS . . .**

As we make your policy a part of our permanent records, we want to express our appreciation of this evidence of your faith in Lawyers Title Insurance Corporation.

There is no recurring premium.

This policy provides valuable title protection and we suggest you keep it in a safe place where it will be readily available for future reference.

If you have any questions about the protection provided by this policy, contact the office that issued your policy or you may write to:

Consumer Affairs Department

**Lawyers Title Insurance Corporation**

P.O. Box 27567

Richmond, Virginia 23261

TOLL FREE NUMBER: 1-800-446-7086



The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

## 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

## 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

## 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest,

or not it shall be liable hereunder, and shall not thereby be deemed to waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

## 5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

## 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name

continued on next page of cover s

Lawyers Title