

212

ORDINANCE NO. F-0128

**AN ORDINANCE AUTHORIZING THE SETTLEMENT AND CLOSING OF
PROPERTY COMMONLY KNOWN AS THE "STEINBRECHER"
PARCEL FOR MUNICIPAL PURPOSES BY THE CITY OF WHEATON, ILLINOIS**

WHEREAS, the City of Wheaton, Illinois (the "City"), on March 1, 1993 passed and approved Ordinance No. E-3888 entitled, "An Ordinance Proposing the Designation of a Redevelopment Project Area and Calling a Public Hearing in Connection Therewith;" and

WHEREAS, the City on October 18, 1993 passed and approved Ordinance No. E-3903 entitled, "An Ordinance of the City of Wheaton, DuPage County, Illinois, approving a Tax Increment Redevelopment Plan and Redevelopment Project for the Downtown Wheaton Redevelopment Project Area;" and

WHEREAS, the City on October 18, 1993 passed and approved Ordinance No. E-3904 entitled, "An Ordinance of the City of Wheaton, DuPage County, Illinois, Designating the Downtown Wheaton Redevelopment Project Area a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act;" and

WHEREAS, the City on October 18, 1993 passed and approved Ordinance No. E-3905 entitled, "An Ordinance of the City of Wheaton, DuPage County, Illinois, Adopting Tax Increment Allocation Financing for the Downtown Wheaton Redevelopment Project Area;" and

WHEREAS, the City on March 21, 1994 passed and approved Ordinance No. [E-]3974 entitled, "An Ordinance Authorizing the Negotiation for the Acquisition of Certain Properties Collectively Known as 'Redevelopment Project Sites, Phase I and Phase II' for Municipal Purposes by the City of Wheaton, Illinois;" and

WHEREAS, the City has adopted Resolutions R-06-94 and R-07-94 authorizing the City Manager to negotiate redevelopment agreements with prospective developers of certain sites within the Downtown Wheaton Redevelopment Project (the "Project"); and

WHEREAS, the City acting through the City Manager and the City Staff has proceeded to take steps to carry out the directives of the various ordinances and resolutions related to the proposed redevelopment of the areas described in the various ordinances pertaining to the Project area; and

WHEREAS, the City has, under and by virtue of the Illinois Municipal Code, and specifically pursuant to section 5/11-74.4-4 thereof (65 ILCS 5/11-74.4-4 (West 1992)), to acquire (by purchase, donation, lease or eminent domain) real estate located within the Project area in order to achieve the objectives of the redevelopment plan and project; and

WHEREAS, the City has, under and by virtue of the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq. (West, 1992)), and specifically pursuant to section 11-61-1 thereof, the right and power to acquire by eminent domain all real property, useful, advantageous or desirable for municipal purposes or public welfare.

WHEREAS, the City on October 3, 1994 passed and approved Ordinance No. [E-]4032 entitled, "An Ordinance Authorizing the Acquisition Through Condemnation of Property Commonly Known as 'Steinbrecher' for Municipal Purposes by the City of Wheaton, Illinois," empowering the Mayor and City Council, acting through the City Manager and the City's land acquisition counsel, to take the necessary steps to acquire title to the real estate described in Exhibit "A" attached thereto ("Steinbrecher Parcel") by eminent domain and to file all necessary condemnation pleadings to so acquire such real estate parcel; and

WHEREAS, subsequent to the adoption of Ordinance [E-]4032 negotiations for acquisition of the Steinbrecher Parcel were undertaken, but failed to produce an agreement, and a Complaint for Condemnation was filed in the Eighteenth Judicial Circuit for the State of Illinois, DuPage County, Illinois, under Case Number 95 ED 11 on April 18, 1995; such case is currently pending in the Eighteenth Judicial Circuit of DuPage County, Illinois; and

WHEREAS, the attorneys for the parties in such Case Number 95 ED 11 engaged in extensive negotiations for the settlement of Case Number 95 ED 11, and the parties have determined that this cause be settled and compromised by payment of the total sum of \$715,000.00, representing just compensation for the taking of the property legally described in **Exhibit "A"** attached hereto and made a part hereof and for the settlement of any and all claims that were or could have been brought by the Defendants in Case Number 95 ED 11 related to such eminent domain suit and settlement thereof; the terms of the settlement being encompassed within the Stipulation and Settlement Agreement a copy of which is attached hereto and made a part hereof as **Exhibit "B"**; and

WHEREAS, the City Council of the City of Wheaton deems it advisable and in the public interest and welfare to acquire fee simple title to more real estate (the Steinbrecher Parcel) within the Project area for one or more of the above purposes; and

WHEREAS, the City Council of the City of Wheaton has determined that the Stipulation and Settlement Agreement is acceptable; and

WHEREAS, the Mayor and the land acquisition counsel of the City of Wheaton are hereby authorized to execute the Stipulation and Settlement Agreement and to present such Stipulation and Settlement Agreement to the Court when fully executed, and further to proceed in accordance with such Stipulation and Settlement

Agreement to take all necessary steps to acquire title in the City of Wheaton to the Steinbrecher Parcel described in Exhibit "A", provided that, within seven (7) calendar days of passage and approval of this Ordinance, the City's land acquisition counsel confirms with the City through the Mayor and/or the City Manager that the Stipulation and Settlement Agreement has been signed by all Defendants as set forth in the Stipulation and Settlement Agreement; and

WHEREAS, if, within seven (7) calendar days of passage and approval of this Ordinance, the City's land acquisition counsel has not confirmed that the Stipulation and Settlement Agreement has been signed by all Defendants as set forth in the Stipulation and Settlement Agreement, then the Mayor and land acquisition counsel of the City of Wheaton shall not execute the Stipulation and Settlement Agreement and the City's land acquisition counsel shall immediately thereafter take steps to proceed to a judicial resolution of just compensation in Case Number 95 ED 11 at the earliest practical date.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Illinois, as follows:

SECTION 1: That the above recitals are incorporated herein by reference.

SECTION 2: That it is necessary and desirable that the real estate described in Exhibit "A" hereto (Steinbrecher Parcel) be acquired by the City of Wheaton for one or more of the purposes set forth above.

SECTION 3: That the Mayor and City Council, acting through their authorized agents and land acquisition counsel be, and they hereby are, empowered to take the necessary steps to acquire title to the real estate, described as set forth in Exhibit "A" attached hereto.

SECTION 4: That subject to the limitations of the last two recitals (Whereas clauses) above, the Mayor and the land acquisition counsel for the City of Wheaton are hereby authorized and directed to execute the Stipulation and Settlement Agreement attached hereto as Exhibit "B" and the land acquisition counsel for the City of Wheaton is authorized and directed to present such Stipulation and Settlement Agreement to the Court, and further to proceed in accordance with such Stipulation and Settlement Agreement to take all necessary steps needed to acquire title in the City of Wheaton to the real estate described in Exhibit "A" (Steinbrecher Parcel). In the event, however, that the land acquisition counsel reports that one or more of the Defendants failed or refused to sign the Stipulation and Settlement Agreement, the Mayor and the land acquisition counsel shall not execute the Stipulation and Settlement Agreement, and the land acquisition

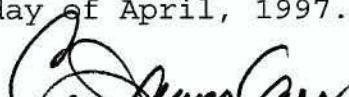
counsel shall proceed to have said Case Number 95 ED 11 set for trial by jury.

SECTION 5: That upon written direction from the land acquisition counsel for the City of Wheaton, the Treasurer/Finance Officer of the City of Wheaton is authorized to issue a check, draft or wire transfer in the amount of \$715,000.00 to the Treasurer of DuPage County, Illinois in satisfaction of the Stipulation and Settlement Agreement and the proposed Agreed Final Judgment Order to be entered in Case Number 95 ED 11, for payment to the owners of the property described in Exhibit "A".

SECTION 6: That the land acquisition counsel, if directed, and staff of the City of Wheaton, take the necessary steps after acquiring the Steinbrecher Parcel to properly remove such real estate from the general real estate tax rolls.

SECTION 7: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED and APPROVED by the City Council of the City of Wheaton, Illinois, this the 7th day of April, 1997.


C. James Carr
Mayor

ATTEST:


Emily M. Consolazio
City Clerk

Ayes:

Roll Call Vote:

Councilman Mork
Councilwoman Davenport
Councilman Gerig
Mayor Pro Tem Eckhoff
Councilman Gresk
Councilwoman Johnson

Nays:

None

Absent:

Mayor Carr

Motion Carried Unanimously

Passed: April 7, 1997

Published: April 8, 1997

EXHIBITS TO ORDINANCE NO.

EXHIBIT A: Legal description of the "Steinbrecher Parcel"

EXHIBIT B: Stipulation and Settlement Agreement

THE NORTH 60 FEET OF LOT 8; LOT 9 (EXCEPT THE WEST 9 FEET LYING SOUTH OF THE NORTH 60 FEET OF SAID LOT 9) AND THE SOUTH HALF OF THE VACATED 33 FOOT WIDE ALLEY LYING NORTH OF AND ADJOINING SAID LOTS 8 AND 9, IN BLOCK 1 IN GARY'S ADDITION TO THE TOWN OF WHEATON, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT 11973, IN DU PAGE COUNTY, ILLINOIS.

PERMANENT PARCEL NUMBER: 05-17-404-012

EXHIBIT "A"
TO ORDINANCE NO. _____

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DU PAGE COUNTY, WHEATON, ILLINOIS

CITY OF WHEATON, an Illinois Home)
Rule Municipal Corporation,)

Plaintiff,)

v.) NO. 95 ED 11

AMERICAN NATIONAL BANK AND TRUST)
COMPANY OF CHICAGO, Successor)
Trustee to First Chicago Trust)
Company of Illinois, Successor)
Trustee to Gary-Wheaton Bank, as)
Trustee under Trust Agreement)
dated May 15, 1985 and known as)
Trust Number 7164; HAROLD F.)
STEINBRECHER; JANET F.)
STEINBRECHER; HAROLD F.)
STEINBRECHER JR., doing business)
as Steinbrecher Surveying; THE)
BARON'S DEN, LTD.; GARY STAMM;)
BEREC STUDIOS, LTD.; EDWARD R.)
CHAVEZ, D.D.S.; SQUIRE TAILORS,)
LTD., and UNKNOWN OWNERS,)

Defendants.)

STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, the CITY OF WHEATON, an Illinois Home Rule Municipal Corporation (hereinafter "Plaintiff"), represented by STEVE HELM & ASSOCIATES, as its attorneys, and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, Successor Trustee to First Chicago Trust Company of Illinois, Successor Trustee to Gary-Wheaton Bank, as Trustee under Trust Agreement dated May 15, 1985 and known as Trust Number 7164 (hereinafter "Defendant Owner"), owner of a parcel of improved property containing approximately 17,023 square feet (hereinafter "Subject Property"), appearing by RANDALL K. ERLER; HAROLD F. STEINBRECHER (hereinafter "Harold") and JANET F. STEINBRECHER, deceased (hereinafter "Janet") (and with "Harold" and

"Janet" collectively referred to as "Defendant Landlord"), appearing by RANDALL K. ERLER; HAROLD F. STEINBRECHER JR., doing business as Steinbrecher Surveying, appearing by RANDALL K. ERLER; THE BARON'S DEN, LTD., appearing by RANDALL K. ERLER; GARY STAMM, appearing by RANDALL K. ERLER; BEREC STUDIOS, LTD., appearing by ROBERT A. MCNEES & ASSOCIATES; EDWARD R. CHAVEZ, D.D.S., appearing by WILLIAM E. JEGEN, P.C.; SQUIRE TAILORS, LTD., appearing by JOHN E. WAGHORNE, (hereinafter collectively referred to as "Defendant Tenants"), (the "Defendant Owner", "Defendant Landlord" and "Defendant Tenants" shall be collectively referred to as the "Defendants"), and persons otherwise interested in the Subject Property having been named as UNKNOWN OWNERS and judgment by default having been entered against them, have agreed upon an amount of money constituting total and final just compensation for the taking of fee simple title in and to the Subject Property as set forth on Exhibit "A" attached hereto and for the settlement of any and all claims that were or could have been brought by Defendant Owner, Defendant Landlord and Defendant Tenants related to this eminent domain suit and settlement thereof; and.

WHEREAS, Plaintiff and Defendants stipulate and agree to the following terms and conditions of settlement:

1. Plaintiff and Defendants shall jointly apply to the Circuit Court of DuPage County for entry of an Agreed Final Judgment Order on Settlement consistent with this Stipulation and Settlement Agreement and hereby stipulate that the sum of Seven Hundred Fifteen Thousand Dollars (\$715,000.00) represents total and final just compensation for fee simple title in and to the Subject Property and for the settlement of any and all claims that were or could have been brought by Defendant Owner, Defendant Landlord and Defendant Tenants related to this eminent domain suit and settlement thereof.

2. The final just compensation of Seven Hundred Fifteen Thousand Dollars (\$715,000.00) shall be apportioned as follows between the Defendant Owner, Defendant Landlord and Defendant Tenants:

a.	American National Bank and Trust Company of Chicago, Successor Trustee to First Chicago Trust Company of Illinois, Successor Trustee to Gary-Wheaton Bank, as Trustee under Trust Agreement dated May 15, 1985 and known as Trust Number 7164	\$532,000.00
b.	Harold Steinbrecher Jr., doing business as Steinbrecher Surveying	\$ 24,000.00
c.	The Baron's Den, Ltd. and Gary Stamm	\$ 34,000.00
d.	Berec Studios, Ltd.	\$ 14,000.00
e.	Dr. Edward R. Chavez, D.D.S.	\$ 77,000.00
f.	Squire Tailors, Ltd.	\$ 34,000.00

3. Each Defendant Tenant may retain possession of its leased portion of the Subject Property until 11:59 p.m. on June 30, 1997. Each Defendant Tenant shall serve written notice upon the attorney for the Plaintiff by 5:00 p.m. on April 15, 1997 and advise whether or not possession of its leased portion of the Subject Property will be tendered upon Plaintiff's deposit pursuant to paragraph five (5) herein, or if possession will be retained and delivered to the Plaintiff on or before June 30, 1997. In the event a Defendant Tenant delivers possession of its leased portion of the Subject Property contemporaneous with the Plaintiff's deposit made pursuant to the terms of paragraph five (5) herein, then that Defendant Tenant shall be entitled to withdraw pursuant to paragraph six (6), one hundred percent (100%) of its proportionate share of the just compensation funds. In the event a Defendant Tenant timely serves

written notice that it will retain possession of its leased portion of the Subject Property and will deliver possession on or before June 30, 1997, then that Defendant Tenant shall not be entitled to withdraw the last Ten Thousand Dollars (\$10,000.00) of that Defendant Tenant's proportionate share of the just compensation funds until that Defendant Tenant timely vacates and surrenders that Defendant Tenant's leased portion of the Subject Property and complies with the terms of this Stipulation and Settlement Agreement.

4. A Defendant Tenant that remains in possession of its portion of the Subject Property shall not be required to pay rent to the Plaintiff or to the Defendant Landlord after March 31, 1997. Each Defendant Tenant shall be responsible for his utilities until the date possession is delivered to Plaintiff. During their occupancy and use, each Defendant Tenant that does not surrender and vacate its leased portion of the Subject Property on April 21, 1997, shall be responsible for all maintenance and necessary repairs, and are occupying and using its leased portion of the Subject Property in an as is condition. Further, each such Defendant Tenant shall use their leased portion of the Subject Property without causing any liens, mortgages or other encumbrances to attach thereto. Each Defendant Tenant's use and occupancy of the Subject Property after April 21, 1997 and until surrender and vacating of the Defendant Tenant's leased portion of the Subject Property shall not constitute a lease or create any leasehold interests in the Defendant Tenant. Plaintiff shall have the reasonable right of entry onto the Subject Property until all of the Defendant Tenant's have vacated and surrendered the Subject Property, upon reasonable telephonic notice to the affected Defendant Tenant(s). Each Defendant Tenant will use its leased portion of the Subject Property in compliance with all local, State and Federal laws, including all environmental laws related to hazardous substances, as defined by State and Federal law. Upon surrendering and vacating its leased portion of the Subject

Property, each Defendant Tenant shall leave its portion of the Subject Property in broom-clean condition, the grounds free of refuse and free and clear of any and all other encumbrances.

5. Provided that the Final Judgment Order has been entered, and provided further that each Defendant Tenant has served notice as required under paragraph three herein, the Plaintiff shall deposit the total amount of Seven Hundred Fifteen Thousand Dollars (\$715,000.00), without interest, with the Treasurer of DuPage County, Illinois on or before April 21, 1997.

6. Defendant Owner and Defendant Tenants may apply to the court for withdrawal of their proportionate share of the just compensation funds on or after April 24, 1997. At least two (2) court days prior to the withdrawal of said funds, written notice of the proposed withdrawal shall be given to the Plaintiff and to the attorney for the DuPage County Tax Collector by each Defendant seeking withdrawal of its proportionate share of the just compensation funds. Upon vacating and surrendering its leased portion of the Subject Property, and prior to withdrawal of its proportionate share of the just compensation funds, including the holdback amount, if applicable, each Defendant Tenant shall deliver to the office of the Wheaton City Clerk a set of keys to the Defendant's leased portion of the Subject Property. The Defendant Landlord and/or Defendant Owner shall also deliver to the attorney for the Plaintiff, prior to the withdrawal of its portion of the just compensation funds, any master set of keys to the Subject Property and any keys to common areas. If applicable, a Defendant Tenant may withdraw its Ten Thousand Dollar (\$10,000.00) holdback amount, after service of written notice in compliance with this paragraph and upon the surrender and vacation of the Defendant Tenant's leased portion of the Subject Property in compliance with the terms of this Stipulation and Settlement Agreement. Title to the Subject Property, subject to the rights of the Defendant Tenants remaining in possession, shall vest in Plaintiff upon

deposit in full of the entire just compensation amount of Seven Hundred Fifteen Thousand Dollars (\$715,000.00). Rights of Defendant Tenants to possession shall terminate on the date possession is surrendered, but no later than June 30, 1997.

7. Defendant Owner shall maintain liability/hazard insurance on the Subject Property until possession of the entire Subject Property is given to Plaintiff. In addition, each Defendant Tenant shall maintain liability insurance for that Defendant Tenant's portion of the Subject Property until possession of that Defendant Tenant's leased portion of the Subject Property is tendered to Plaintiff. The Defendant Owner and the Defendant Tenants shall each name the Plaintiff as an additional insured party, and the Plaintiff shall be entitled to notice of any default in payment of any obligation for insurance. Prior to the entry of the Final Judgment Order, the Defendants shall furnish the Plaintiff's attorney with evidence of such insurance in the form of an insurance certificate or in such other form as may be acceptable to Plaintiff. Each Defendant Tenant, and if a corporation, each shareholder of said corporation, shall indemnify and hold Plaintiff harmless from any and all damages, costs, fees and expenses, including reasonable expert witness and attorneys fees, incurred as a result of each Defendant Tenant occupying the property from April 21, 1997 until the date each Defendant Tenant delivers possession of the Defendant Tenant's leased portion of the Subject Property.

8. In the event a Defendant Tenant does not tender possession of their leasehold premises to Plaintiff by 11:59 p.m. on June 30, 1997, with the premises in a broom-clean and environmentally clean condition, free and clear of any and all liens or other encumbrances, then it is agreed that Plaintiff shall be entitled to the entire Ten Thousand Dollars (\$10,000.00) being held back as to each such Defendant Tenant as liquidated damages and Plaintiff may have the court enter the applicable Agreed Court Order(s) (a copy of which is attached hereto as Exhibit "B"; the

executed original of which shall be tendered by each Defendant Tenant who serves notice pursuant to paragraph three (3) herein that it will retain possession of its leased portion of the Subject Property beyond April 21, 1997 to Plaintiff by entry of the Final Judgment Order), providing that upon presentation of the applicable entered and executed Agreed Court Order(s), the Treasurer of DuPage County shall pay to the Plaintiff the full Ten Thousand Dollars (\$10,000.00), plus interest, being held back as to each such Defendant Tenant, and/or providing that a certified copy of said Agreed Order shall be served, instantaneously, as to each such Defendant Tenant.

9. Any personal property and fixtures not removed by Defendant Tenants at the time of delivery of possession will be deemed to be abandoned, whereupon title thereto will pass to Plaintiff as if by Bill of Sale and Plaintiff shall have the right to dispose of such personal property in any manner Plaintiff chooses. Each Defendant Tenant may remove any and all trade fixtures, equipment and tenant improvements located within said Defendant Tenant's leased portion of the Subject Property by the date said Defendant Tenant vacates and surrenders possession of its leased portion of the Subject Property, which shall be no later than June 30, 1997.

10. Plaintiff shall take subject to title exceptions 4, 6, 7, 8, and 9, raised in Chicago Title Insurance Company Commitment dated March 4, 1997, a copy of which is attached hereto and made a part hereof as Exhibit "C."

11. Plaintiff and all Defendants shall be responsible for their respective attorneys fees, expenses and costs (including court costs) incurred throughout this condemnation lawsuit (and in settlement thereof) and each waive any and all claims related to such litigation (and settlement).

The foregoing, by way of example (not by way of limitation), includes: the Motion to Enforce Oral Settlement Agreement filed by Defendant Owner, Defendant Landlord and Defendant Tenants (other than Defendant Tenants, Edward R. Chavez, D.D.S. and Squire Tailors, Ltd.); the Motion Seeking Declaration of Tenants Rights and Establishing Trial Procedures filed by Defendant Tenant Edward R. Chavez, D.D.S.; all traverses and/or motions to dismiss that were or could have been brought by Defendants; any and all counterclaims (or cross complaints) that were or could have been brought by Defendants; any and all claims for tenant improvements and fixtures that were or could have been brought by Defendants; any and all claims for relocation and/or moving costs and related costs that were or could have been brought by Defendants; and any and all claims for the value of their leasehold interests that were or could have been brought by Defendant Tenants.

12. All Defendants waive their rights to a jury trial, and all parties waive their right to appeal.

13. The date of this Stipulation and Settlement Agreement shall be the date it is executed on behalf of Plaintiff.

14. Defendants shall execute any and all conveyancing documents and related documents determined by Plaintiff to be reasonably necessary so as to result in the Plaintiff obtaining fee simple title to the Subject Property free and clear of any encumbrances not otherwise permitted.

15. The Court shall maintain jurisdiction over this matter until all matters which are the subject of this Stipulation and Settlement Agreement have been finalized.

16. All Defendants shall comply with 50 ILCS 105/3.1, requiring the disclosure of the identity of every owner and

beneficiary (including trust beneficiaries) having any interest, real or personal, in the Subject Property, and every shareholder entitled to receive more than seven and one-half percent (7 1/2%) of the total distributable income of any corporation having any interest, real or personal, in such property. Said disclosures shall be tendered to Plaintiff at the time Defendants execute this Stipulation and Settlement Agreement.

17. Plaintiff and Defendants each represent and warrant that each party respectively has the power and authority and has completed all necessary actions to enter into this Stipulation and Settlement Agreement and further each party has authorized the execution of this Stipulation and Settlement Agreement by their respective attorneys as set forth below.

18. Any notice required or permitted to be given under this Stipulation and Settlement Agreement shall be in writing and shall be deemed to have been given the first court day after transmission when sent by telefacsimile (provided such telefacsimile is followed by the mailing of a "hard copy" of such notice in the United States mail, first class postage, within one (1) business day after the telefacsimile is sent) to the telefacsimile number provided below for the intended recipient of such notice, or when delivered personally or four (4) days following the date deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, and addresses as follows:

If to Defendant: AMERICAN NATIONAL BANK AND
TRUST COMPANY OF CHICAGO,
Successor Trustee to First
Chicago Trust Company of
Illinois, Successor Trustee
to Gary-Wheaton Bank, as
Trustee under Trust Agreement
dated May 15, 1985 and known
as Trust Number 7164

HAROLD F. STEINBRECHER AND
JANET F. STEINBRECHER, deceased

HAROLD F. STEINBRECHER JR.,
doing business as Steinbrecher
Surveying

THE BARON'S DEN, LTD.

GARY STAMM

With a copy to: Randall K. Erler
Attorney at Law
6417 Bobby Jones
P. O. Box 5216
Woodridge, Illinois 60517
Telefacsimile No.: 630-416-7356

If to Defendant: BEREC STUDIOS, LTD.
659 Leslie Court
Carol Stream, Illinois 60188

With a copy to: Robert A. McNees
Robert A. McNees & Associates
195 Hiawatha Drive
Carol Stream, Illinois 60188
Telefacsimile No.: 630-665-5260

If to Defendant: DR. EDWARD R. CHAVEZ, D.D.S.
104 North West Street
Wheaton, Illinois 60187

With a copy to: William E. Jegen
William E. Jegen, P.C.
455 Taft Avenue
Glen Ellyn, Illinois 60137
Telefacsimile No.: 630-858-5584

If to Defendant: SQUIRE TAILORS, LTD.

With a copy to: John E. Waghorne
Attorney at Law
201 East Army Trail Road
Bloomingdale, Illinois 60108
Telefacsimile No.: 630-924-9255

If to Plaintiff: City of Wheaton
303 West Wesley Street
P. O. Box 727
Wheaton, Illinois 60187
Attention: Donald B. Rose
City Manager
Telefacsimile No.: 630-260-2017

With a copy to: Stephen D. Helm
Steve Helm & Associates
804 North Washington Street
Naperville, Illinois 60563
Telefacsimile No.: 630-369-8661

or to such other address as a party may from time to time specify in writing to the other parties in accordance with the terms hereof.

19. This Stipulation and Settlement Agreement may be signed in counterparts by the parties.

AGREED:

CITY OF WHEATON, an Illinois Home
Rule Municipal Corporation,
Plaintiff

BY: _____
C. James Carr, Mayor

ATTEST: _____
Emily M. Consolazio, City Clerk

BY: _____
Kelli M. Smith
Steve Helm & Associates
Attorneys for Plaintiff

AGREED:

AMERICAN NATIONAL BANK AND
TRUST COMPANY OF CHICAGO,
Successor Trustee to First
Chicago Trust Company of
Illinois, Successor Trustee
to Gary-Wheaton Bank, as
Trustee under Trust Agreement
dated May 15, 1985 and known
as Trust Number 7164, Defendant

BY: _____

ATTEST: _____

BENEFICIARIES:

Harold F. Steinbrecher, as Trustee
or his successor in trust, under
Declaration of Trust dated May 15,
1985, as to an undivided one-half
interest therein.

Janet F. Steinbrecher, as Trustee
or her successor in trust, under
Declaration of Trust dated May 15,
1985, as to an undivided one-half
interest therein.

BY: _____

Randall K. Erler
Attorney for Defendant

AGREED:

HAROLD F. STEINBRECHER and
JANET F. STEINBRECHER, Deceased,
Defendant

Harold F. Steinbrecher

ESTATE OF JANET F. STEINBRECHER

BY: _____

Janet F. Steinbrecher, as Trustee
or her successor in trust, under
Declaration of Trust dated May 15,
1985, as to an undivided one-half
interest therein.

BY: _____

Randall K. Erler
Attorney for Defendant

AGREED:

HAROLD STEINBRECHER JR., doing
business as Steinbrecher
Surveying, Defendant

Harold Steinbrecher Jr.

BY:

Randall K. Erler
Attorney for Defendant

AGREED:

THE BARON'S DEN, LTD., Defendant

BY: _____

ATTEST: _____

GARY STAMM, Defendant

Gary Stamm

BY: _____

Randall K. Erler
Attorney for Defendant

AGREED:

BEREC STUDIOS, LTD, Defendant

BY: _____

ATTEST: _____

BY: _____

Robert A. McNees
Robert A. McNees & Associates
Attorney for Defendant

AGREED:

DR. EDWARD R. CHAVEZ, D.D.S.,
Defendant

Dr. Edward R. Chavez, D.D.S.

BY:

William E. Jegen
William E. Jegen, P.C.
Attorney for Defendant

AGREED:

SQUIRE TAILORS, LTD., Defendant

BY: _____

ATTEST: _____

BY: _____

John E. Waghorne
Attorney for Defendant

Stephen D. Helm
Kelli M. Smith
STEVE HELM & ASSOCIATES
Attorney for Plaintiff
804 North Washington Street
Naperville, Illinois 60563
(630) 369-6616
DuPage Attorney No. 35683

THE NORTH 60 FEET OF LOT 8; LOT 9 (EXCEPT THE WEST 9 FEET LYING SOUTH OF THE NORTH 60 FEET OF SAID LOT 9) AND THE SOUTH HALF OF THE VACATED 33 FOOT WIDE ALLEY LYING NORTH OF AND ADJOINING SAID LOTS 8 AND 9, IN BLOCK 1 IN GARY'S ADDITION TO THE TOWN OF WHEATON, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT 11973, IN DU PAGE COUNTY, ILLINOIS.

PERMANENT PARCEL NUMBER: 05-17-404-012

STATE OF ILLINOIS)
) ss
COUNTY OF DU PAGE)

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DU PAGE COUNTY, WHEATON, ILLINOIS

CITY OF WHEATON, an Illinois Home)
Rule Municipal Corporation,)
 Plaintiff,)
v.) NO. 95 ED 11
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AMERICAN NATIONAL BANK AND TRUST)
COMPANY OF CHICAGO, Successor)
Trustee to First Chicago Trust)
Company of Illinois, Successor)
Trustee to Gary-Wheaton Bank, as)
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STEINBRECHER; HAROLD F.)
STEINBRECHER JR., doing business)
as Steinbrecher Surveying; THE)
BARON'S DEN, LTD.; GARY STAMM;)
BEREC STUDIOS, LTD.; EDWARD R.)
CHAVEZ, D.D.S.; SQUIRE TAILORS,)
LTD., and UNKNOWN OWNERS,)
 Defendants.)

AGREED ORDER

This matter coming on to be heard upon the motion of the Plaintiff, due notice having been give to the Defendant, _____, with the Court being advised that the Defendant, _____, has failed to comply with paragraph three (3) of the Stipulation and Settlement Agreement entered on _____, 1997, requiring said Defendant to vacate and tender possession of its leased portion of the Subject Property on or before June 30, 1997, and with the Court having jurisdiction pursuant to paragraph fifteen (15) of the aforementioned Stipulation and Settlement Agreement;

IT IS HEREBY ORDERED:

1. That the Treasurer of DuPage County, Illinois is ordered to pay to the order of the City of Wheaton the sum of Ten Thousand Dollars (\$10,000.00), plus interest, currently held on deposit for the benefit of Defendant, _____.

2. That the Sheriff of DuPage County, Illinois is hereby ordered to evict Defendant, _____, from the leased premises commonly known as _____, located at the property legally described as follows:

THE NORTH 60 FEET OF LOT 8; LOT 9 (EXCEPT THE WEST 9 FEET LYING SOUTH OF THE NORTH 60 FEET OF SAID LOT 9) AND THE SOUTH HALF OF THE VACATED 33 FOOT WIDE ALLEY LYING NORTH OF AND ADJOINING SAID LOTS 8 AND 9, IN BLOCK 1 IN GARY'S ADDITION TO THE TOWN OF WHEATON, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT 11973, IN DU PAGE COUNTY, ILLINOIS.

AGREED:

Attorney for Defendant

AGREED:

Attorney for Plaintiff

ENTERED:

JUDGE

Date

Stephen D. Helm
Kelli M. Smith
STEVE HELM & ASSOCIATES
Attorney for Plaintiff
804 North Washington Street
Naperville, Illinois 60563
(630) 369-6616
DuPage Attorney No. 35683



Chicago Title Insurance Company

P.O. BOX 827, WHEATON, IL 60189-0827

REFER INQUIRIES TO:
(630)871-3500

COMMITMENT FOR TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A (which policy or policies cover title risks and are subject to the Exclusions from Coverage and the Conditions and Stipulations as contained in said policy/ies) in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor, all subject to the provisions of Schedules A and B hereof and to the Commitment Conditions and Stipulations which are hereby incorporated by reference and made a part of this Commitment. A complete copy of the Commitment Conditions and Stipulations is available upon request and such include, but are not limited to, the proposed Insured's obligation to disclose, in writing, knowledge of any additional defects, liens, encumbrances, adverse claims or other matters which are not contained in the Commitment; provisions that the Company's liability shall in no event exceed the amount of the policy/ies as stated in Schedule A hereof, must be based on the terms of this Commitment, shall be only to the proposed Insured and shall be only for actual loss incurred in good faith reliance on this Commitment; and provisions relating to the General Exceptions, to which the policy/ies will be subject unless the same are disposed of to the satisfaction of the Company.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by issuance of a revised Commitment.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

This Commitment is based upon a search and examination of Company records and/or public records by the Company. Utilization of the information contained herein by an entity other than the Company or a member of the Chicago Title and Trust Family of Title Insurers for the purpose of issuing a title commitment or policy or policies shall be considered a violation of the proprietary rights of the Company of its search and examination work product.

This commitment shall not be valid or binding until signed by an authorized signatory.

CHICAGO TITLE INSURANCE COMPANY

Authorized Signatory

Providing Title Related Services Since 1847

ORDER NO.: 1410 009406929 UL

EXHIBIT "C"

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COMMITMENT FOR TITLE INSURANCE *Ord. No. F-0128*
SCHEDULE A *Pg. 29*

YOUR REFERENCE: STEINBRECHER

ORDER NO.: 1410 009406929 UL

EFFECTIVE DATE: MARCH 4, 1997

1. POLICY OR POLICIES TO BE ISSUED:

OWNER'S POLICY: ALTA OWNERS 1992
AMOUNT: \$10,000.00
PROPOSED INSURED: CITY OF WHEATON

2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS COMMITMENT AND COVERED HEREIN IS A FEE SIMPLE UNLESS OTHERWISE NOTED.

3. TITLE TO SAID ESTATE OR INTEREST IN SAID LAND IS AT THE EFFECTIVE DATE VESTED IN:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, SUCCESSOR TRUSTEE TO FIRST CHICAGO TRUST COMPANY OF ILLINOIS, SUCCESSOR TRUSTEE TO GARY WHEATON BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 15, 1985 AND KNOWN AS TRUST NUMBER 7164,

4. MORTGAGE OR TRUST DEED TO BE INSURED:

NONE

COMMITMENT FOR TITLE INSURANCE Ord. No. F-0128
SCHEDULE A (CONTINUED) Pg. 30

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5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

THE NORTH 60 FEET OF LOT 8; LOT 9 (EXCEPT THE WEST 9 FEET LYING SOUTH OF THE NORTH 60 FEET OF SAID LOT 9) AND THE SOUTH 1/2 OF THE VACATED 33 FOOT WIDE ALLEY LYING NORTH OF AND ADJOINING SAID LOTS 8 AND 9, IN BLOCK 1 IN GARY'S ADDITION TO THE TOWN OF WHEATON, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT 11973, IN DU PAGE COUNTY, ILLINOIS

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CHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE Ord. No. F-0128
SCHEDULE B Pg. 31

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1. IF EXTENDED COVERAGE OVER THE FIVE GENERAL EXCEPTIONS IS REQUESTED, WE SHOULD BE FURNISHED THE FOLLOWING:
 - A. A CURRENT ALTA/ACSM OR ILLINOIS LAND TITLE SURVEY CERTIFIED TO CHICAGO TITLE INSURANCE COMPANY;
 - B. A PROPERLY EXECUTED ALTA STATEMENT;
 - C. UTILITY LETTERS FROM THE MUNICIPALITY OR COUNTY (IF UNINCORPORATED), LOCAL GAS, ELECTRIC AND TELEPHONE COMPANIES AND IF APPLICABLE, THE LOCAL CABLE TELEVISION COMPANY AND WESTERN UNION.

MATTERS DISCLOSED BY THE ABOVE DOCUMENTATION WILL BE SHOWN SPECIFICALLY.

NOTE: THERE WILL BE AN ADDITIONAL CHARGE FOR THIS COVERAGE.

2. NOTE FOR INFORMATION: THE COVERAGE AFFORDED BY THIS COMMITMENT AND ANY POLICY ISSUED PURSUANT HERETO SHALL NOT COMMENCE PRIOR TO THE DATE ON WHICH ALL CHARGES PROPERLY BILLED BY THE COMPANY HAVE BEEN FULLY PAID.
3. NOTE FOR ADDITIONAL INFORMATION: THE DUPAGE COUNTY RECORDER REQUIRES THAT ANY DOCUMENTS PRESENTED FOR RECORDING CONTAIN THE FOLLOWING INFORMATION:
 - A. THE NAME AND ADDRESS OF THE PARTY WHO PREPARED THE DOCUMENT;
 - B. THE NAME AND ADDRESS OF THE PARTY TO WHOM THE DOCUMENT SHOULD BE MAILED AFTER RECORDING;
 - C. ALL PERMANENT REAL ESTATE TAX INDEX NUMBERS OF ANY PROPERTY LEGALLY DESCRIBED IN THE DOCUMENT;
 - D. THE ADDRESS OF ANY PROPERTY LEGALLY DESCRIBED IN THE DOCUMENT;
 - E. ALL DEEDS SHOULD CONTAIN THE ADDRESS OF THE GRANTEE AND SHOULD ALSO NOTE THE NAME AND ADDRESS OF THE PARTY TO WHOM THE TAX BILLS SHOULD BE SENT.
 - F. ANY DEEDS CONVEYING UNSUBDIVIDED LAND, OR, PORTIONS OF SUBDIVIDED LAND, MAY NEED TO BE ACCOMPANIED BY A PROPERLY EXECUTED "PLAT ACT AFFIDAVIT."

IN ADDITION, PLEASE NOTE THAT THE MUNICIPALITIES OF ADDISON, AURORA, BARTLETT, BOLINGBROOK, CAROL STREAM, ELK GROVE VILLAGE, ELMHURST, GLENDALE HEIGHTS, GLEN ELLYN, HANOVER PARK, NAPERVILLE, SCHAUMBURG, WHEATON AND WOODRIDGE HAVE ENACTED TRANSFER TAX ORDINANCES. TO RECORD A CONVEYANCE OF LAND LOCATED IN THESE MUNICIPALITIES, THE REQUIREMENTS OF THE TRANSFER TAX ORDINANCES MUST BE MET. A CONVEYANCE OF PROPERTY IN THESE CITIES MAY NEED TO HAVE THE APPROPRIATE TRANSFER TAX STAMPS AFFIXED BEFORE IT CAN BE RECORDED.

FURTHERMORE, ALL DEEDS AND MORTGAGES SHOULD INCLUDE THE CURRENT MARITAL STATUS OF ALL INDIVIDUAL PARTIES, WHERE APPROPRIATE. A SPOUSE OF AN INDIVIDUAL GRANTOR OR MORTGAGOR MAY HAVE TO SIGN THE DEED OR MORTGAGE IN ORDER TO RELEASE ANY APPLICABLE HOMESTEAD INTEREST.

THIS EXCEPTION WILL NOT APPEAR ON THE POLICY WHEN ISSUED.

COMMITMENT FOR TITLE INSURANCE ORD. NO. F-0128
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SCHEDULE B (CONTINUED)

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B 4. TAXES FOR THE YEARS 1996 AND 1997.

TAXES FOR THE YEARS 1996 AND 1997 ARE NOT YET DUE AND PAYABLE.

PERMANENT INDEX NUMBER: 05 17 404 012.

NOTE: TAXES FOR THE YEAR 1995, AMOUNTING TO \$16,076.26, ARE PAID OF RECORD.

C 5. TERMS, POWERS, PROVISIONS AND LIMITATIONS OF THE TRUST UNDER WHICH TITLE TO THE LAND IS HELD.

D 6. THE LAND LIES WITHIN THE WHEATON SANITARY DISTRICT, WHICH HAS ACCEPTED FEDERAL GRANTS FOR SEWAGE TREATMENT WORKS PURSUANT TO PUBLIC LAW 92-500. FEDERAL LAW REQUIRES A USER CHARGE SYSTEM SEPARATE FROM GENERAL AD VALOREM PROPERTY TAXES.

E 7. EASEMENT RECORDED JULY 11, 1968 AS DOCUMENT R68-30235, GRANTING MUTUAL AND RECIPROCAL CROSS EASEMENTS FOR THE PURPOSES OF INGRESS, EGRESS, REGRESS, PAVING, REPAVING AND MAINTENANCE OVER, UPON AND ACROSS THE VACATED ALLEY, TOGETHER WITH SUCH FURTHER PROVISIONS CONTAINED THEREIN.

F 8. EASEMENTS, IF ANY, FOR PUBLIC UTILITIES, INCLUDING CABLE COMPANIES, OVER THAT PART OF THE LAND LYING WITHIN VACATED ALLEY.

I 9. ORDINANCES APPROVING, REDESIGNING AND ADOPTING A TAX INCREMENT ALLOCATION FINANCING FOR THE DOWNTOWN WHEATON REDEVELOPMENT PROJECT AREA, RECORDED AS DOCUMENTS R93-103578, R93-103579 AND R93-103580.

J 10. WE HAVE EXAMINED THE PROCEEDING FOR CONDEMNATION IN CASE NUMBER 95ED-11 AND NOTE THE FOLLOWING:

(A) NOTHING CONTAINED HEREIN SHOULD BE CONSTRUED AS INSURING THE POWER OR RIGHT OF THE PLAINTIFF TO CONDEMN THE LAND;

(B) OUR POLICY, WHEN ISSUED, WILL BE MADE SUBJECT TO DIRECT ATTACK UPON THE JUDGMENTS AND ORDERS ENTERED IN THE CASE;

(C) A PROPER LIS PENDENS NOTICE HAS BEEN RECORDED AS DOCUMENT R95-046179;

(D) PROPER SERVICE OF PROCESS SHOULD BE HAD UPON THE FOLLOWING NAMED PARTIES DEFENDANT:

ALL NAMED PARTIES;

(E) DEFECTS OR ADDITIONAL INFORMATION, IF ANY: NONE.

NOTE: IN ORDER FOR THE COMPANY TO INSURE OVER THE LIENS OF REAL ESTATE TAXES AND SPECIAL ASSESSMENTS AND THE RIGHTS OF ANY TAX PURCHASER NAMED HEREIN AFTER THE COMPLETION OF THE CONTEMPLATED PROCEEDING, THE COUNTY COLLECTOR'S WARRANT

COMMITMENT FOR TITLE INSURANCE *Ord. no. F-0128*
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BOOKS AND THE MUNICIPALITY'S SPECIAL ASSESSMENT RECORDS MUST BE MARKED APPROPRIATELY, ANY TAX DEED PROCEEDING NOTED HEREIN MUST BE DISMISSED AND ANY OUTSTANDING CERTIFICATE OF PURCHASE MUST BE CANCELLED.

NOTE: THE PROCEEDING MAY AFFECT THE RIGHTS OF ONLY THOSE PARTIES ALREADY PROPERLY SERVED WITH PROCESS AND THOSE PARTIES, IF ANY, NAMED ABOVE IN PARAGRAPH "D." THE POLICY, WHEN ISSUED, WILL BE SUBJECT TO THE RIGHTS OF ALL OTHER PARTIES AND INTERESTS SHOWN IN THIS COMMITMENT, INCLUDING BUT NOT LIMITED TO, EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS, AND THE RIGHTS OF PUBLIC OR QUASI-PUBLIC UTILITIES, IF ANY, UNLESS SATISFACTORY DISPOSITION THEREOF IS OTHERWISE MADE OR UNLESS OTHERWISE EXPRESSLY STATED HEREIN.

** END **