

346

ORDINANCE NO. F-0472

**AN ORDINANCE OF THE CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS,
AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY
LOCATED ON CHILDS STREET**

WHEREAS, the City of Wheaton, Illinois ("City"), is an Illinois home rule municipality pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution of 1970; and, as such, the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, this ordinance is passed and adopted as a home rule ordinance of the City of Wheaton; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the City currently holds title to certain real property located on Childs Street, Wheaton, DuPage County, Illinois, legally described in Section 1 of this Ordinance ("Subject Realty"); and

WHEREAS, the Subject Realty currently provides vehicular access to several adjoining parcels; and

WHEREAS, the Mayor and the City Council (the "Corporate Authorities") have determined that the continued public ownership of the Subject Realty is no longer necessary, desirable or profitable to the City and they have determined it to be in the best interests of the City and its residents to sell the Subject Realty; and

WHEREAS, Developer Howard A. Koop and Anthony Wayne Massey have submitted an application to the City for rezoning and planned unit development approval which includes improvements of the Subject Realty with a driveway; and

WHEREAS, Howard A. Koop and Anthony Wayne Massey proposes to purchase the Subject Realty.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Illinois, pursuant to its home rule powers, as follows:

Section 1: That the property located adjacent to Childs Street, Wheaton, DuPage County, Illinois, legally described as:

THAT PART OF LOT 10 LYING SOUTH OF THE SOUTH LINE OF CHILDS ST., LYING WEST OF THE WEST LINE OF BLOCK 1 OF WAKELEE'S ADDITION RECORDED DECEMBER 3, 1857 AS DOCUMENT 11974, AND LYING NORTH OF THE SOUTH 100 FEET OF SAID LOT 10 IN COUNTY CLERKS ASSESSMENT DIVISION OF THE SOUTHEAST 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 SEPTEMBER 29, 1890 AS DOCUMENT 43592 (EXCEPT THAT PART OF LOT 10, IF ANY, FALLING IN OUTLOT A OF BRANTLEY PLACE RECORDED MAY 28, 1996 AS DOCUMENT R96-087635), ALL IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-17-418-013

is hereby declared to be surplus public property, ownership of which is no longer necessary, desirable or profitable for the public interest.

Section 2: That the sale of the Subject Realty to Howard A. Koop and Anthony Wayne Massey is hereby approved subject to the following:

A. Such sale shall be subject to the various terms and conditions set forth in the Realtor Association of the Western Suburbs Standard Vacant Land Sales Contract ("Sales Contract") and Rider 1 which are attached hereto and fully incorporated herein by this reference as **Exhibit "A."**

B. To the greatest extent permitted under Illinois law, Howard A. Koop and Anthony Wayne Massey agrees to indemnify, defend, protect, and hold harmless the City, its corporate authorities, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses incurred, including but not limited to reasonable attorney's fees, expert witness fees and costs of defense (collectively, the "Losses"), proximately resulting from any third party attempt to set aside the sale of the Subject Realty or any third party challenge to the sale of the Subject Realty, or any efforts by anyone to seek a judgment or any court order that all or any aspect of this Ordinance is unconstitutional, unlawful, invalid or unenforceable. Nothing set forth in this Ordinance shall be deemed a waiver by the City of any defenses, immunities or privileges, , that are or would be otherwise available to the City or its corporate authorities, officers and employees under the provisions of the Illinois Local Government and Governmental Employees Tort Immunity Act, or that are otherwise available to local governments and their corporate authorities, officers and employees under the common law of the State of Illinois or the United States of America.

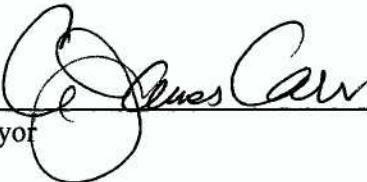
C. Howard A. Koop and Anthony Wayne Massey fail to secure a building permit for the townhome development they intend to construct on the property legally described in the attached **Exhibit B**, located on the southwest corner of Childs Street and West Street, Wheaton, DuPage County, Illinois, as evidenced by Planned Unit Development Application No. 00-09, within 12 months from the date Howard A. Koop and Anthony Wayne Massey secures any and all permits and approvals required by Ordinance No. F-0472, then Howard A. Koop and Anthony Wayne Massey shall immediately and forthwith deed the Subject Realty back to the City . In such event, the City shall refund ninety-percent (90%) of Howard A. Koop and Anthony Wayne Massey's acquisition price for the Subject Realty. The remaining ten-percent (10%) of Howard A. Koop and Anthony Wayne Massey's acquisition price for the Subject Realty shall be retained by the City as a reasonable and appropriate fee for Howard A. Koop and Anthony Wayne Massey's occupancy and use of the Subject Realty from the effective date of this Ordinance up until the date on which Howard A. Koop and Anthony Wayne Massey deeds the Subject Realty back to the City. The Corporate Authorities of the City of Wheaton may, in their reasonable discretion, extend the twelve (12) month period recited herein upon written application of Howard A. Koop and Anthony Wayne Massey submitted not less than 60 days prior to the expiration of the effective date of this Ordinance. The written application shall state all of the reasons why the extension should be granted.

Section 3: That the Mayor and the City Clerk of the City and the same are hereby authorized to execute and attest to the Sales Contract and Rider 1, which are attached hereto and fully incorporated herein as Exhibit A, a deed conveying the Subject Realty to Howard A. Koop and Anthony Wayne Massey or any Illinois land trust, corporation or other designated controlled entity permitted under the Sales Contract, such deed to be in substantially the form attached hereto as **Exhibit "C" which is attached hereto and fully incorporated herein by this reference as Exhibit "C."** The Mayor and City Clerk are also hereby authorized to execute and attest such other documents as are necessary to effect the sale of the Subject Realty to Howard A. Koop and Anthony Wayne Massey. The City Attorney is hereby authorized to execute, on behalf of the City, any RESPA statement, Real Estate Tax Declaration, or Closing Statement for the Subject Realty.

Section 4: That all ordinances and resolutions, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5: That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the Mayor and City Council of the City of Wheaton, Illinois this 5th day of June, 2000.



Mayor Carr

ATTEST:



Emily M. Consalvo
City Clerk

Roll Call Vote:

Ayes:

Councilman Mork
Councilman Eckhoff
Councilman Gresk
Mayor Carr

Nays:

None

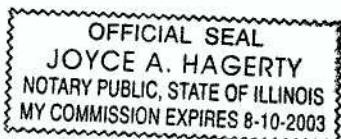
Absent:

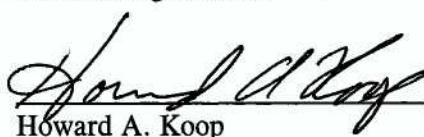
Councilwoman Davenport
Councilman Johnson
Councilwoman Johnson

Motion Carried Unanimously

Passed: June 5, 2000
Published: June 6, 2000

All of the foregoing terms, conditions, easements, and covenants are hereby accepted by the undersigned and shall be binding both as an Ordinance and as an Agreement.




Howard A. Koop



Anthony Wayne Massey



NOTARY

VACANT LAND SALES CONTRACT

WHEREAS, the City of Wheaton (303 West Wesley Street, Wheaton, Illinois, hereinafter "Seller"), holds title to certain real property on Child Street as further legally described herein; and

WHEREAS, Marquette National Bank, an Illinois banking corporation, its successor or successors as Trustee under the provisions of a Trust Agreement dated the 26th day of June, 2000 known as Trust Number 15380 (hereinafter "Purchaser") has been granted a special use permit to develop the property commonly known as 406 and 412 South West Street and 404 and 416 Child Street, Wheaton, Illinois, (hereinafter "Development Parcels") strictly subject to the terms and conditions set forth in Ordinance No. F-0471; and

WHEREAS, a condition precedent to issuance of a site development or building permit for the Development Parcels includes that the Purchaser purchase from the City of Wheaton real property legally described as:

THE WEST 21.5 FEET OF THE NORTH 133 FEET OF LOT 10 IN THE COUNTY CLERK ASSESSMENT DIVISION OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39, RANGE 10 EAST OF THE THIRD PRINCIPLE MERIDIAN. (P.I.N.05-1-7-51-013) (hereinafter "the Lot");

WHEREAS, the Corporate Authorities of the City of Wheaton have approved the sale of said property pursuant to Ordinance No. F-0471.

NOW THEREFORE, based upon the foregoing recitals and the other good and valuable and consideration as a recited herein the undersigned agree as follows:

1. Land trust (to be designated) (hereinafter "Buyer"), address, agrees to purchase from the City of Wheaton, at the price of \$16,700.00, the "Lot" subject to the terms and conditions of this Agreement.

2. EARNEST MONEY: Buyer has paid ten dollars by check as Earnest Money to be applied to the purchase price. The Earnest Money shall be held by the Buyer's attorney for the benefit of the Seller and upon closing of the sale, shall be applied to the purchase price. The balance of the purchase price shall be paid at closing by cashiers or certified check.

3. CLOSING DATE: The closing date shall be August 11, 2000 (or on the date, if any, to which said date is extended by reasons of paragraphs 9) in the County where the Lot is located, at Seller's attorneys' office, the Seller's title company, or at such other place as the parties mutually agree.

4. POSSESSION: Possession shall be granted to the Buyer at completion of the closing unless otherwise agreed in writing by the parties.

5. ATTORNEY'S MODIFICATION PROVISION: The terms of this contract (and all riders attached) except purchase price are subject to modification by the parties attorneys within five (5) business days from the date of acceptance. Notice of modification, if any, shall be in writing and shall state the specific terms being modified and the suggested revisions. If within ten (10) business days of the date of acceptance, agreement is not reached, this Contract shall be null and void and all earnest money shall be returned to Buyer.

6. DEED: Seller shall convey or cause to be conveyed to Buyer or at Buyer's direction, be recordable, by quit claim deed, providing that the title insurer is willing to insure without exception regarding title issues the ownership of the property to be in the City of Wheaton, to the Lot subject to the following "permitted exceptions" if any, none of which shall impair the use of the Lot as intended: (a) General real estate taxes not due and payable at time of closing; (b) Special Assessments confirmed after this Contract date; (c) Building, building line and use or occupancy restrictions, conditions and covenants of record; (d) Zoning laws and ordinances; (e) Easements for public utilities; (f) Drainage ditches, feeders, laterals and drain tile; pipe or other conduit; (g) any easements authorized under this Vacant Land Sale Contract. This Contract shall become null and void and without effect if the Buyer's Title Insurer is unwilling to insure, without exception regarding title issues, the ownership of title to be in the City of Wheaton.

7. PERFORMANCE: Time is of the essence of this Contract. Should Buyer fail to perform this Contract, then at the option of Seller and upon written notice to Buyer, the earnest money shall be forfeited by Buyer as liquidated damages and this Contract shall thereupon become null and void and Seller shall have the right, if necessary and applicable, to take possession of the Lot aforesaid and all rights in and title to the Lot and any and all improvements made upon said Lot by Buyer shall vest in Seller. Buyer or Seller shall pay all reasonable attorney's fees and costs incurred by the prevailing party in enforcing the terms and provisions of this Contract, including forfeiture or specific performance, or in defending any proceeding to which Buyer or Seller is made a party as a result of the acts or omissions of the other party.

8. SELLER'S REPRESENTATION: Seller represents that no notice of any ordinance violation or pending special assessment, condemnation, rezoning or annexation from any governmental body in connection with the Lot has been received by Seller.

9. TITLE: (a) At least five days prior to the closing date, Buyer at its option and expense may secure a commitment issued by a title company licensed to do business in the State of Illinois to issue a owners title insurance policy on the current form of American Land Title Association Owners Policy (or equivalent policy) in the amount of the purchase covering the date hereof, subject only to: (1) the "Permitted Exceptions" as set forth in paragraph 6; (2) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount, which may be removed by the payment of money at the time of closing in which case an amount sufficient to secure the release of such title exceptions shall be deducted from the proceeds of sale due Seller at closing; and (3) acts done or suffered by, or judgement against, Buyer, or those claiming by, through or under Buyer. (b) If the title commitment discloses unpermitted exception, Seller shall

have ten (10) business days from the date of delivery thereof to have the said exceptions waived, or to have the title insurer commit to insure against loss or damage that may be caused by such exceptions and the closing date shall be delayed, if necessary, during said ten(10) business day period to allow Seller time to have said exceptions waived. If Seller fails to have unpermitted exceptions waived or, in the alternative, to obtain a commitment for title insurance specified above as to such exception, within the specified time Buyer may terminate the Contract between the parties, or may elect upon notice to Seller with five (5) business days after the expiration of the ten (10) business day period, to take the title as it then is, with the right to deduct from the purchase price, liens or encumbrances of a definite ascertainable amount. If Buyer does not so elect, this Contract between the parties shall become null and void, without further action of the parties, and all monies paid by Buyer hereunder shall be refunded. (c) Every title commitment which conforms with subparagraph "a" shall be conclusive evidence of good title as therein shown, as to matters insured by the policy, subject only to special exceptions therein stated.

10. AFFIDAVIT OF TITLE: Seller shall furnish Buyer at closing with an Affidavit of Title, covering the date of closing, subject to those permitted exceptions set forth in paragraph 6, and unpermitted exceptions, if any, as to which the title insurer commits to extend insurance in the manner specified in paragraph 9.

11. ESCROW CLOSING: At the election of the Buyer, and upon notice of the other party not less than five days prior to the closing date, the sale may be closed through an escrow with the title company licensed to do business in the State of Illinois, in accordance with the general provisions of the deed and money escrow agreement consistent with the terms of this contract. Upon creation of such an escrow, anything in this contract between the parties to the contrary notwithstanding, payment of the purchase price and delivery of the deed shall be made through the escrow. The cost of the escrow shall be solely borne by the Buyer.

12. EASEMENT: Seller may dedicate, by deed reservation, an egress/ingress easement over the Lot for the benefit of the property owner at 418 S. West Street. Acceptance of the Deed shall constitute irrefutable evidence that the Buyer has accepted the easement as reserved. The owner of the property at 418 S. West Street, the beneficiaries, successors and assignees shall not be required to contribute to the cost of any design, construction or maintenance of the drive improvement for the lot. All improvements to the lot, as an improved egress/ingress drive, shall be made at the Buyer's sole cost and expense and shall comply with all applicable City Codes and Ordinances of the City of Wheaton.

13. NOTICES: All notices required pursuant to this Contract shall be in writing and signed by Seller or Buyer or their attorney or attorney in fact and shall be given by: (a) certified or registered mail, return receipt requested, and sent to the Parties or their attorneys at the addresses recited herein, which notice shall be effective on the date of post mark in the U.S. mail or (b) personally served on the Seller, Buyer or the attorney or (c) transmission of notice between the parties or their attorneys via facsimile shall be sufficient, provided that the notice transmitted shall be sent on business days (Monday through Friday excluding weekends and legal holidays), during business hours (9:00 am to 5:00 pm). If the facsimile is sent on a Saturday, Sunday or legal holiday or after 5:00 pm Monday through Friday, the effective date shall be the next business day. Notice to any one of a multiple person party shall be sufficient notice to all.

14. SURVEY: Prior to closing date, Seller shall at Seller's expense deliver to Buyer or Buyer's attorney a spotted survey of the Lot, dated not more than 6 months prior to the closing date, certified by a licensed surveyor, having all corners staked and showing all improvements, easements and building lines existing as this Contract date. If requested, Seller shall provide an affidavit verifying that no changes and improvements have been made since the date of said survey.

15. BUYER ACKNOWLEDGMENT: The Buyer Acknowledges, that other than the representations contained in Ordinance No. F-0471 no representations of the Seller or it's representatives regarding zoning laws, building laws, flood plain determination, use and occupancy restrictions, conditions and covenants of records not expressly contained herein are being relied upon by the Buyer.

16. TRANSFER STAMP: If applicable Seller shall pay for the State of Illinois and County real estate transfer stamps or any applicable city transfer stamps.

17. STATUTORY COMPLIANCE: Buyer and Seller shall provide and consent to the reporting of all information regarding the sale required by any act, regulation or statute, including all amendments thereto, of the United States of America, or the State of Illinois or any agency or subdivision thereof.

18. MERGER OF AGREEMENTS: This Contract contains the entire agreement between the parties hereto. All negotiations between the parties are merged in this Contract, and there are no understandings or agreements other than those incorporated in this Contract.

This instrument is executed by the Marquette National

Bank, not personally, but only as Trustee, and no personal liability is assumed by or shall be enforced

against said Marquette National Bank because of or

MARQUETTE NATIONAL BANK # 15380

LAND TRUST,

By

Donald J. Banzhaf
Robert A. Doran

By

John M. Kelly

CITY OF WHEATON,

an Illinois municipal corporation

By

James Caw

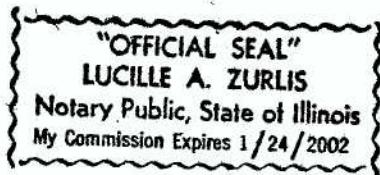
Mayor

Attest:

Erin M. Consalvo
City Clerk

State of Illinois, County of ~~Du Page~~ ^{COOK}. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that LANDTRUST, personally known to me to be the Marquette Nat. Bank, an Illinois corporation, and personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President, he signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to the authority given by the Board of Directors of said corporation, as their free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 15th day of August, 2000.



Lucille A. Zurlis

Notary Public

Attorney James H. Knippen, II
WALSH, KNIPPEN, KNIGHT & DIAMOND, CHTD.
601 West Liberty Drive
Wheaton, Illinois 60187
630-462-1980

EXHIBIT 'B'

LOT 1 IN DIFAZZIO'S RESUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 17, IN TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1988 AS DOCUMENT R88-55768 IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-17-418-044

LOT 2 IN DIFAZZIO'S RESUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 17, IN TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1988 AS DOCUMENT R88-55768 IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-17-418-045

THE NORTH 50 FEET OF THE SOUTH 100 FEET OF LOT 10 OF THE COUNTY CLERK'S ASSESSMENT DIVISION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-17-418-032

THAT PART OF BLOCK 1 OF WAKELEE'S ADDITION TO WHEATON, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 1, BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF CHILDS STREET WITH THE WEST LINE OF WEST STREET AND RUNNING THENCE WEST ON THE SOUTH LINE OF CHILDS STREET, 181 FEET FOR A PLACE OF BEGINNING; THENCE SOUTH PARALLEL TO WEST STREET, 131 FEET, THENCE WEST 50 FEET, THENCE NORTH 131 FEET TO THE SOUTH LINE OF CHILDS STREET, THENCE EAST ON THE SOUTH LINE OF CHILDS STREET 50 FEET TO THE PLACE OF BEGINNING ACCORDING TO THE PLAT OF WAKELEE'S ADDITION TO WHEATON HAVING BEEN RECORDED ON DECEMBER 3, 1857 AS DOCUMENT NO. 11974 IN DUPAGE COUNTY, ILLINOIS. P.I.N. 05-17-418-014

THE WEST 21.5' OF THE NORTH 133' OF LOT 10 IN THE COUNTY CLERK'S ASSESSMENT DIVISION OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN. P.I.N. 05-17-418-013

Marquette National Bank

EXHIBIT C

Quit Claim Deed in Trust

This Indenture Witnesseth, that the Grantor

City of Wheatonof the County of DuPage and the State of ILfor and in consideration of \$10.00 Ten & 00/100 Dollars, and other good and valuable consideration in hand paid, Conveys and Quit Claims unto Marquette National Bank, an Illinois banking corporation, its successor or successors as Trustee under the provisions of a Trust Agreement dated the 26th day of June, 2000 known as Trust Number 15380, the following described real estate in the County of DuPage and State of Illinois, to-wit:

THE WEST 21.5 FEET OF THE NORTH 133 FEET OF LOT 10 IN THE COUNTY CLERK ASSESSMENT DIVISION OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39, RANGE 10 EAST OF THE THIRD PRINCIPLE MERIDIAN.

Vacant property off Childs Street

Permanent Real Estate Index No. 05-17-418-013

To have and to hold the said premises with the appurtenances, upon the trusts and for uses and purposes herein and in said trust agreement set forth.

Full power and authority is hereby granted to said trustee to improve, manage, protect and subdivide said premises or any part thereof, to dedicate parts, streets, highways or alleys and to vacate any subdivision or part thereof and to resubdivide said property as often as desired, to contract to sell, to grant options to purchase, to sell on any terms, to convey, either with or without consideration, to convey said premises or any part thereof to a successor or successors in trust and to grant to such successor or successors in trust all of the title, estate, powers and authorities vested in said trustee, to donate, to dedicate, to mortgage, pledge or otherwise encumber, said property, or any part thereof, to lease said property, or any part thereof, from time to time, in possession or reversion, by leases to commence in praesenti or in futuro, and upon any terms and for any period or periods of time, not exceeding in the case of any single demise the term of 198 years, and to renew or extend leases upon any terms and for any period or periods of time and to amend, change, or modify leases and the terms and provisions thereof at any time or times hereafter, to contract to make leases and to grant options to lease and options to renew leases and options to purchase the whole or any part of the reversion and to contract respecting the manner of fixing the amount of present or future rentals, to partition or to exchange said property, or any part thereof, for other real or personal property, to grant easements or charges of any kind, to release, convey, or assign any right, title or interest in or about or easement appurtenant to said premises or any part thereof, and to deal with

or any part of the reversion and to contract respecting the manner of fixing the amount of present or future rentals, to partition or to exchange said property, or any part thereof, for other real or personal property, to grant easements or charges of any kind, to release, convey, or assign any right, title or interest in or about or easement appurtenant to said premises or any part thereof, and to deal with said property and every part thereof in all other ways and for such other considerations as it would be lawful for any person owning the same to deal with the same, whether similar to or different from the ways above specified, at any time or times hereafter.

In no case shall any party dealing with said trustee in relation to said premises, or to whom said premises or any party thereof shall be conveyed, contracted to be sold, leased or mortgaged by said trustee, to be obliged to see that the terms of this trust have been complied with, or be obliged to inquire into the necessity or expediency of any act of said trustee, or be obliged or privileged to inquire into any of the terms of said trust agreement, and every deed, trust deed, mortgage, lease or other instrument executed by said trustee in relation to said real estate shall be conclusive evidence in favor of every person relying upon or claiming under any such conveyance, lease or other instrument, (a) that at the time of the delivery thereof the trust created by this indenture and by said trust agreement was in full force and effect, (b) that such conveyance or other instrument was executed in accordance with the trusts, conditions and limitations contained in this indenture and in said trust agreement or in some amendment thereof and binding upon all beneficiaries thereunder, (c) that said trustee was duly authorized and empowered to execute and deliver every such deed, trust deed, lease, mortgage or other instrument, and (d) if the conveyance is made to a successor or successors in trust, that such successor or successors in trust have been properly appointed and are fully vested with all the title, estate, rights, powers, authorities, duties and obligations of its, his or their predecessor in trust.

The interest of each and every beneficiary hereunder and of all persons claiming under them or any of them shall be only in the earnings, avails and proceeds arising from the sale or other disposition of said real estate, and such interest is hereby declared to be personal property, and no beneficiary hereunder shall have any title or interest, legal or equitable, in or to said real estate as such, but only an interest in the earnings, avails and proceeds thereof as aforesaid.

This deed is subject to a Grant of Easement as hereinafter described:

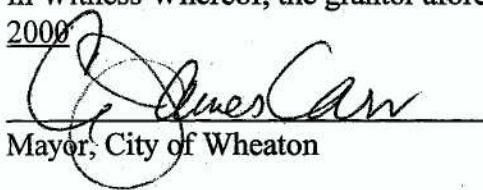
- a. An egress/ingress easement is hereby reserved for the benefit of the property at 418 South West Street, Wheaton, Illinois subject to the terms and conditions as hereinafter set forth.
- b. The benefitted property owners at 418 South West Street shall use the egress/ingress easement for the sole purposes egress/ingress only to the property at 418 S. West Street, Wheaton, Illinois. The benefitted property owners shall not block, cutoff, restrict, damage, or otherwise interfere with any other person or entities use, occupancy, construction, maintenance or design of any improvement over the easement or use or occupancy of the easement parcel for purposes of egress/ingress

to the property commonly known as 406 and 412 South West Street and 404 and 416 Child Street, Wheaton, Illinois and also referred to as Brantly Place Extension or any other lawful use of the easement parcel by any owner of the easement parcel.

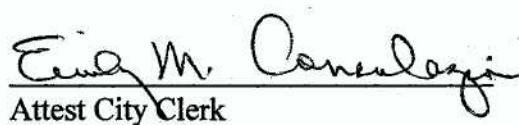
- c. All right title and privileges granted herein and including all benefits and burden and shall run with the land and be binding upon and an enure to the benefit of the parties hereto, the respective successors, grantees, assignees and legally representatives.
- d. The benefitted property owners at 418 South West Street shall have no obligation to construct, repair, maintain or contribute to the costs of constructing, maintaining or repairing any improvement constructed over, upon or within the egress/ingress easement.
- e. The easement granted herein shall become null and void and without effect should the property at 418 South West Street; be redeveloped by a developer or should the garage door on the garage be reoriented to face another direction.
- f. This document shall be recorded with the DuPage County Recorder of Deeds.

And the said grantor hereby expressly waives and releases any and all right or benefit under and by virtue of any and all statutes of the State of Illinois, providing for the exemption of homesteads from sale on execution or otherwise.

In Witness Whereof, the grantor aforesaid has hereunto set his hand and seal this 26th day of June, 2000



James C. Carr
Mayor, City of Wheaton



Emily M. Consalvo
Attest City Clerk

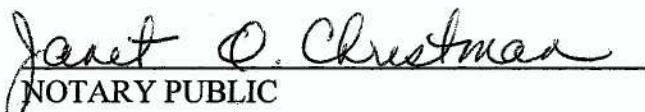
State of Illinois

SS

County of DuPage

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that C. JAMES CARR whose name subscribed to the foregoing instrument, appeared before me this day in person and acknowledges that They signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, inducing the release and waiver of the right of homestead.

Given under my hand and seal this 26th day of June A.D.20 00



NOTARY PUBLIC

"OFFICIAL SEAL"

Janet Q. Christman
Notary Public, State of Illinois
My Commission Expires 8/27/02

Exempt under provisions of paragraph 66-190
Section 4 of the Real Estate Transfer Tax

Act.

8-21-00

Date

Mark L. Foster
Legal Representative (Signature)

After Recording Mail to:
MARQUETTE NATIONAL BANK
6155 South Pulaski Rd.
Chicago, Illinois 60629
(773) 918-7252

Prepared By:
WISCHHOVER & VACCARELLO
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