

## MASTER DEED CREATING

DEWEY PLACE TOWNHOME CONDOMINIUMS

NEBRASKA DOCUMENTARY  
STAMP TAX

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THIS MASTER DEED AND DECLARATION made this 18<sup>th</sup> day of January, 1984 by ROBERT S. MASTERS, Trustee, Omaha, Nebraska, herein called the "Developer", for himself, his successors, grantees and assigns:

I. PURPOSE AND NAME

The purpose of this Master Deed is to submit the lands herein described in Douglas County, Nebraska, and the improvements thereon to the condominium form of ownership and use in the manner provided by Section 76-825 through 76-894, R.R.S. Nebraska, (herein called "Uniform Condominium Act"), and the name by which this condominium is to be identified is the Dewey Place Townhome Condominiums.

II. INVOLVED PROPERTY

The lands owned by the Developer which are hereby submitted to the Condominium Regime are described and drawn on Exhibit "A" attached hereto and incorporated herein by reference.

III. DEFINITIONS

Except as hereinafter noted, the definitions set forth in Section 76-825, R.R.S. Nebraska, shall govern this Master Deed and the By-Laws, attached hereto as Exhibit "B" and incorporated herein by reference:

a. "Apartment" shall mean and include: all airspace in basements, rooms and attics; interior walls, floors, ceilings; air conditioning compressors or units; screening, window glass, exterior and interior doors and windows, screening and doors; all appliances and fixtures located within the boundaries of the apartment; and all utility service lines from the point where they first enter the air space or fixtures in the apartment; but shall not include structural walls, common walls or roofs, except for the unit-side surfaces thereof, which shall be included in the definition "Apartment".

b. "Condominium Regime" shall mean the entire condominium project including all buildings, land and other improvements upon the land as set forth in this Master Deed as a part of the condominium regime.

c. "Common Elements" shall exclude the land on which the buildings stand, but shall include all surrounding lands embraced within the legal description specified in Paragraph II above; all exterior surfaces of all buildings except for screening, window glass and exterior doors; exterior water taps which may be used by the owners Association for watering and maintenance of common areas; the foundation, common walls, structural walls, roofs, yards and gardens, drives, walks and parking areas; all utility service lines located within the common elements to the point where they first enter the air-space or fixtures constituting a part of the apartment; and all parts of the property and improvements which are not located within the apartments.

d. "Limited Common Elements" shall include all front and rear porches delineated as appurtenant to each Unit, as shown on Exhibit "C", attached hereto and incorporated herein by reference.

e. "Owner" shall mean co-owner as defined in the Uniform Condominium Act.

f. "Unit" shall mean an apartment, as defined in Paragraph III.a., above, and that undivided interest in the common elements

as and limited common elements as set forth herein and in the Uniform Condominium Act which are appurtenant thereto.

#### IV. DESCRIPTION OF REGIME

As shown on Exhibit "C" attached hereto and incorporated herein by reference, there is one building in the Condominium Regime, a six-plex containing apartment unit 1 (3519 Dewey Avenue), apartment unit 2 (501 South 35th Avenue), apartment unit 3, (503 South 35th Avenue), apartment unit 4, (505 South 35th Avenue), apartment unit 5, (507 South 35th Avenue) and apartment unit 6, (509 South 35th Avenue)

The condominium will also include parking areas and landscaping.

Attached hereto and incorporated herein by reference as Exhibits "D1" through "D6" are a full and exact copy of the floor plans of the building.

#### V. EXTERIOR REPAIR

Each owner shall be responsible for the repair, maintenance and replacement of all exterior doors and the mechanical operators thereof and window glass and screens appurtenant to said owner's apartment; it being understood that the only Association maintenance of exterior doors shall be the painting or finishing of the exterior surfaces thereof. If any owner fails to repair, maintain or replace the exterior portions of his apartment as set forth in this Master Deed and the By-Laws described below, the Association may perform such work, invoice the owner therefore and secure and enforce a claim and lien therefor against the owner and his unit in like manner as a delinquent assessment for common element or limited common element expense.

#### VI. VALUES

The total basic value of the entire Condominium Regime is Two Hundred Fifty five Thousand Seven hundred Dollars (\$255,700.00), and the basic value of each unit together with its street address, a general description thereof, its percentage share of the expenses and ownership of the common elements and the number of votes incident to ownership of such unit, are all set forth in Exhibit "H" attached hereto and by this reference made a part hereof.

#### VII. COVENANTS, CONDITIONS AND RESTRICTIONS

The following covenants, conditions, and restrictions relating to this Condominium Regime shall run with the land and bind all owners, tenants of such owners, employees and any other persons who use the property, including the persons who acquire the interest of any owner through foreclosure, enforcement of any lien or otherwise:

a. The Dewey Place Association, Inc., a Nebraska non-profit corporation, has been incorporated to provide a vehicle for management of the Condominium Regime. Each owner shall automatically be deemed a member of the Association. The By-Laws of said Association are also the By-Laws of this Condominium Regime and are attached hereto as Exhibit "B".

b. All common elements are for the use and enjoyment of all owners. The limited common elements are for the exclusive use of the owner of the unit to which they are appurtenant, his family, guests, servants and invitees. The ownership of the common elements shall remain undivided, and no person or owner shall bring any action for the partition or division of the common elements. The Board of Administrators of the Association shall from time to time establish rules and regulations for the use of the common elements, and all owners and users shall be bound thereby. The Board of Administrators of the Association shall have the sole jurisdiction over and responsibility for

alterations, improvements, repairs and maintenance of the common elements. The share of an owner in the common elements is appurtenant to his apartment and inseparable from apartment ownership. Assessments against owners for insurance, common element expenses and reserves, and for other expenses incurred by the Association shall be made pursuant to the By-Laws. Assessments paid within thirty (30) days after the date when due shall not bear interest, but all sums not paid within said thirty (30) day period shall bear interest at the highest legal rate chargeable to individuals in Nebraska from the due date until paid. If any owner shall fail or refuse to make any payment of such assessments when due, the amount thereof plus interest shall constitute a lien upon the owner's interest in his unit and in the property, and upon the recording of such lien by the Association in the Office of the Register of Deeds of Douglas County, Nebraska, such amount shall constitute a lien prior and preferred over all other liens and encumbrances except assessments, liens and charges for taxes past due and unpaid on the unit and except prior duly recorded mortgage and lien instruments.

c. Each owner shall be responsible:

- (1) To maintain, repair and replace, at his expense, all portions of his apartment which are not included in the definition of common elements or limited common elements.
- (2) To refrain from painting, decorating, or changing the appearance of any portion of the exterior of the unit building, whether a part of the common elements, the limited common elements, or his apartment, unless approved by the Association in writing.

d. Each apartment shall be used and occupied only as a single family residence and for no other purpose. No apartment may be subdivided into a smaller apartment nor any portion thereof be sold or transferred without the owner thereof first amending this Master Deed. This restriction shall not apply to units owned by Developer and used as "model" units or sales offices for sale purposes.

e. No practice or use shall be permitted on the condominium property or in any apartment which shall be an annoyance to other owners or residents of the area or which shall interfere with their peaceful use and enjoyment of their property. All portions of the property and of the apartments shall be kept clean and sanitary and no use thereof shall be made which constitutes a violation of any laws, zoning ordinances, governmental regulations or regulations of the Association.

f. Unit owners holding at least seventy-five percent (75%) of the total vote of the Condominium Regime as reflected in Exhibit "H" attached to the Master Deed and holders holding at least fifty-one percent (51%) of all of the first mortgages on all units in the Condominium Regime may at any time in writing duly acknowledged and recorded effect an amendment to this Master Deed and to the By-Laws and plans attached hereto. The 51% of the mortgage holders need not be a part of the 75% of the unit holders.

g. This Condominium Regime may be terminated, waived, or merged with another duly constituted condominium regime only in accordance with the provisions applicable thereto as provided in the By-Laws attached hereto as Exhibit "B".

h. Household pets within the condominium will be subject to regulation, restriction, exclusion or special fees as may be determined by the Board of Administrators of the Association from time to time. Awnings, outside T.V. antenna, storage of boats,

campers, trailers or similar items shall all be subject to regulations, restrictions, exclusion or special fees by the Board of Administrators of the Association. Use of the common elements for other than recreational purposes is prohibited. The keeping of livestock or poultry upon the common elements, limited common elements or in any unit is prohibited. Individual garbage cans or trash receptacles are to be permitted outside only in areas designated therefore by the Board of Administrators of the Association. Private barbecue grills may not be used in the common areas, and outside use or storage of barbecue grills will be subject to regulation, restriction or exclusion by the Board of Administrators of the Association. Automobile parking will be subject to regulation and restriction by the Board of Administrators of the Association. Any special fees required by Association Rules and Regulations, duly enacted, shall be collected as determined by the Board of Administrators.

#### VIII. SEPARATE TAXATION

Developer shall give written notice to the County Assessor of the creation of the Condominium Regime so that each apartment thereof shall be deemed a parcel and subject to separate assessment and taxation.

#### IX. EASEMENTS

Easements are hereby reserved and granted from and to Developer and each owner of a condominium unit for encroachment if any part of a condominium unit encroaches upon any other unit, the limited common elements, or the common elements or if any such encroachment shall hereafter occur due to the settling or shifting of a building or for any other reason, or if such building is repaired or rebuilt after damage or destruction. The Association shall have an easement in and upon each apartment for the performance of repairs upon the common elements or the limited common elements, and for emergency repairs to any part of the condominium property.

#### X. AMENDMENTS TO MASTER DEED

The Grantor, Robert S. Masters, Trustee, herein called "Developer", expressly reserves for himself and his successors and assigns, for a period of three (3) years from the date hereof, or until the closing of the title of not less than 5 condominium units located in the Condominium Regime, whichever event occurs first, the right to execute on behalf of all contract purchasers, unit owners, mortgagees, other lien holders, and parties claiming any legal or equitable interest in this Condominium Regime or in any unit, any amendments to this Master Deed which he may deem appropriate, including but not limited to:

a. Adding units and lands to the area included within the Condominium Regime and adjusting the proportionate share of the common elements, share of costs, and voting rights proportionately. The voting right and proportionate share of the common elements of the owners of each unit shall be determined in the manner set forth within this Master Deed and By-Laws attached hereto as Exhibit "B".

b. Adding to or altering the location, size or purpose of easements and lands for utilities, roads, access, parking, egress, drainage or financing purposes.

c. To permit the users or occupants of lands owned by or controlled by the Grantor to utilize easements, roads, drainage facilities, utility lines, and the like within or servicing the condominium, on such fair and equitable terms and conditions as shall be negotiated with the Condominium Regime.

d. To surrender or modify rights of the Grantor in favor of the unit owners or the Condominium Regime or their respective mortgagees.

e. To amend, alter, or change the interior design and of all units and to alter the boundaries between units and the parking areas so long as the developer owns the units so altered.

f. Any amendment to the Master Deed will become effective upon the recording of an amendment to the Master Deed in the office of the Register of Deeds for Douglas County, Nebraska. The Grantor will, thereafter, provide copies of said amendment to each owner and mortgagee affected thereby.

## XI. NOTICES AND REQUESTS

All notices required or permitted hereby shall be in writing and sent in the manner prescribed in Section 1 of Article XIV of the By-Laws attached hereto, by certified mail, return receipt requested.

EXECUTED the date first above written.

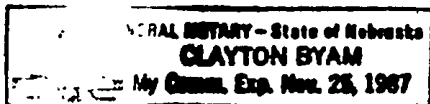
Robert S. Masters, Trustee  
Robert S. Masters, Trustee

ATTEST:

Charles Byrum

STATE OF NEBRASKA) )  
 ) SS  
COUNTY OF DOUGLAS)

*10<sup>th</sup>* The foregoing instrument was acknowledged before me this day of January, 1984 by ROBERT S. MASTERS, Trustee.



Clayton Bryan  
Notary Public

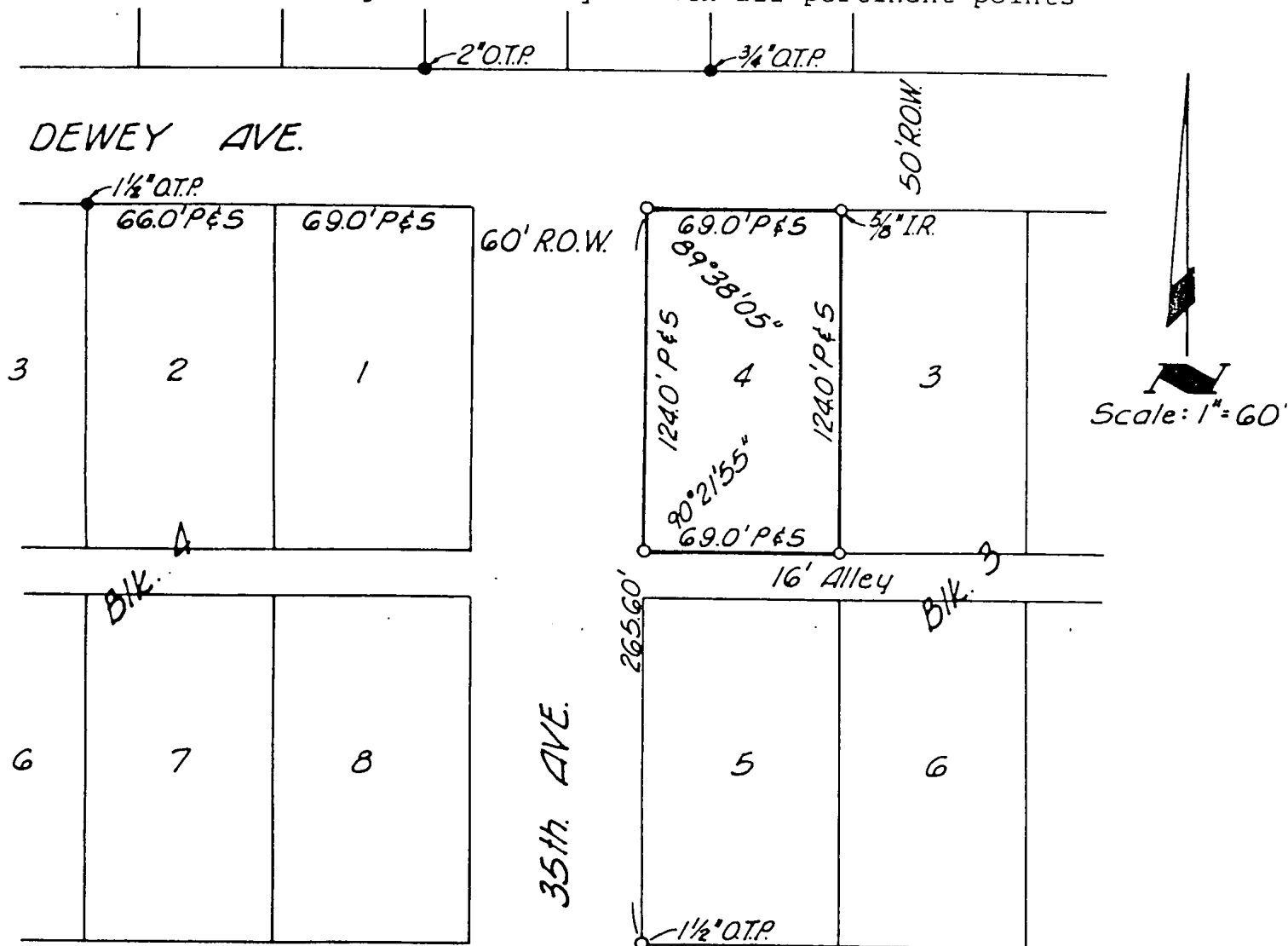
## LAND SURVEYOR'S CERTIFICATE

I hereby certify that this plat, map, survey or report was made by me or under my direct personal supervision and that I am a duly Registered Land Surveyor under the laws of the State of Nebraska.

## Legal Description

Lot 4, Block 3, Isaac and Selden's Addition, together with the East vacated 3.00 feet of 35th Avenue adjoining said lot 4 on the West, as platted and recorded, Douglas County, Nebraska.

Plat to scale showing tract surveyed with all pertinent points



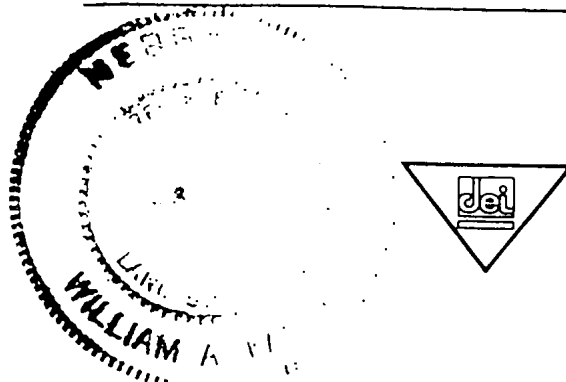
- = Corners Found (Type as noted)
- = Corners Set (1" Pinch Top Pipe unless noted)
- I.R. = Iron Reinforcing Bar
- Q.T.P. = Open Top Pipe
- P = Platted Dimension
- S = Surveyed Dimension

*William H. Ford*  
SIGNATURE OF LAND SURVEYOR  
REGISTRATION NO. 330

DATE OF SURVEY Dec. 27, 1983 (Rev. 1-11-84) DATE RECEIVED \_\_\_\_\_

FIELD BOOK NO. 73 PAGE 26 BY D.A.

*Design Engineering, Inc.*



ENGINEERS - ENVIRONMENTAL PLANNING - LAND SURVEYING

402-291-6100

2200 CLAY STREET - BELLEVUE, NEBRASKA 68005

Exhibit "A"

BY-LAWS OF  
DEWEY PLACE TOWNHOMES ASSOCIATION, INC.  
AND  
DEWEY PLACE TOWNHOME CONDOMINIUMS

ARTICLE I. BY-LAWS

Section 1. Description.

These are the By-Laws of the Dewey Place Townhomes Association, Inc., a not-for-profit Nebraska corporation with its registered office at 6315 Center Street, Omaha, Nebraska 68106. These are also the By-Laws of the Dewey Place Townhome Condominiums, a Nebraska condominium property regime.

Section 2. Seal.

The corporate seal shall bear the name of the corporation and the words "Omaha, Nebraska, Corporate Seal".

Section 3. Membership.

The corporation has been organized to provide a means of management for the Dewey Place Townhome Condominiums, a Nebraska condominium property regime in Douglas County, Nebraska. Membership in the Association is automatically granted and restricted to record owners of units in said condominium regime. The vote on behalf of a unit shall be in person by the record owner thereof, or by proxy, but if a unit is owned by more than one person or by a corporation or other entity, such vote shall be cast, or proxy executed, by the person named in a certificate signed by all the owners of the unit and filed with the Secretary of the Association. Title to units may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants, or in the name of a corporation or partnership, or in the name of a fiduciary.

Section 4. Involved Property.

The property described in Paragraph II of the Master Deed, is located in Douglas County, Nebraska, has been submitted to the provisions of Section 76-825 through 76-894, R.R.S. of Nebraska, known as the "Uniform Condominium Act" by the Master Deed recorded simultaneously herewith in the Office of the Register of Deeds of Douglas County, Nebraska, and which condominium shall hereinafter be referred to as the "Condominium Regime" or "Regime".

Section 5. Application.

All present and future owners, mortgagees, lessees and occupants of condominium units and their employees, and any other persons who may use the facilities of the Regime in any manner are subject to these By-Laws, the Master Deed and the Rules and Regulations.

The acceptance of a deed or conveyance or mortgage, or the entering into of a lease or the act of occupancy of a condominium unit shall constitute an agreement that these By-Laws, the Rules and Regulations, and the provisions of the Master Deed, as the same may be amended from time to time, are accepted, ratified, and will be complied with.

ARTICLE II. UNIT OWNERSSection 1. Annual Members' Meetings.

After three (3) years have expired from the date the Master Deed was recorded in Douglas County, Nebraska, or upon the closing of the sale of the 5th unit, or as soon as the Developer, ROBERT S. MASTERS, Trustee, or his successor, shall relinquish control of the Board of Administrators, whichever shall first occur, the initial meeting of the Association unit owners shall be held.

At such meeting, the original Board of Administrators shall resign as members of the Board of Administrators and as officers, and all the unit owners, including the Developer (as a unit owner if applicable), shall elect a new Board of Administrators. Thereafter, the annual meetings of the unit owners shall be held on the second Monday of January of each succeeding year. At such meeting, the Board of Administrators shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article III of these By-Laws. So long as the Developer shall own one or more of the units, the Developer shall be entitled to elect at least one member of the Board of Administrators who shall serve for a term of one year. The unit owners may also transact, at each such annual meeting, such other business as may properly come before them.

Section 2. Special Members' Meetings.

Special meetings of the Association unit owners may be called by the President, Vice-President or by a majority of the Board of Administrators and must be called upon receipt of written request from members holding 51% or more of the total votes of the Condominium Regime as outlined in Exhibit "H" to the Master Deed. Notice of a special meeting shall state the time and place of such meeting and the purpose thereof. No business, except that stated in the notice, shall be transacted at the special meeting.

Section 3. Place of Meeting.

Meetings of the Association unit owners shall be held at the registered office of the Dewey Place Townhomes Association, Inc. or at such other suitable place convenient to the unit owners as may be designated by the Board of Administrators.

Section 4. Notice of Meetings.

It shall be the duty of the Secretary of the Dewey Place Townhomes Association, Inc. to mail a written notice of the initial and each annual or special meeting of the Association unit owners at least ten (10) but not more than thirty (30) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each unit owner of record, at his unit address or at such other address as such unit owner shall have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided by this Section shall be considered proper service of notice.

Section 5. Quorum.

A quorum for Association unit owners' meetings shall consist of a presence, in person or by proxy, of unit owners holding 51% or more of the total votes of the Condominium Regime as set forth in Exhibit "H" to the Master Deed, unless otherwise provided in these By-Laws or the Master Deed.

Section 6. Voting.

The owner or owners of each unit, or some person designated by such owner or owners to act as proxy on his or their behalf, and who need not be an owner, shall be entitled to cast the vote allocated



to such unit at all meetings of unit owners. The designation of any such proxy shall be dated, made in writing and delivered to the Secretary prior to or at the commencement of the meeting at which the proxy is to be exercised, and shall be revocable at any time by written notice to the Secretary by the owner or owners so giving the proxy. No proxy shall be valid for longer than eleven (11) months from the date thereof unless otherwise stated in the proxy. In instances of other than individual ownership, any or all of such owners may be present at any meeting of the unit owners and (those constituting a group acting unanimously) may collectively vote to take any other action as an individual unit owner either in person or by proxy. The total number of votes of all unit owners shall be no more than 100, and each unit owner (including the Developer and the Board of Administrators, or its designee, if it shall then hold title to one or more units) shall be entitled to cast the number of votes allocated to his or her unit as outlined in Exhibit "H". A fiduciary shall be the voting member with respect to any unit owned in a fiduciary capacity.

#### Section 7. Majority Vote.

The vote in person or by proxy of unit owners holding 51% or more of the total votes for all units as outlined in Exhibit "H" to the Master Deed at a meeting at which a quorum shall be present shall be binding upon all unit owners for all purposes except where the Master Deed or these By-Laws require a higher percentage vote.

#### Section 8. Procedure.

The President shall preside over members' meetings, and the Secretary shall keep the minute book wherein the resolution and minutes shall be recorded.

#### Section 9. Adjournment.

If any meeting of the unit owners cannot be held because a quorum has not attended, a majority of the unit owners (using their votes as allocated in Exhibit "H" to the Master Deed) who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, and no further notice shall be required.

### ARTICLE III. BOARD OF ADMINISTRATORS.

#### Section 1. Number and Qualification.

Until the transfer of the control of the Board of Administrators shall occur as outlined below, the Developer, ROBERT S. MASTERS, Trustee, or his successors, shall designate the officers and employees of the Association. Provided, however, when three (3) years have expired after the date the Master Deed was recorded in Douglas County, Nebraska, or when the sale of the 5th unit is closed, or when the Developer, or his successor, shall relinquish his control by written notice to all unit owners, whichever shall first occur, the Board of Administrators shall be elected by the unit owners. During the time that the Board of Administrators is controlled by the Developer the board of Administrators shall be composed of three (3) persons who need not be unit owners. However, when the control of the Board of Administrators is passed to the unit owners, the Board of Administrators shall be composed of three (3) persons, all of whom shall be unit owners, their employees or members of their families, or in the event of ownership by an entity other than a natural individual, their employees, officers, or members. Provided, however, that the Developer, or his successor, as a unit owner or units owner, shall have the same right to vote as other unit owners and shall have the same right to serve as a member of the Board of Administrators as other unit owners.

Section 2. Powers and Duties.

The Board of Administrators shall have the powers and duties necessary for the administration of the affairs of the Association and the Condominium Regime, and may do all such acts and things, except such as by law, by the Master Deed, or by these By-Laws may not be delegated to the Board of Administrators by the unit owners. Such powers and duties of the Board of Administrators shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the common elements, limited common elements, and facilities.
- (b) Determination of the common expenses required for the affairs of the Condominium Regime, including, without limitation, the operation and maintenance of the Condominium Regime.
- (c) Collection of the assessments from unit owners.
- (d) Employment and dismissal of the personnel necessary for the maintenance and operation of the common elements, limited common elements, and facilities.
- (e) Adoption, amendment and publication of rules and regulations covering the details of the operation and use of the Condominium Regime.
- (f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Obtaining the insurance for the Condominium Regime pursuant to the provisions hereof.
- (h) Making of repairs, additions and improvements to, or alterations of, the Condominium Regime and repairs to, and restoration of, the Condominium Regime in accordance with the other provisions of these By-Laws after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
- (i) To grant permits, licenses and easements over the common areas for utilities, roads, parking and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Regime.

Section 3. Managing Agent and Manager.

The Board of Administrators may employ for the Condominium Regime a managing agent or a manager at a compensation established by the Board of Administrators, to perform such duties and services as the Board of Administrators shall authorize, including but not limited to the duties listed in subdivisions (a), (c), (d), (g), (h) of Section 2 of this Article III. The Board of Administrators may delegate to the manager or managing agent, all of the powers granted to the Board of Administrators by these By-Laws other than the powers set forth in Subdivisions (b), (e), (f), of Section 2 of this Article III.

Any contract between such managing agent and/or manager must provide that it can be terminated by the Board of Administrators in its discretion.

If professional management has been previously required by an eligible mortgage holder, or eligible insurer, or eligible guarantor, any decision to establish self-management by the Association shall require the prior written consent of unit owners who have at least 67% of the total votes outlined in Exhibit "H" and by the eligible mortgage holders who hold at least 51% of the first mortgages on all of the units in the Condominium Regime. The 51% of the first mortgage holders need not be a part of the 75% of the unit holders. See Section 2, Article X for the definition of eligible mortgage holders, insurers, and guarantors.

#### Section 4. Election and Term.

At the initial meeting of the Association unit owners, the members of the Board of Administrators shall be elected to serve until the next annual meeting of the Association unit owners; provided that if said next annual meeting is less than six (6) months from the date of the initial meeting, the Administrators shall be elected to serve until the next annual meeting after the annual meeting which is less than six (6) months in the future. Each Administrator shall be elected thereafter to serve a term of one (1) year or until his successor shall have been duly elected by the Association unit owners. There shall be no cumulative voting for Administrators. The nominees receiving the most votes for the offices available shall be elected.

#### Section 5. Removal of Administrators.

Thereafter, at any regular or special meeting of the Association unit owners, any one or more of the members of the Board of Administrators may be removed with or without cause by a vote of unit owners holding 51% or more of the total vote of the Condominium Regime as set forth in Exhibit "H" attached to the Master Deed, and a successor may then and there or thereafter be elected to fill the vacancy thus created.

### ARTICLE IV. OFFICERS

#### Section 1. President of the Board of Administrators.

Following the election of the members of the Board of Administrators at each annual meeting, the newly elected members of such Board shall, by vote, select one of the Administrators as President of the Board of Administrators for the coming year. The President of the Board of Administrators shall also be the President of the Association and the Board of Administrators shall adopt or elect the remaining officers of the Association as follows:

- (a) The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, who, with the exception of President, shall not be required to be Administrators; who shall be elected annually by the Board of Administrators at each annual meeting for a term of office of one (1) year; and who may succeed themselves in office.
- (b) The Board of Administrators may, from time to time, appoint, discharge, engage or remove subordinate officers or assistants to the principal officers as is deemed appropriate, convenient, or necessary for the management of the affairs of the Association.

- (c) The officers shall have the powers and rights and shall be charged with the duties and obligations usually vested in or pertaining to such offices, or, as from time to time directed by the Board of Administrators.

## Section 2. Vacancies.

The office of any principal officer shall be vacated and filled as follows:

- (a) Any principal officer may be removed from office at any time by a majority vote of the Board of Administrators, either for or without cause.
- (b) Any vacancy among the principal officers may be filled by appointment by the Board of Administrators for the unexpired term of office.

## Section 3. Fees, Expenses and Wages.

The Board of Administrators and officers shall serve without remuneration for their services but shall be reimbursed for expenses incurred by them. The Board of Administrators may, from time to time, fix the wages and other compensation paid to any agent or employee of the Association.

# ARTICLE V. INDEMNIFICATION OF OFFICERS AND MEMBERS OF THE BOARD OF ADMINISTRATORS

## Section 1. Indemnification.

Each Administrator and officer of the Association shall be indemnified by the Association against all costs and expenses, including attorney fees, reasonably incurred by or imposed upon him in connection with or resulting from any action, suit, or proceeding to which he may be made a party by reason of his being or having been a member of the Board of Administrators or a principal officer of the Association (whether or not he continues to be a member of the Board of Administrators or principal officer at the time of incurring such cost or expense), except in relation to matters as to which a recovery shall be had against him by reason of his having been finally adjudged in such action, suit or proceeding to have been derelict in the performance of his duty as a member of the Board of Administrators or principal officer of the Association. The foregoing qualifications shall not, however, prevent a settlement by the Association prior to final adjudication when such settlement appears to be in the best interests of the Association. The right of indemnification herein provided shall not be exclusive of other rights to which any member of the Board of Administrators or principal officers may be entitled as a matter of law.

# ARTICLE VI. DUES, ASSESSMENTS, AND OTHER FINANCIAL MATTERS

## Section 1. Fiscal Year.

The fiscal year of the Association shall coincide with the calendar year unless otherwise directed by the Board of Administrators.

## Section 2. Annual Budget.

Before each fiscal year, the Board of Administrators shall adopt and fix, in reasonably itemized detail, an annual budget for the then anticipated expenses, expenditures and general operational costs of the Association for said upcoming

fiscal year. Budgets may be amended by the Board of Administrators during a current fiscal year where necessary, but copies of the amended budget and proposed increase or decrease in assessment shall be mailed to each unit owner prior to the effective date of such increase or decrease.

### Section 3. Annual Assessments.

The first annual assessment shall be levied against each unit and the owner thereof, including the units to which the Developer still holds title, when the first unit is closed and on January 1 of each year thereafter. The annual assessment shall be divided as evenly as possible into twelve (12) monthly payments, with the first payment to include the remainder after division. These monthly payments shall become due and payable upon the 15th day of each month during the fiscal year. Annual assessments to be levied against each unit and the owner thereof shall be computed according to such unit's pro-rata share of the total annual budget for the fiscal year based upon his or her unit's Percentage Share of Expenses as set forth in Exhibit "H" to the Master Deed.

### Section 4. Working Capital Assessments.

A working capital fund will be established by the Developer, or his successor, for the initial months of the operation of the Condominium Regime equal to at least two months' estimated common area charged for each unit. Each unit's share of the working capital fund will be transferred to the Association at the time of the closing of the sale of each unit and maintain in a segregated account for the use and benefit of the Association. The contribution to the working capital fund for each unsold unit shall be paid to the Association within sixty (60) days after the date of the conveyance of the first unit. The purpose of the fund is to insure that the Board of Administrators will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Administrators. Amounts paid into the fund are not to be considered as advance payment of regular assessments.

### Section 5. Increases and/or Decreases in Assessments.

Annual assessments may not be increased by more than ten percent (10%) above the level of the immediately preceding year except upon approval of owners having a vote of fifty-one percent (51%) of the total vote of the Condominium Regime as set forth on Exhibit "H" attached to the Master Deed.

### Section 6. Special Assessments.

Special assessments may be assessed and levied against each unit, in addition to the annual assessments provided for above, during any assessment year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, improvement, repair or replacement of a capital improvement of the common elements, including fixtures and personal property, subject to the owner approval provisions of the Master Deed and these By-Laws or for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, improvement, repair or replacement of a limited common element. Where no owner approval provision is applicable, the discretion of the Board of Administrators shall control. Special assessments with respect to common elements shall be based upon the Percentage Share Of Expenses of each unit as set forth in Exhibit "H" to the Master Deed. Special assessments with respect to limited common elements may, at the discretion of the Board of Administrators, be levied based upon the Percentage Share Of Expenses as set forth in Exhibit "H" attached to the Master Deed or may be levied directly against the unit or pro rata against the units to which the subject limited common element is appurtenant.

Special assessments shall be due and payable thirty (30) days after the assessment is levied against the applicable unit or units and notice thereof has been given to the respective owners, and special assessments not paid within thirty (30) days thereafter shall be treated according to the interest and lien provisions hereafter provided.

#### Section 7. Escrow Assessments.

The administrators of the Association may require that all assessments set forth in this Article be paid into an escrow fund to be held and managed by a bank or savings and loan association. Unit owners may be required to execute transmatic or similar automatic withdrawal authorizations with respect to annual assessments. Failure of a unit owner thereafter to pay his annual assessments according to such a plan shall constitute default thereof entitling the Association to accelerate the due date of such annual assessments.

#### Section 8. Personal Assessment Liability.

Each unit owner or, if more than one, jointly and severally, shall be personally liable for the payment of assessments under the preceding Sections. Upon the expiration of thirty (30) days from the due date of an assessment, if said assessment remains unpaid, the Association may bring suit against the owner or owners of said unit for recovery of the same. If the assessment is a monthly instalment of an annual assessment, the default in payment of one installment within said thirty (30) days, may, at the option of the Association, cause the remainder of the installments for that annual period to become immediately due and payable. The defaulting unit shall be liable for the unpaid assessment or assessments, interest thereon from the due date to the date paid at the highest legal rate chargeable to individuals in Nebraska, and attorney fees and expenses incurred in the collectin of the same. No proceeding to collect defaulted assessments pursuant to this Section shall constitute a waiver of the lien of the Association against said defaulting owner's unit nor a waiver of the right of the Association to foreclose thereon.

As provided in the Uniform Condominium Act the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Provided, however, that upon payment of a resonable fee and upon written request, any such prospective grantee shall be entitled to a statement from the Board of Administrators, or the manager, which shall be conclusive upon the Association in favor of all persons relying thereon in good faith.

The provisions set forth in this Section shall not apply to the initial sales and conveyances of the condominium units made by the Developer, and such sales shall be free from all assessments to the date of conveyance.

#### Section 9. Assessment Lien.

If any unit owner shall fail to refuse to make any payment of an assessment when due, the amount thereof shall constitute a lien on the interest of the unit owner in his unit and the Administrators may record such lien in the office of the Register of Deeds; whereupon, said lien (which shall include the unpaid assessment or assessments, interest, attorney fees, and collection costs) shall be privileged over the prior to all liens and encumbrances except assessments, liens and charges for taxes past due and unpaid on the unit and except prior duly recorded mortgage and lien instruments. Assessments delinquent more than thirty (30) days after the due date shall bear interest at the highest legal rate for individuals in

Nebraska from the due date until paid. The delinquency of one installment of an annual assessment beyond the thirty (30) day period shall cause all remaining installments, at the option of the Association, to be immediately due and payable. The Board of Administrators shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorney fees, in an action to recover the same brought against such unit owner, or by foreclosure of the lien on such unit granted by the Uniform Condominium Act. In any action brought by the Board of Administrators to foreclose a lien on a unit because of unpaid assessments, the unit owner shall be required to pay a reasonable rental for the use of his unit from the date of institution of the proceeding and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Administrators, acting on behalf of all unit owners, shall have power to purchase such unit at the foreclosure sale, and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same.

#### Section 10. Statement of Unpaid Assessments.

Upon payment of a reasonable fee, not to exceed Seventy-Five Dollars (\$75.00), and upon the written request of any unit owner, prospective purchaser or of any mortgagee of a condominium unit, the Board of Administrators, or the managing agent, shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current periodic assessment and the date that such assessment becomes due, any penalties due, and credit for advance payments or for prepaid items, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith.

#### Section 11. Nonwaiver.

The omission or failure to timely fix any assessments or deliver or mail a statement for any period shall not be deemed a waiver, modification or a release of the owners from their obligation to pay the same.

### ARTICLE VII. INSURANCE

#### Section 1. Coverage.

The Board of Administrators shall obtain and maintain, to the extent obtainable, the following insurance: fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the entire condominium improvements and any other property, whether or not a common element (including all of the appliances and fixtures therein initially installed by the Developer and all appliances and fixtures therein subsequently installed by the unit owners but not including furniture, furnishings, or other personal property supplied or owned by unit owners), together with all service equipment contained therein in an amount equal to the full replacement value, without deduction for depreciation, and which shall contain a standard noncontributory mortgage clause in favor of each mortgagee of a condominium unit which shall provide that the loss, if any, hereunder shall be payable to such mortgagee as its interest may appear subject, however, to the loss payment provisions in favor of the Board of Administrators hereinafter set forth in Article XI; public liability insurance in such limits as the Board of Administrators may from time to time determine, covering the Association, each member of the Board, the managing agent, agents and employees of the Association and each unit owner; and such additional coverage as the Board of Administrators may from time to

time determine is appropriate. Such public liability coverage shall also cover cross liability claims of one insured against the other and shall contain waivers of subrogation.

Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of units at least ten (10) days prior to expiration of the then current policies. The cost of such policies shall be a common expense.

The Board of Administrators shall determine, at least annually, the replacement value of the condominium buildings and, in so doing, may employ such experts as the Board may feel necessary.

## Section 2. Provisions.

All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including mortgagees.

## Section 3. Insurance by Unit Owners.

Unit owners shall not be prohibited from carrying other insurance for their own benefit provided that all such policies shall contain waivers of subrogation and provided, further, that no unit owner shall have the right to insure any of the common elements individually.

Insurance coverage on furnishings and other items of personal or other property belonging to an owner and public liability coverage within each unit shall be the sole and direct responsibility of the unit owner thereof, and the Board of Administrators and the Association shall have no responsibility therefor.

## Section 4. Fidelity Bonds.

All Administrators must be covered by a fidelity bond which runs to the benefit of the Association and which meets the guidelines of the Federal National Mortgage Association.

# ARTICLE VIII. MAINTENANCE AND ALTERATIONS

## Section 1. Maintenance.

The unit owner shall have the obligation to maintain and keep in good repair the interior surfaces of walls, ceilings and floors (including carpeting, tile, wallpaper, paint or other covering) as well as all fixtures and appliances, located within such owner's unit. An owner shall not be responsible to the Association for repair to common elements or limited common elements by casualty, unless such casualty is due to the act or negligence of the owner, his guests, invitees or tenant. All maintenance, including lawn maintenance and snow removal, repairs and replacements to the common elements and limited common elements, shall be made by the Association and be charged to all the unit owners as a common expense, unless such maintenance, repair, or replacement is necessitated by the negligence, misuse or neglect of a unit owner, in which case, such expense shall be charged by the Association to such unit owner. All maintenance, repairs and replacements to the limited common elements shall be made by the Association and the Board of Administrators, in its sole discretion, shall determine if the cost of such maintenance, repair, or replacement is to be charged to all the unit owners as if a common expense or if such cost is to be charged to the unit or units to which said limited common element is appurtenant as shown on Exhibit "C".



Section 2. Alterations by Unit Owner.

No unit owner shall make any structural addition, alteration or improvement in or to his unit, or the limited common elements pertaining thereto, including any exterior painting or exterior alteration or addition (including awnings, grills, etc.) without the prior written consent thereto of the Board of Administrators. The Board of Administrators shall have the obligation to answer any written request by a unit owner for approval of a proposed structural addition, alteration or improvement in such owner's unit, within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Administrators to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any unit shall be executed by the Board of Administrators only, without, however, incurring any liability on the part of the Board of Administrators or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this Section 2 shall not apply to units owned by the Developer until such units shall have been initially sold by the Developer and paid for.

Section 3. Alterations or Enlargement of Common Elements by Association.

There shall be no improvement nor enlargement of the common elements nor additions thereof if such improvement, enlargement or addition shall cost more than \$1,000 during any single fiscal year, unless and until such proposal is approved in writing by owners holding at least 75% of the Percentage Share of Expenses as set forth in Exhibit "H" to the Master Deed, and until a proper amendment of the Master Deed, if required, has been duly executed, acknowledged and recorded pursuant to law.

The cost of the alteration or enlargement and of amending the Master Deed shall be a common expense and shall be collected by special assessment against all unit owners.

ARTICLE IX. RESTRICTIONS AND RESERVATIONSSection 1. Use Restrictions.

In order to provide for congenial occupancy of the Condominium Regime and for the protection of the value of the units, the use of the property shall be restricted to and shall be in accordance with the following provisions:

- (a) The units shall be used for residences only by the owner or owners thereof, their families, guests, invitees, lessees, and licensees. This restriction shall not apply to units owned by the Developer until such units shall have been initially sold by the Developer and paid for.
- (b) The common elements and facilities, including the limited common elements and facilities, shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of the units.
- (c) No nuisances shall be allowed on the Condominium Regime nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the Condominium Regime.

- (d) No improper, offensive or unlawful use shall be made of the Condominium Regime or any part thereof, and all valid laws, zoning laws and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Condominium Regime shall be corrected, by and at the sole expense of the unit owners or of the Board of Administrators, whichever shall have the obligation to maintain or repair such portion of the Condominium Regime.

## Section 2. Rules of Conduct.

Rules and regulations concerning the use of the units and the common elements and facilities, including the limited common elements and facilities, may be promulgated and amended by the Board of Administrators and by unit owners holding 51% or more of the total votes of the Condominium Regime as set forth in Exhibit "H" to the Master Deed. Copies of such rules and regulations shall be furnished by the Board of Administrators to each unit owner prior to the time when the same shall become effective. The original rules and regulations, effective until amended by the Board of Administrators and by vote of 51% or more of the unit owners, are annexed hereto and made a part hereof.

## Section 3. Right of Access.

A unit owner shall grant a right of access to his unit to the Board of Administrators or to the manager and/or managing agent or any other person designated by the Board of Administrators, for the purpose of making inspections or for the purpose of correcting any condition originating in his unit and threatening another unit or a common element or facility, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other facilities in his unit or elsewhere in the buildings, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether the unit owner is present at the time or not.

## Section 4. Abatement and Enjoining of Violations.

The violation of any rule or regulation adopted by the Board of Administrators or the breach of any of these By-Laws contained herein, or the breach of any provisions of the Master Deed, shall give the Board of Administrators the right, in addition to any other rights set forth in these By-Laws:

- (a) To enter into the unit in which, or as to which, such violation or breach exists and to summarily 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 Board of Administrators shall not thereby be deemed guilty, in any manner, of trespass.
- (b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.
- (c) To deny partially or wholly access to, benefit from, or use of all or any facilities, functions, or services, or suspend,

partly or wholly, all or any rights or privileges of membership, or to take any other disciplinary action directed by the Board of Administrators.

#### ARTICLE X. MORTGAGES

##### Section 1. Notice to Board of Administrators.

A unit owner who mortgages his unit shall notify the Board of Administrators of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Administrators. Also, the Board shall accept the same information from the holder of such mortgages, or any insurer or guarantor thereof. The Board shall maintain such information in a book entitled "Mortgages on Units".

##### Section 2. Notice of Default.

The Board of Administrators, when giving notice to a unit owner of a default in paying assessments or other default, shall send a copy of such notice to each holder of a mortgage covering such unit, or insurer or guarantor of such mortgage, whose name and address has theretofore been furnished to the Board of Administrators.

If there is any condemnation loss or any casualty loss which affects a material portion of the Condominium Regime or any unit on which any first mortgage held, insured, or guaranteed, or if there is any delinquency in the payment of assessments or charges owned by a unit owner subject to a first mortgage which is held, insured, or guaranteed which remains uncured for a period of sixty (60) days, or if there is any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, or any proposed action which would require the consent of a specified percentage of mortgage holders, the Board of Administrators shall give written notice of such facts to the eligible mortgage holders, eligible insurers, and eligible guarantors at the addresses furnished to the Association. In these By-Laws an eligible mortgage holder, insurer, or guarantor is any such institution which has given its name and address to the Board of Administrators pursuant to Section 1, Article X.

##### Section 3. Examination of Books.

Each unit owner, each mortgagee of a unit and each prospective purchaser designated in writing by an owner shall be permitted to examine the books of account of the Association at reasonable times, on a business day and during normal business hours as determined by the Board of Administrators, but in no event more often than once every three (3) months. Special requests for such examinations upon days other than those designated shall be granted or denied at the sole discretion of the Board of Administrators.

#### ARTICLE XI. DESTRUCTION, DAMAGE OR OBSOLESCENCE ASSOCIATION AS ATTORNEY-IN-FACT

##### Section 1. Association Attorney-In-Fact.

These By-Laws, as a part of the Master Deed, hereby make mandatory and irrevocable the appointment of the Association as attorney-in-fact to deal with the property and any insurance proceeds upon the damage of the property, its destruction, obsolescence, repair, reconstruction, improvement and maintenance, all according to the provisions of this Article XI. Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by a grantee of a deed, mortgage or other instrument of conveyance from the Developer, or his successors, or from any owner or grantor shall constitute

and appoint the Association his true and lawful attorney in his name, place, and stead for the purpose of dealing with the property upon its damage or destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a unit owner which are necessary and appropriate to exercise the powers granted in this Article. Repair and reconstruction of the improvements, as used in the succeeding Sections of this Article, mean restoring the improvements to substantially the same condition to which they existed prior to the damage, with each unit and the common elements and limited common elements having substantially the same vertical and horizontal boundaries as before.

#### Section 2. Damage or Destruction-Repair and Reconstruction Mandatory.

In the event of damage or destruction due to fire or other disaster, which damage or destruction is determined by the Board of Administrators to be less than 75% of the total replacement cost of all the condominium units in this Condominium Regime, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, and the Association shall have full authority to deal with insurance proceeds in such repair and reconstruction.

In the event that insurance proceeds are insufficient to repair and reconstruct the improvements, the Association shall levy a special assessment upon all units of the Regime to provide an amount sufficient to conduct said repair and reconstruction along with insurance proceeds. Such assessment shall be levied and collected according to Section 6 of Article VI, and the Association shall also have the rights noted in Section 9 of Article VI. The owner approval provisions of Section 6 of Article VI or other similar provisions contained herein shall not apply.

#### Section 3. Damage or Destruction-Repair and Reconstruction Optional.

In the event of damage or destruction due to fire or other disaster, which damage or destruction is determined by the Board of Administrators to be 75% or more of the total replacement cost of all of the condominium units in this Condominium Regime, not including land, the Board shall forthwith, within thirty (30) days of the occurrence of said damage or destruction, call a special members' meeting for the purpose of presenting to the unit owners the alternatives of repair and reconstruction or sale, pursuant to Section 4 or 5 of this Article. At such meeting, the Board shall present estimates of repair and reconstruction costs, the amount of insurance proceeds available, the projected necessity for, and amount, if any, of special assessments necessary to cover any deficiency in insurance proceeds, the projected sale price of the property as is, and projected distribution of all funds, including insurance proceeds, should the owners choose sale rather than repair and reconstruction. In arriving at such figures to be presented to the owners, the Board may employ such experts as deemed advisable. After presentation of all relevant financial information available to the Board, the owners may adopt either a plan of repair and reconstruction or a plan of sale. At the meeting, if a quorum is present, either plan may be adopted by a majority vote, as defined in Section 7 of Article II. After the adoption of the plan, the Board of Administrators shall use all diligence to obtain the written approval of all unit owners who favor the plan adopted. Either plan shall require the written consent of owners having a vote of 75% or more the total vote of the Condominium Regime as set forth in Exhibit "H" attached to the Master Deed prior to such plan becoming effective. If such approval is not obtained within 100 days from the date of damage or destruction, the plan will fail and the

provisions of Section 76-821 of the Condominium Property Act shall control. In addition to the owner approval requirement of the plan of sale or a plan to repair or reconstruct, the holders holding mortgages of at least 51% of all of the units in the Condominium Regime must consent in writing to either plan within the time provided. Said 51% of the mortgage holders need not be a part of the 75% of the unit owners.

#### Section 4. Plan of Repair and Reconstruction-Damage or Destruction.

In the event that a plan of repair and reconstruction is adopted by the owners and subsequently approved by the required number of owners and mortgage holders, as above set forth, the Board of Administrators shall forthwith proceed to repair and reconstruct the improvements as set forth in Section 2 of this Article.

#### Section 5. Plan of Sale-Damage or Destruction.

In the event that a plan of sale is adopted and approved by the owners and approved by the mortgage holders, as above set forth, then the Board of Administrators shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice with the Register of Deeds of Douglas County, Nebraska, by the Association's President and Secretary or Assistant Secretary, the entire remaining premises shall be offered for sale and sold by the Association pursuant to the provisions of this Article, as attorney-in-fact for all of the owners, free and clear of the provisions contained in the Master Deed, the Articles of Incorporation and these By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's Percentage Share Of Expenses in the common elements, as outlined in Exhibit "H" attached to the Master Deed, and such divided proceeds shall be paid into separate accounts, each sum account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property and any available funds of the Association. Such apportionment shall be based upon each condominium unit owner's Percentage Share Of Expenses in the common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, as set forth in Section 12 of this Article.

#### Section 6. Obsolescence of Building.

Upon request of the Board of Administrators or upon receipt of a written request signed by owners holding a majority of the total votes of the Condominium Regime as outlined in Section 7, Article II, the Secretary shall, pursuant to the provisions of Article II, issue notice of a special members' meeting to consider the question of obsolescence of the condominium buildings. At such meeting, owners holding seventy-fivepercent (75%) or more of the total votes of the Condominium Regime, voting in person or by proxy, may agree that the condominium buildings are obsolete. In the event that the owners agree that the buildings are obsolete, the Secretary shall forthwith issue notice of a special meeting of the unit members to be held 60 days from the date of the members' meeting at which the owners agreed upon the obsolescence of the buildings. During this 60 day period, the Board shall make such studies, with the aid of such experts as deemed advisable by the Board, as are necessary to present estimates as to the costs of remodeling or reconstructing the buildings, the amount of reserves therefore accrued by the Association to date and the amount, if any, of special assessments necessary to cover any deficiency between available reserves and remodeling or reconstruction expense, the projected

sale price of the property as is, and the projected distribution of all funds, including reserves and other funds of the Association, should the owners choose sale rather than remodeling or reconstruction. At the subsequent special meeting of the members, the Board shall present these estimates to the owners and the owners may adopt either a plan of remodeling or reconstruction, pursuant to Section 7, or a plan of sale pursuant to Section 8 of this Article XI. At the meeting, if a quorum is present, either plan may be adopted by a majority vote, as defined in Section 7 of Article II. After the adoption of the plan, the Board of Administrators shall use all due diligence to obtain the written approval of all unit owners who favor the plan adopted. Either plan shall require the written approval of owners who have seventy-five percent (75%) or more of the total votes of the Condominium Regime, as set forth in Exhibit "H" to the Master Deed, prior to such plan becoming effective. Further, before either plan can become effective, there must be the written consent of holders of mortgages of 51% or more on all of the units in the Condominium Regime. The 51% of the mortgage holders need not be a part of the 75% of the unit owners. If such approvals are not obtained within sixty (60) days from the date of the adoption of the plan, the plan will fail and no plan under this Section shall be adopted by the unit owners for a period of one calendar year.

#### Section 7. Plan of Remodeling or Reconstruction-Obsolescence.

In the event that a plan of remodeling or reconstruction is adopted by the owners and subsequently approved by the required number of owners and mortgage holders, as above set forth, the Board of Administrators shall forthwith proceed to remodel or reconstruct the improvements, applying reserves as set forth for insurance proceeds in Section 2 of this Article, with the same rights as to special assessments as set forth therein.

#### Section 8. Plan of Sale-Obsolescence.

In the event that a plan of sale is adopted and approved by the required number of owners and mortgage holders, as above set forth, then the Board of Administrators shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice with the Register of Deeds, Douglas County, Nebraska, by the Association's President and Secretary or Assistant Secretary, the entire premises shall be offered for sale and sold by the Association pursuant to the provisions of this Article, as attorney-in-fact for all of the owners, free and clear of the provisions contained in the Master Deed, Articles of Incorporation and these By-Laws. The funds and reserves established and held by the Association and the proceeds from the sale of the entire Condominium Regime shall be divided by the Association according to each owner's Percentage Interest Of Expenses in the common elements, as set forth in Exhibit "H" to the Master Deed, and such divided proceeds shall be paid into separate accounts, each account representing one of the condominium units. Each sum account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, as set forth in Section 12 of this Article.

#### Section 9. Condemnation.

In the event of a taking by condemnation or eminent domain of all or part of the common area, the award made shall be paid to the Board of Administrators and the proceeds of the awards shall be used in repairing, expanding or restoring the common area. Provided, however, if unit owners having 75% or more of the total votes of the Condominium Regime as outlined in Exhibit "H" to the Master Deed and holders of mortgages on 51% or more of the total units in the Condominium Regime consent in writing to disbursements of the net proceeds of the condemnation,

then in such event the Board of Administrators shall distribute said net proceeds of condemnation to the unit owners in the same order as provided in Section 12 of this Article.

#### Section 10. Power of Sale.

In the event of sale of the entire Condominium Regime pursuant to this Article, or upon adoption of such a plan upon termination of the Condominium Regime pursuant to Section 1 of Article XII, or otherwise, the Association shall have all the powers set forth herein in dealing with a purchaser or purchasers as attorney-in-fact.

#### Section 11. Sale of Unit-Default in Special Assessment Under Article.

The special assessment provided for in this Article shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Article VI. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this Section. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the highest legal rate on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the order set forth in Section 12 of this Article. Any deficiency of funds to pay the unpaid assessments shall remain the personal obligation of the delinquent unit owner. Any such sale shall require the approval of all prior mortgagees and lienholders upon the unit if the proceeds of sale will not be sufficient to pay the indebtedness secured by said encumbrances after the deduction of sale expenses and costs.

#### Section 12. Application of Proceeds.

Proceeds received as set forth in the preceding Sections and as applicable to each unit, shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (a) For payment of taxes and special assessments liens in favor of any assessing governmental entity and the customary expense of sale;
- (b) For payment of the balance of the lien of any mortgage or other encumbrance having priority over the lien of items set forth in (c), below, in the order of and to the extent of their priority;
- (c) For payment of unpaid assessments and all costs, expenses and fees incurred by the Association;
- (d) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
- (e) The balance remaining, if any, shall be paid to the condominium unit owner.

#### Section 13. No Abatement of Assessments.

Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction; remodeling or reconstruction; nor prior to sale of any unit for delinquent unpaid assessments unless a resolution to such effect shall be adopted by the Board of Administrators.

As used in this Article, the percentage voting requirements of unit owners shall be based upon the votes and total votes set forth in Exhibit "H" to the Master Deed.

Section 15. Reallocation of Percentage Interest of Expenses.

In the event of a partial condemnation or partial destruction of the common areas of the Condominium Regime, there cannot be a reallocation of the Percentage Interest of Expenses and the resulting votes under Exhibit "H" to the Master Deed unless 51% or more of the holders of mortgages on all remaining units, whether existing in whole or in part, consent in writing to said reallocation.

ARTICLE XII. TERMINATION OR AMENDMENT

Section 1. Termination.

Except as otherwise provided, owners holding eighty percent (80%) or more of the total votes of the Condominium Regime, using the votes set forth in Exhibit "H" to the Master Deed, and 51% or more of the first mortgage holders on all of the units in the Condominium Regime, shall have the right to terminate this Condominium Regime, or to merge this Condominium Regime with another condominium regime duly organized and existing under the laws of this state, all subject to the conditions of Section 76-812 of the Condominium Property Act. Said 51% of the mortgage holders need not be a part of the 80% of the unit owners.

Section 2. Amendment by Owners.

There shall be no amendment to these By-Laws unless owners holding seventy-five percent (75%) or more of the total votes of the Condominium Regime, using the votes set forth in Exhibit "H" to the Master Deed, shall have voted therefore in the affirmative at a special or annual meeting; provided, however, percentage voting requirements contained in these By-Laws shall not be amended by a lesser percentage vote than that sought to be amended.

No amendment shall be effective unless 51% or more of the first mortgage holders shall have consented in writing to any amendment which establishes, provides for, governs or regulates any of the following: (a) voting; (b) assessments, assessment liens or subordination of such liens; (c) reserves for maintenance, repair and replacement of common area; (d) insurance for fidelity bonds; (e) rights to use of the common area; (f) responsibility for maintenance and repair of the several portions of the Condominium Regime; (g) expansion or contraction of the Condominium Regime or the addition, annexation or withdrawal of property to or from the Condominium Regime; (h) boundaries of any units; (i) the interest in the general or limited common areas; (j) convertability of the units into common areas or common areas into units; (k) leasing units estate; (l) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer or otherwise convey his or her unit; (m) any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgage on units. Provided, however, any addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. If any eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. The 51% of the mortgage holders need not be a part of the 75% of the unit holders.



Section 3. Amendment by Developer.

Anything contained in these By-Laws or in the Master Deed to the contrary notwithstanding, Developer, or his successors, so long as he has not released control of the Association, shall have the right to amend these By-Laws for the clarification hereof or for the benefit of all unit owners without the requirement of unit owners approval; provided that it obtains the prior written consent of at least fifty-one percent (51%) of all first mortgagees on all of the units in the Condominium Regime; provided, further, that if such modification is for the addition of units or lands to the Condominium Regime pursuant to the powers reserved to the grantor in the Master Deed, the prior written consent of at least fifty-one percent (51%) of all first mortgagees on all units in the Condominium Regime shall not be required.

ARTICLE XIII. RECORDSSection 1. Records and Audit.

The Board of Administrators or the managing agent shall keep detailed records of the actions of the Board of Administrators and the managing agent, minutes of the meeting of the Board of Administrators, minutes of the meetings of unit owners, and financial records and books of account of the Association and the Condominium Regime, including a chronological listing of receipts and expenditures, as well as a separate account for each unit which, among other things, shall contain the amount of each assessment of common charges against such unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the Association and Condominium Regime shall be rendered by the Board of Administrators to all unit owners at least annually. In addition, an annual report of the receipts and expenditures of the Association and Condominium Regime, certified by an independent certified public accountant, shall be rendered by the Board of Administrators to all unit owners and to all mortgagees of units who have requested the same, promptly after the end of each fiscal year.

ARTICLE XIV. MISCELLANEOUSSection 1. Notices.

All notices to the Association required herein shall be sent by registered or certified mail to the Board of Administrators c/o the managing agent, or if there is no managing agent, to the office of the Board of Administrators or to such other address as the Board of Administrators may hereafter designate from time to time by notice in writing to all unit owners or to all mortgagees of units.

All notices to any unit owner shall be given by mail to his unit address or to such other address as may have been designated by him from time to time to the Board of Administrators. All notices to mortgage holders, insurers, or guarantors shall be given to such address as may have been designated by said party from time to time to the Board of Administrators. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. Services Provided.

The Association shall be responsible for and shall pay for: exterior maintenance of all buildings and maintenance of all common elements; lawn, tree and shrub care and replacement; snow removal; trash removal; casualty, liability and other insurance coverage required or permitted hereunder. The expense of these services shall be a common expense.

Section 3. Invalidity.

The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 4. 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 By-Laws, or the intent of any provision thereof.

Section 5. Gender.

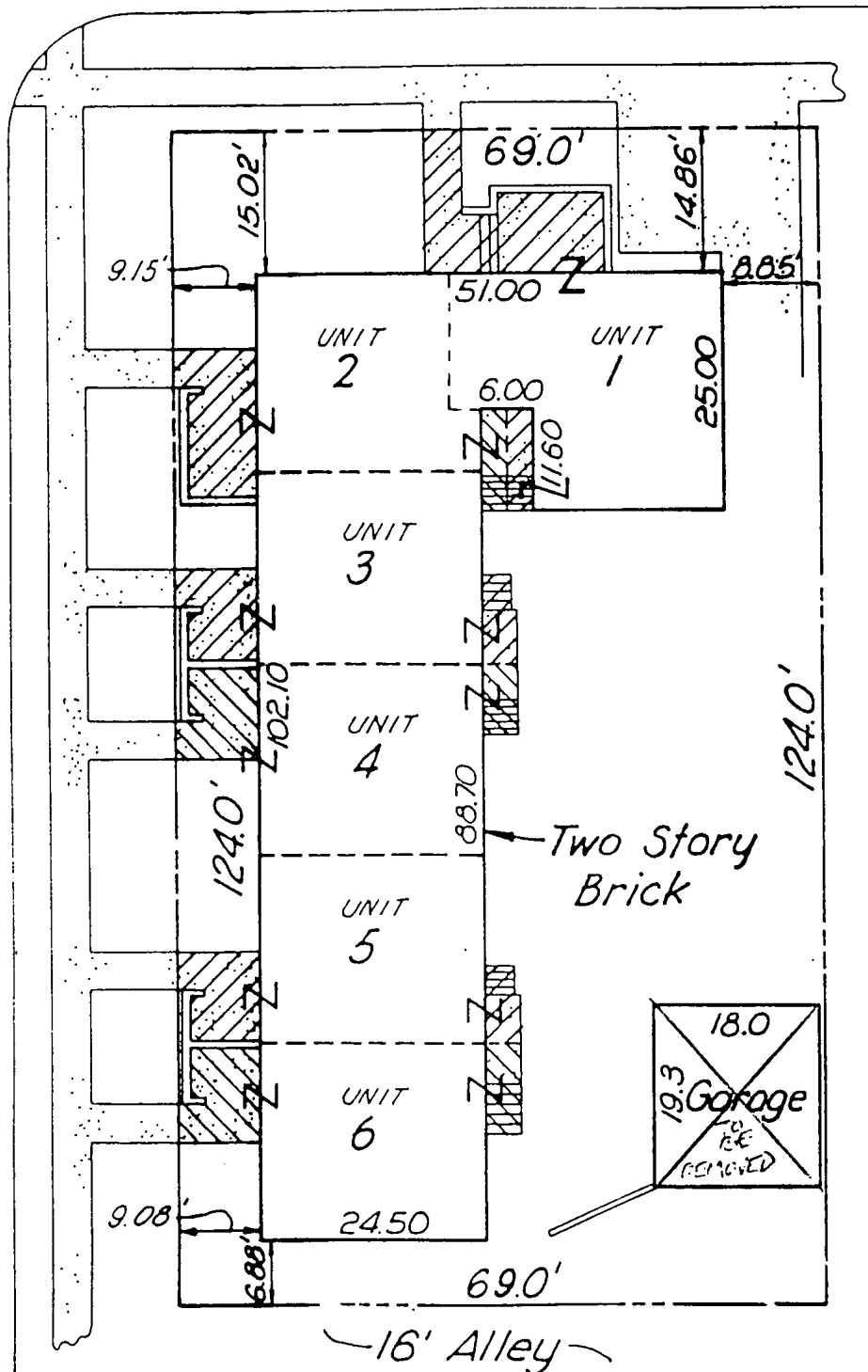
The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural and the plural, the singular, whenever the context so requires.

Section 6. Nonwaiver.

No restrictions, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce same, irrespective of the number of violations or breaches thereof which may occur.

DEWEY AVENUE (50' R.O.W.)

35<sup>th</sup> AVENUE (60' R.O.W.)



Scale: 1" = 20'

= Limited Common Area

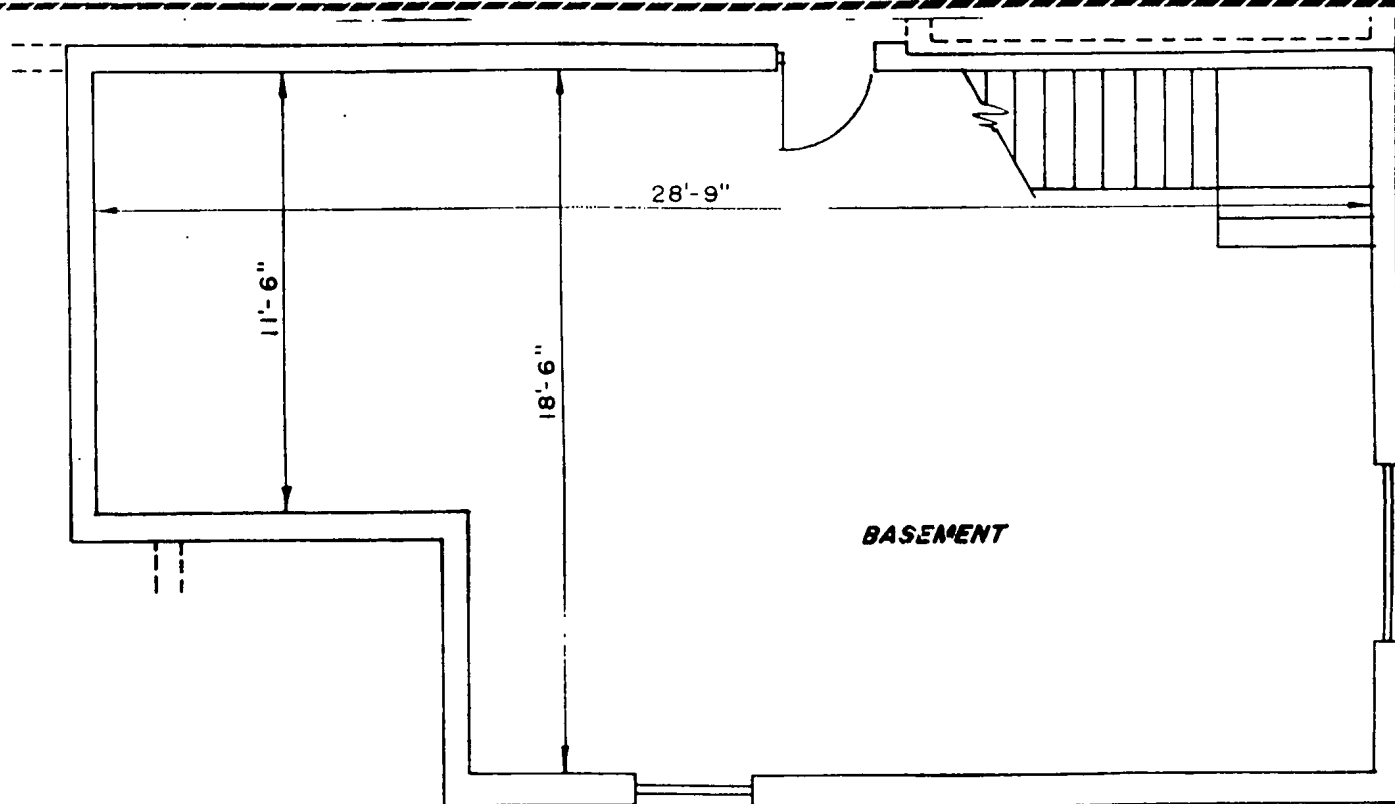
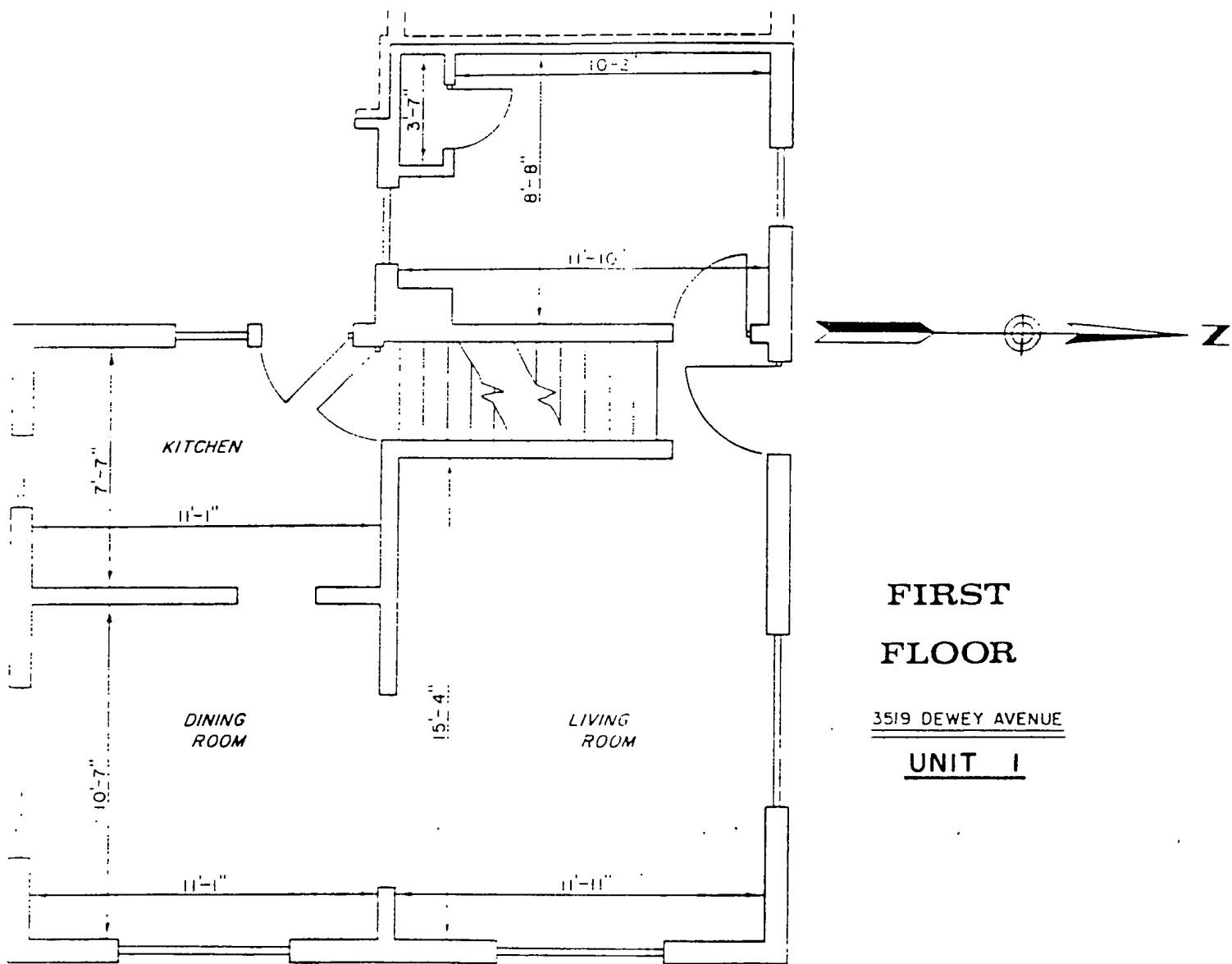
As Built Plot Plan  
 Lot 4, Block 3, Isaac & Seldin's Addition,  
 together with the East vacated 3.00  
 feet of 35<sup>th</sup> Avenue adjoining said  
 Lot 4 on the West, as platted and  
 recorded, Douglas County, Nebraska.

POOR COPY FILED

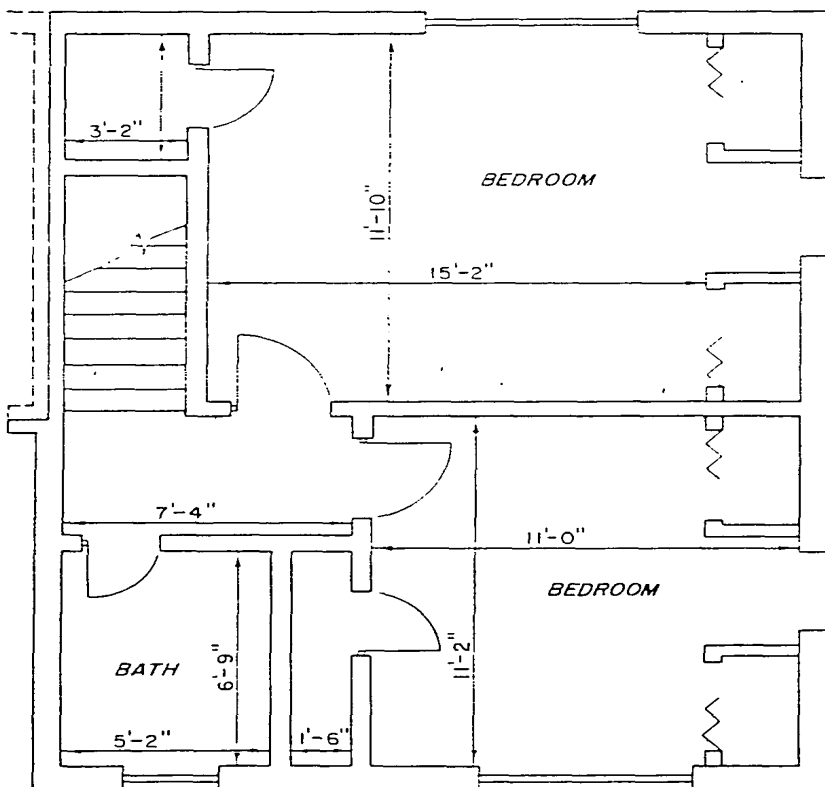
I hereby certify  
 that by this  
 plat of survey  
 the State of  
 Nebraska

WILLIAM A. FAHNESTOCK

This is a plat of survey for loan purposes only and does not comply with Sections 81-8, 122 and 81-8, 122.01 RRS NE 1943, Reissue of 1976, and should not be used for Construction purposes. This Survey is intended to locate the shown improvements upon the Real Estate, and does not in any manner verify the accuracy of the Legal Description of the Real Estate upon which said improvements are made, nor has any effort been made to verify said Legal Description beyond that information provided to the undersigned



**BASEMENT**



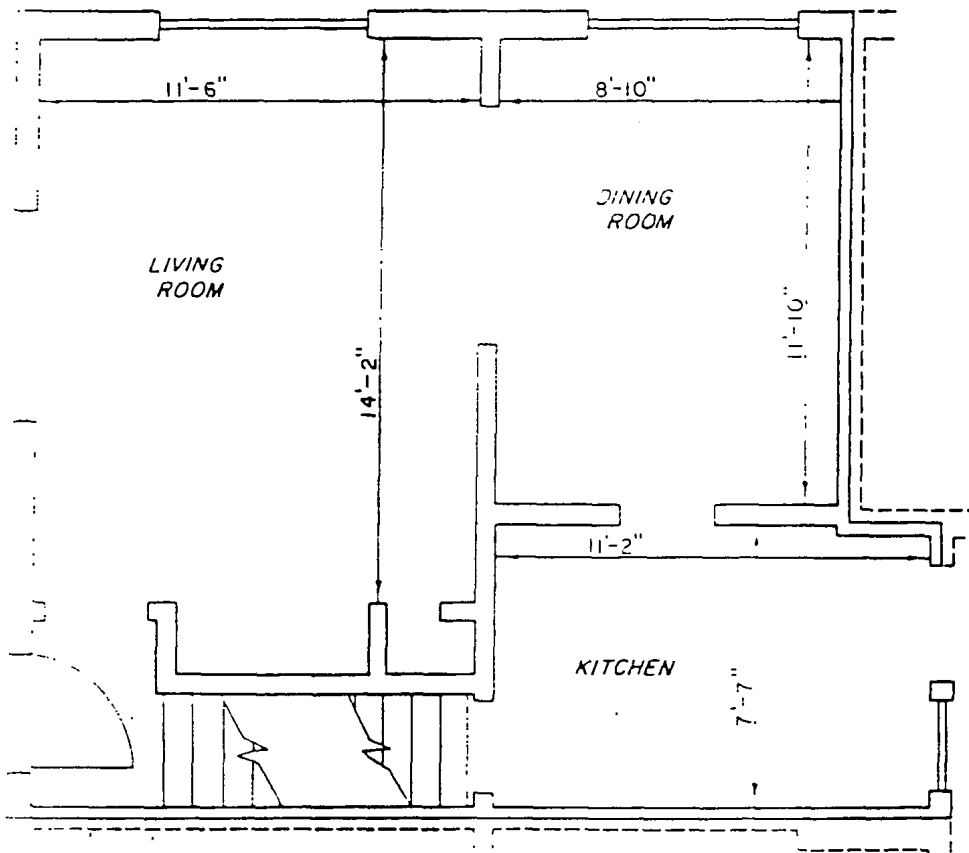
SECOND

FLOOR

3519 DEWEY AVENUE

UNIT 1

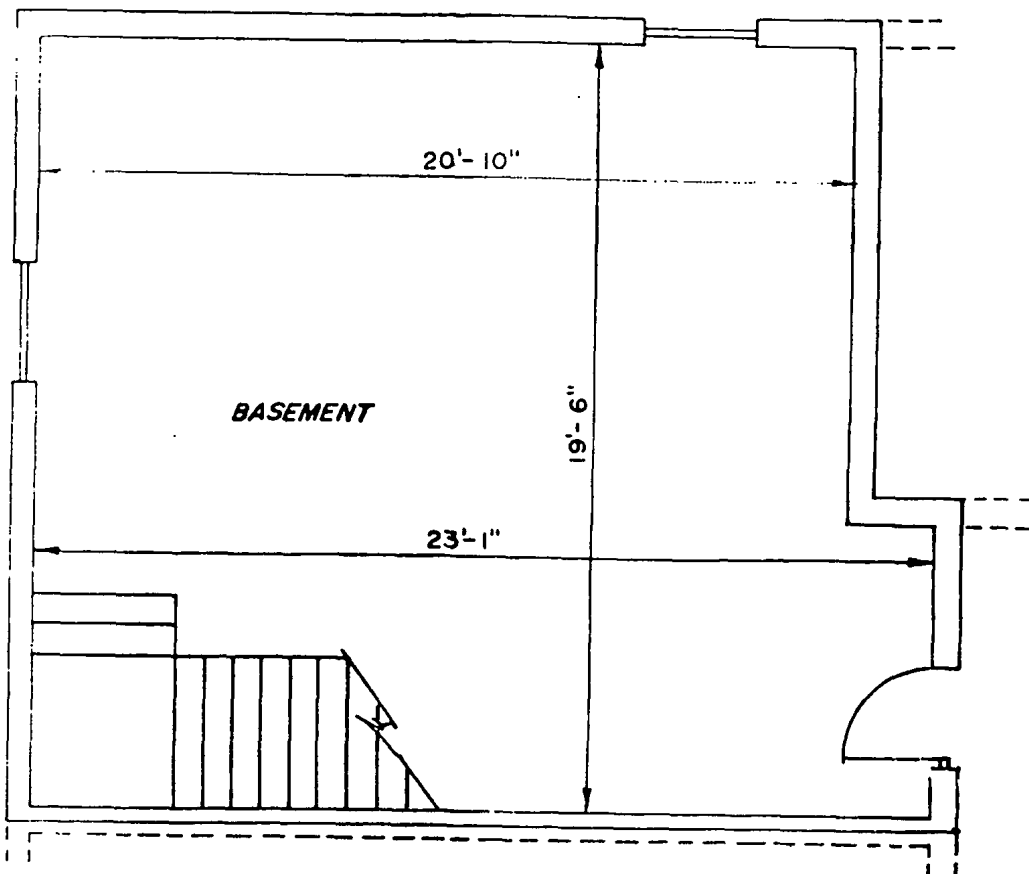
POOR INSTRUMENT FILED



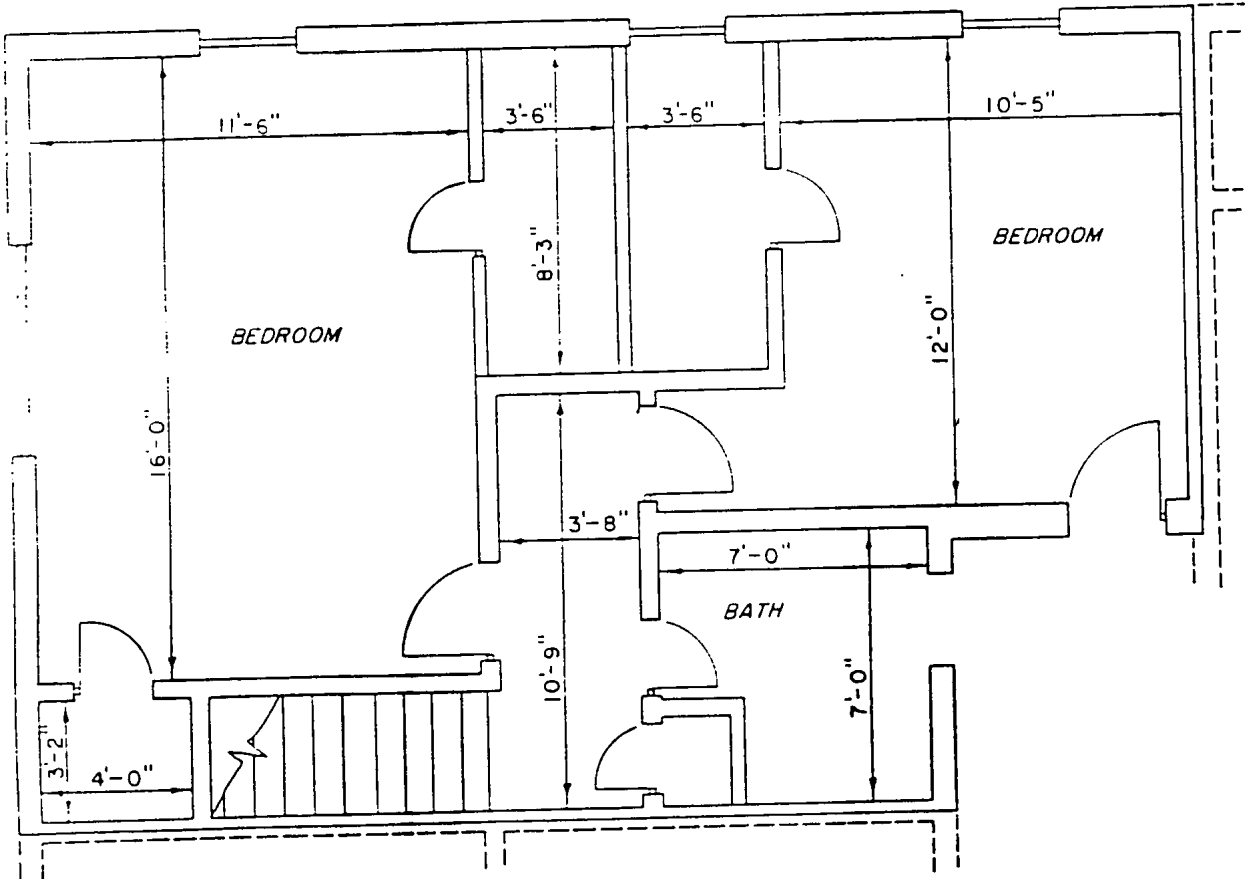
FIRST  
FLOOR

501 S. 35th AVENUE

UNIT 2

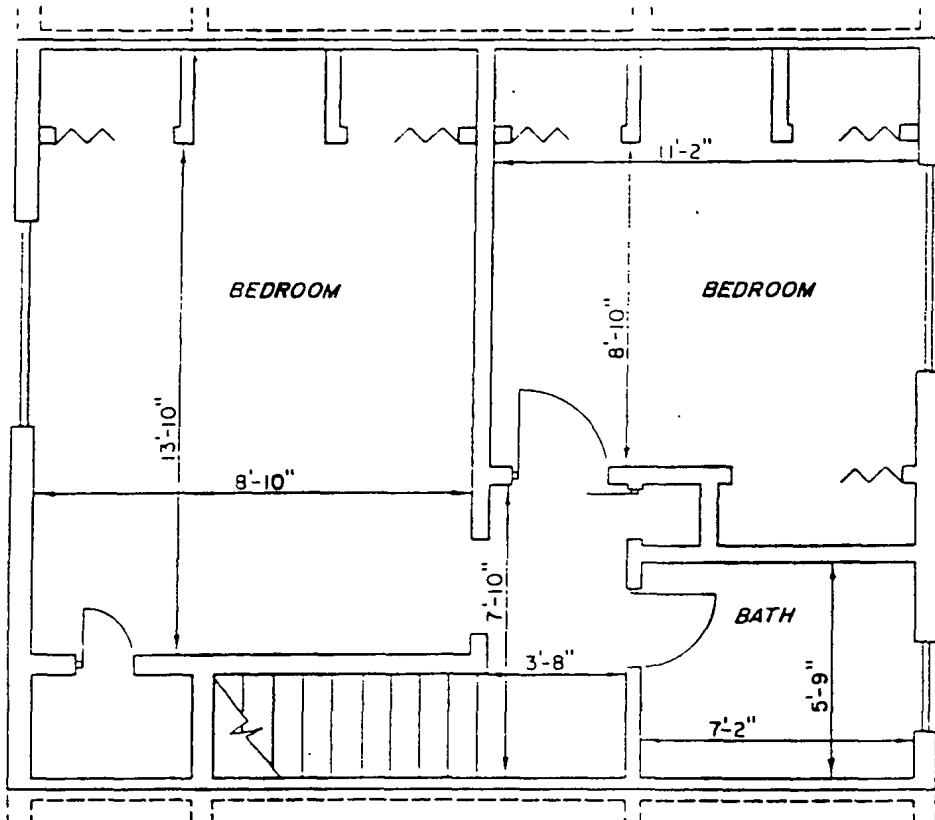


BASEMENT

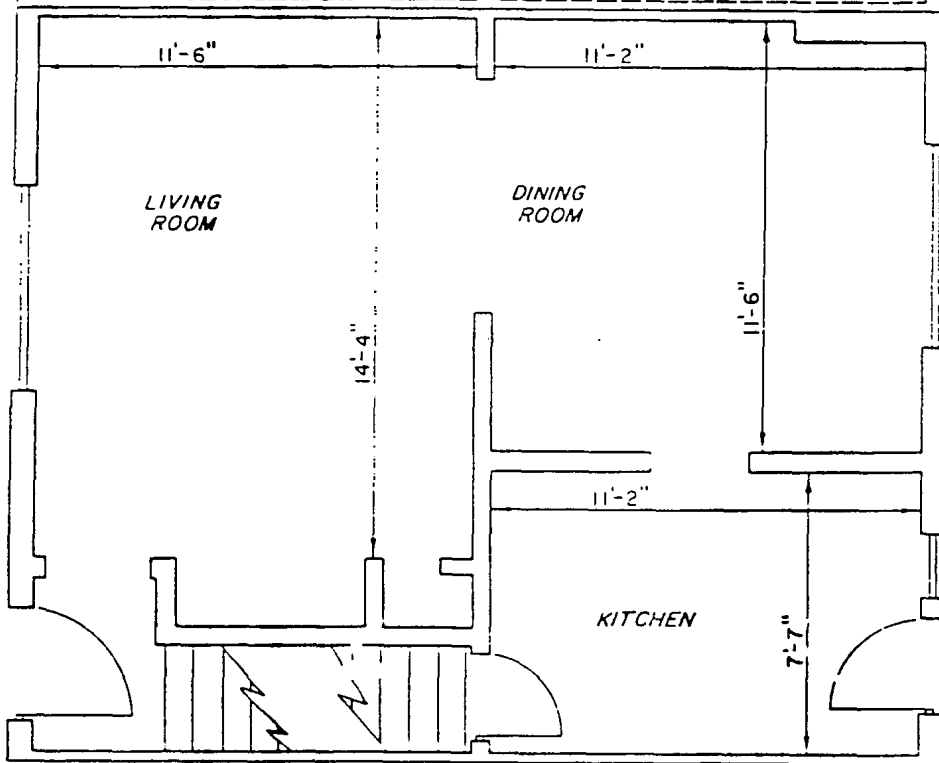


SECOND  
FLOOR  
501 S. 35th AVENUE  
UNIT 2



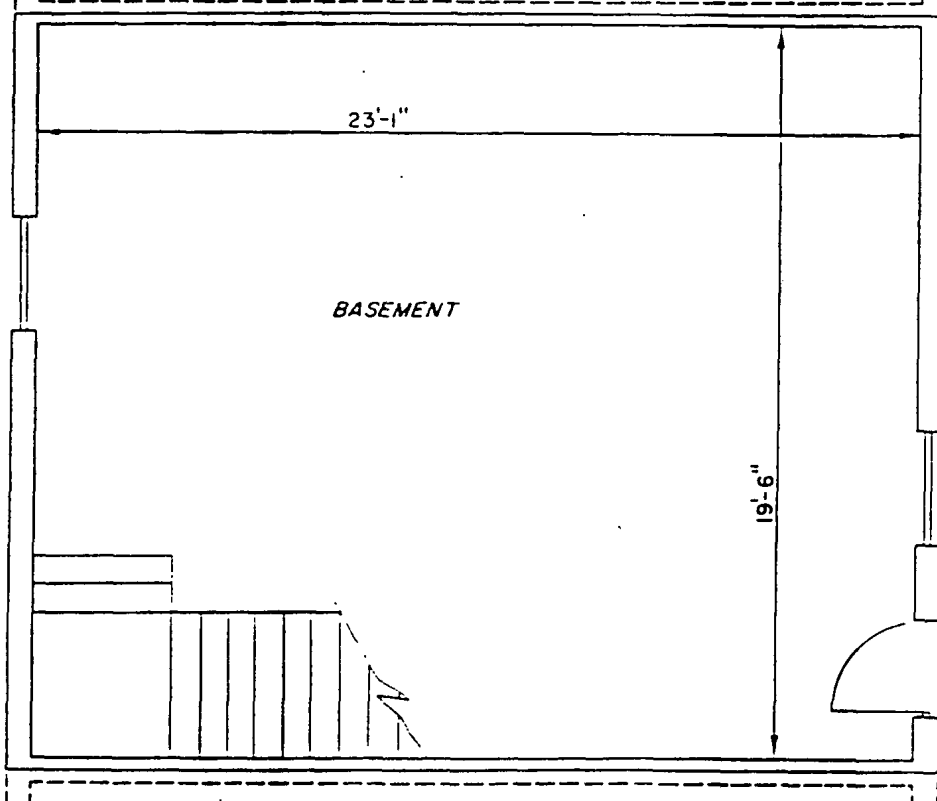


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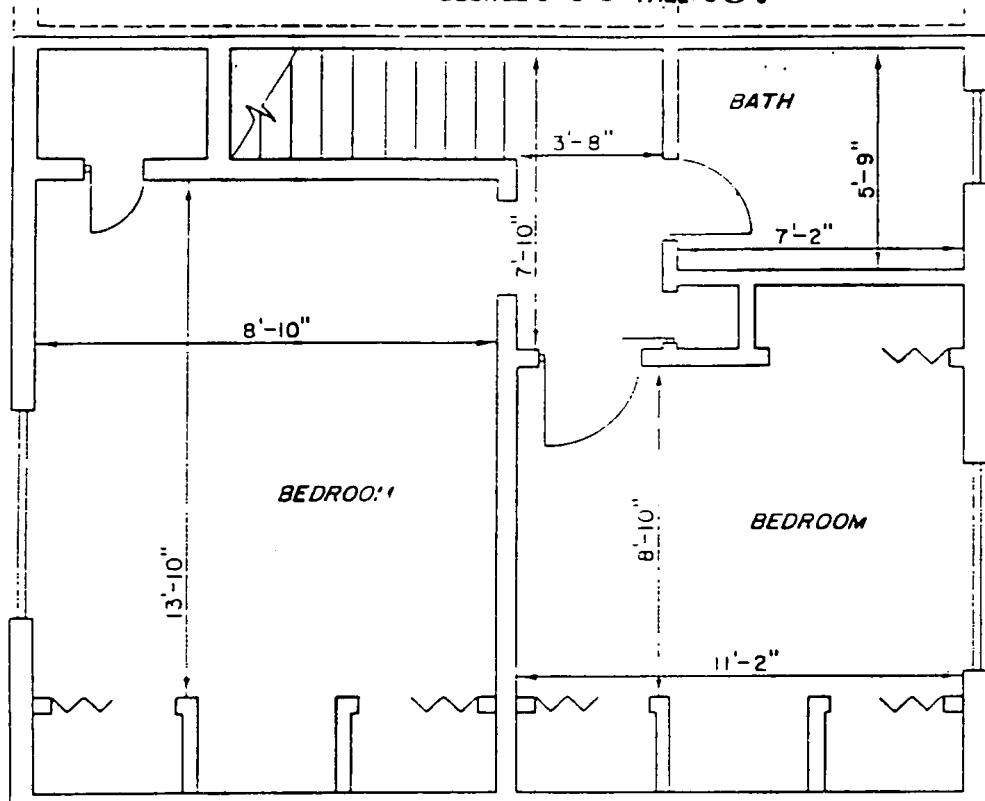
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UNIT 3

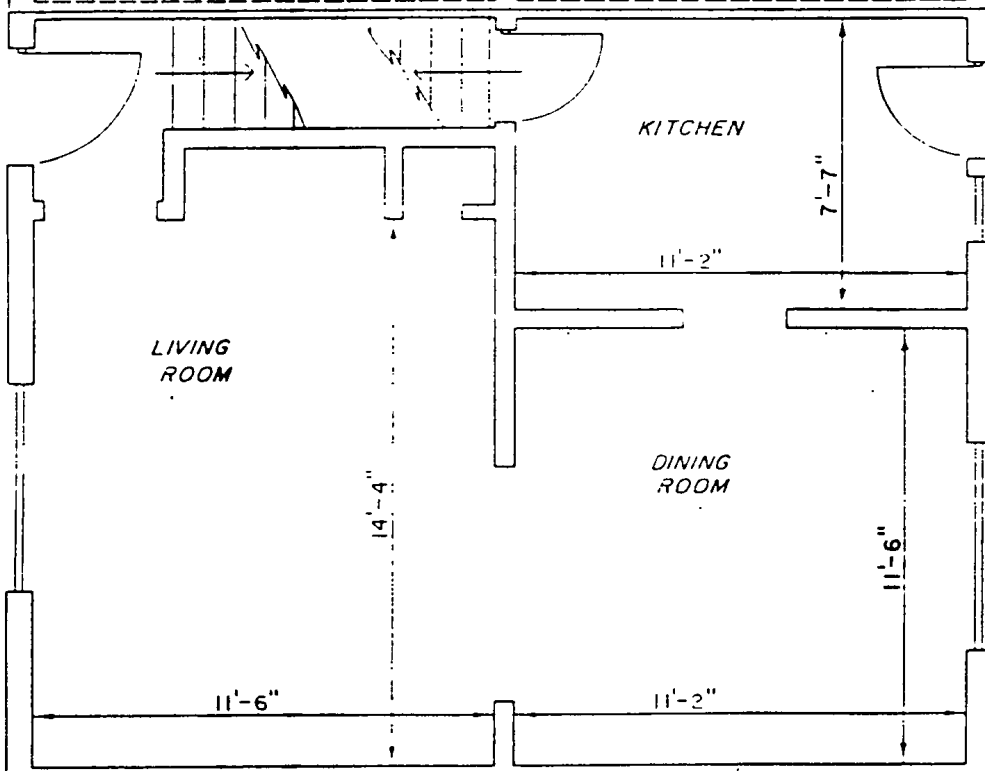


BASEMENT





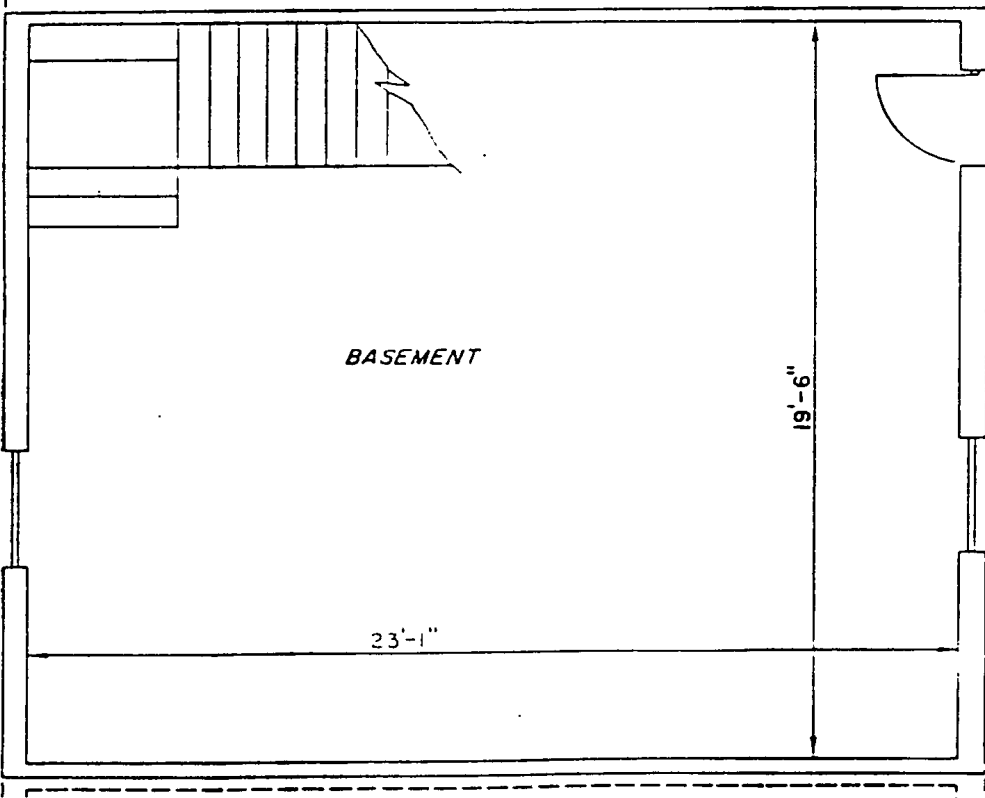
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FLOOR



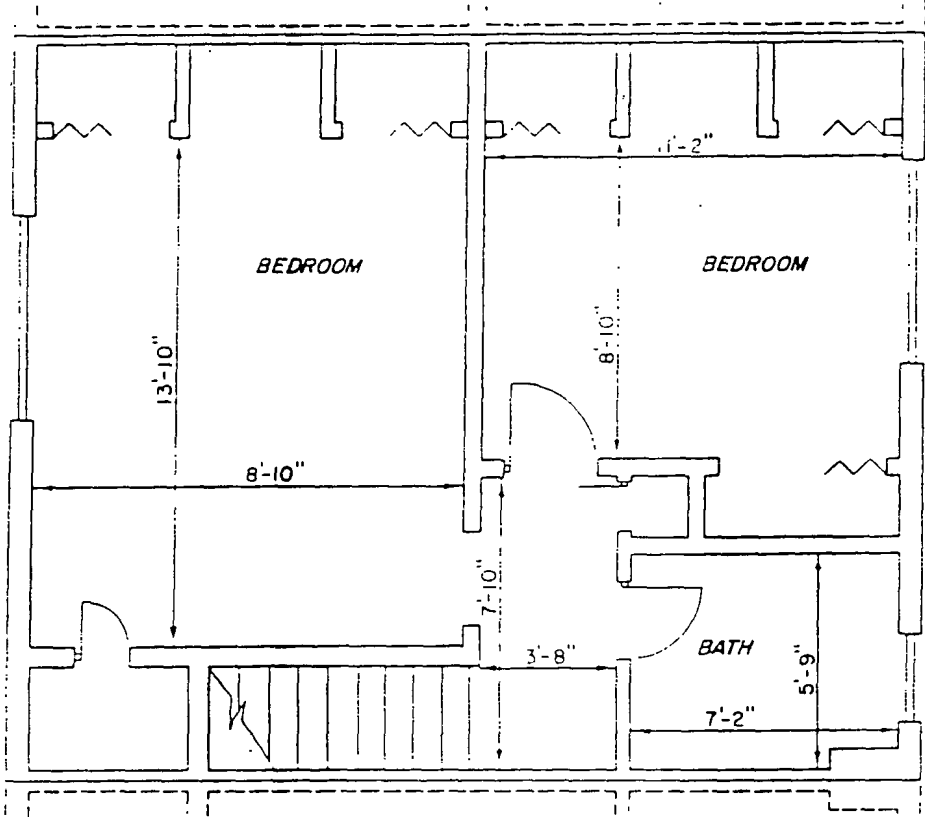
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FLOOR

505 S. 35th AVENUE

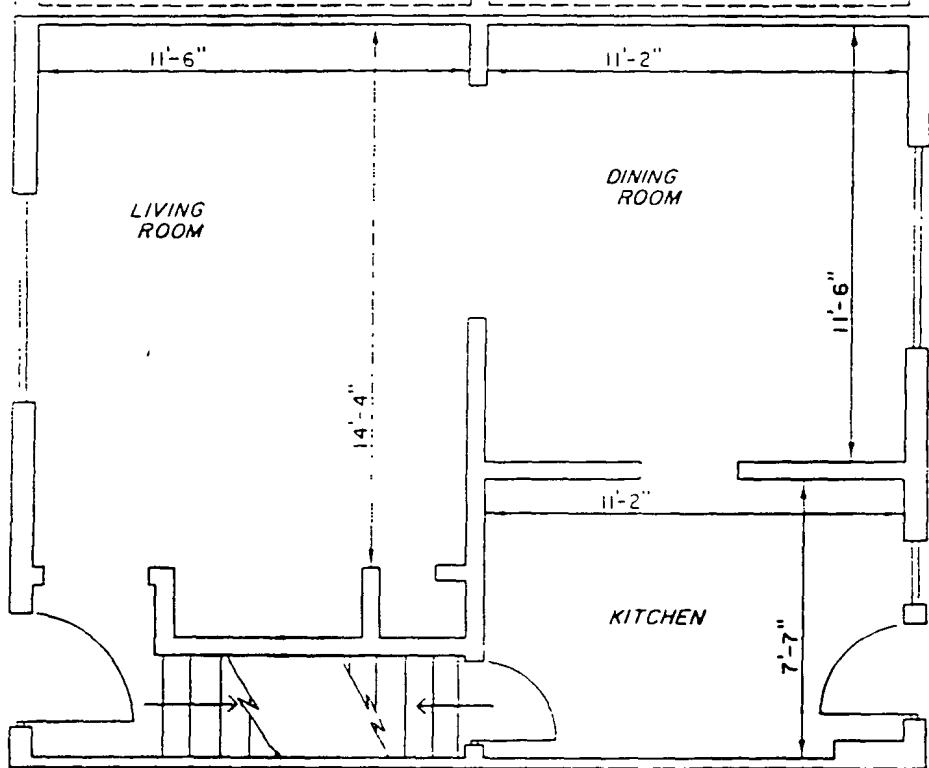
UNIT 4



BASEMENT

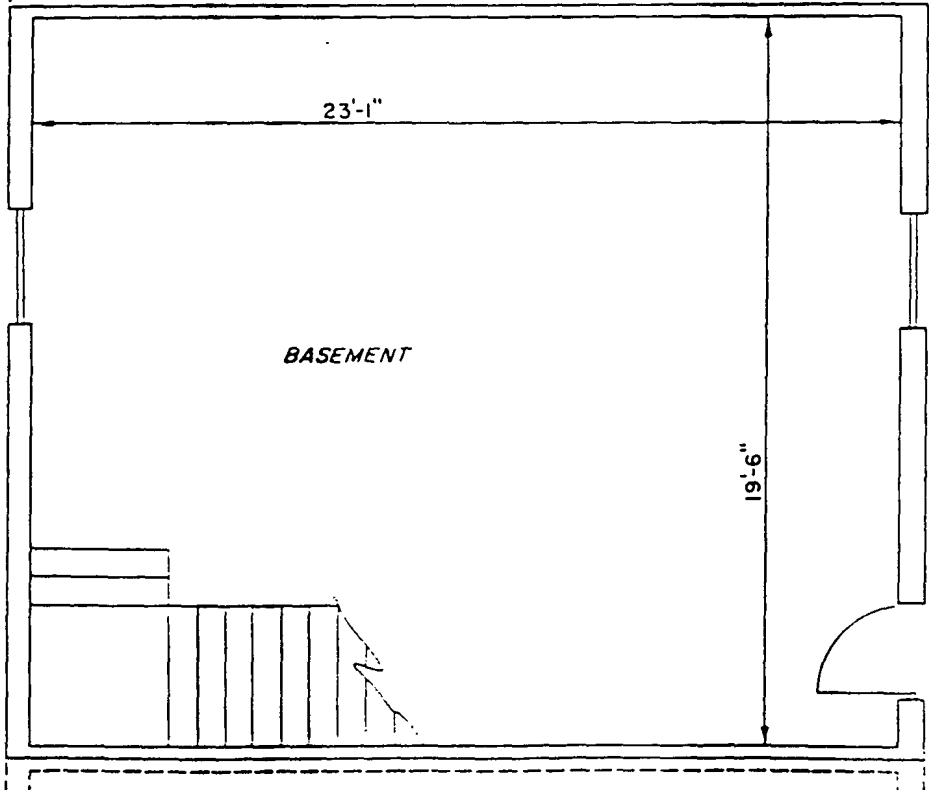


SECOND  
FLOOR

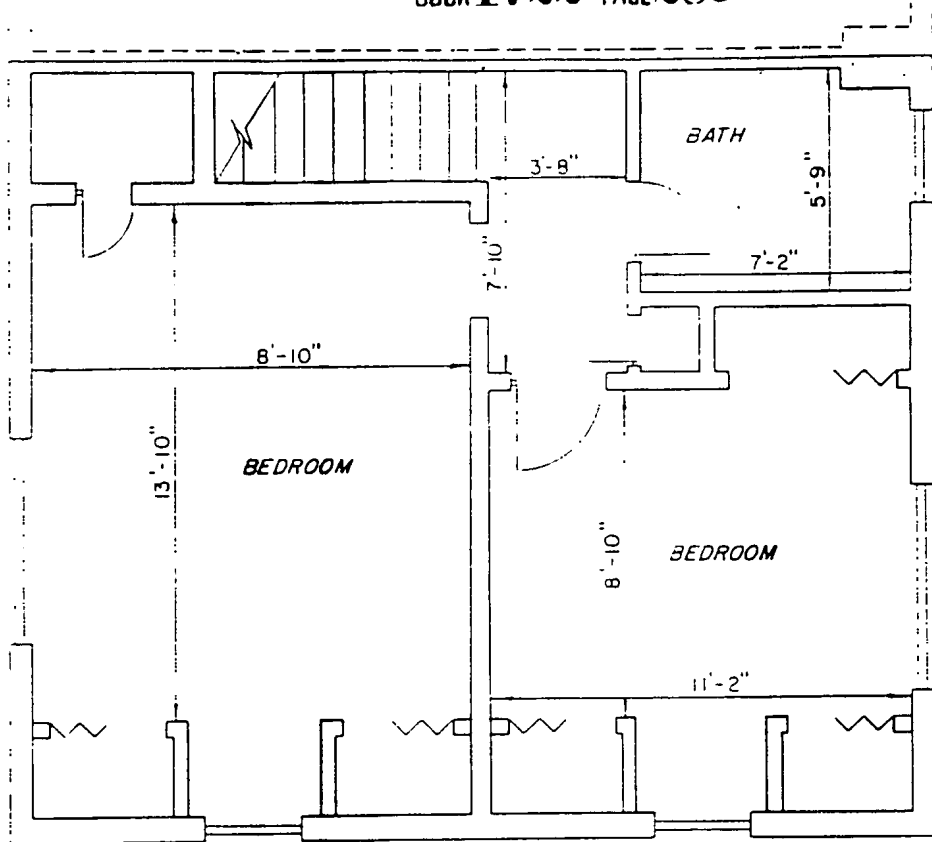


FIRST  
FLOOR

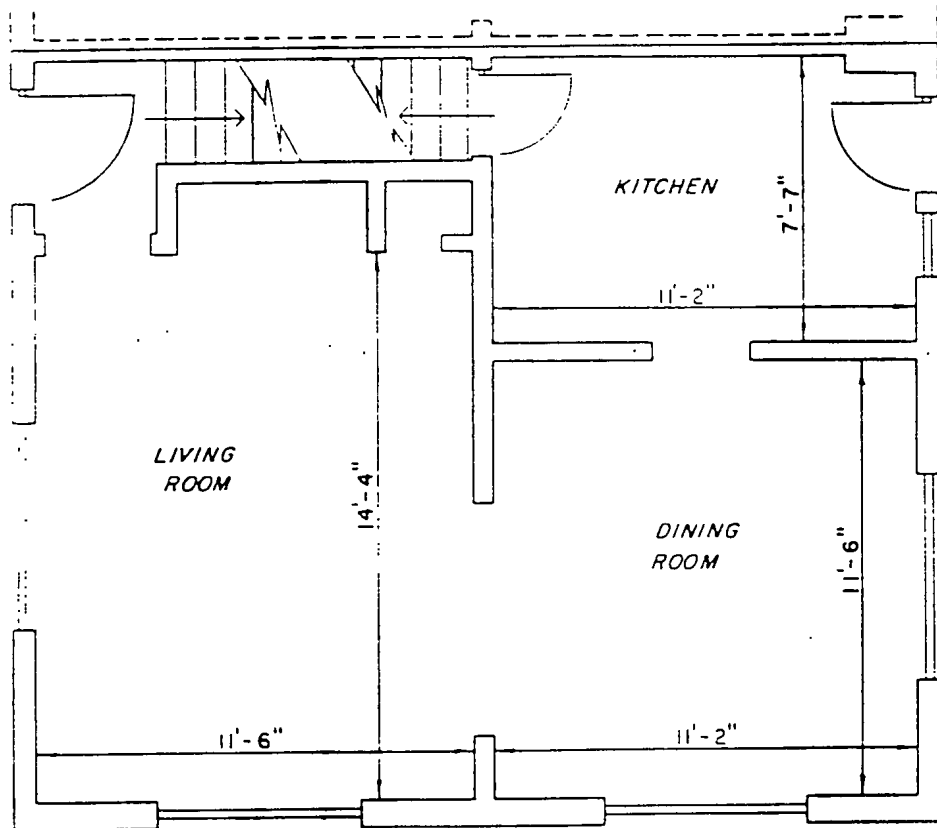
507 S 35th AVENUE  
UNIT 5



BASEMENT

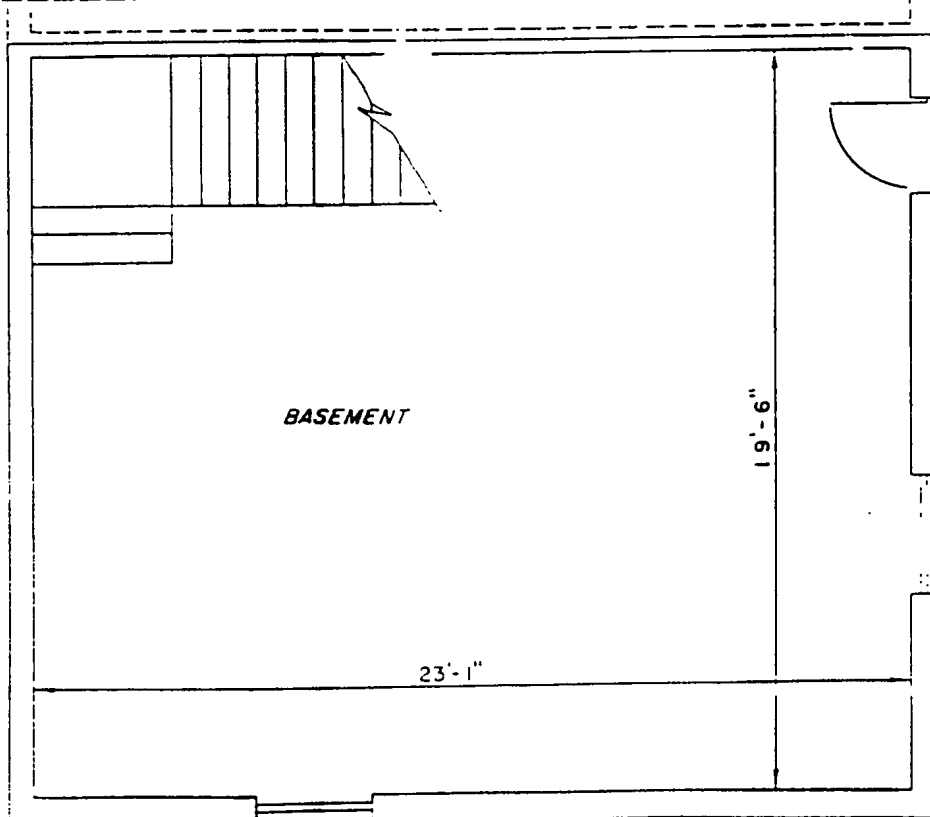


SECOND  
FLOOR



FIRST  
FLOOR

509 S. 35th AVENUE  
UNIT 6



BASEMENT

Each of the units identified below within this Exhibit shall have as its limited common elements any porches or other structures affixed or appurtenant to said unit. With respect to the ownership of the common elements, the owner of each of said units shall own, in addition to said unit, a percentage of the common elements equal to the Percentage Share of Expenses set forth below for the owned unit.

<u>Street Address</u>	<u>Unit Number</u>	<u>Basic Value</u>	<u>Percentage Share Of Expenses</u>	<u>Unit's Number Of Votes</u>
3519 Dewey	1	43,950	19.590	19.590
501 So. 35th Ave.	2	43,950	19.590	19.590
503 So. 35th Ave.	3	41,950	15.205	15.205
505 So. 35th Ave.	4	41,950	15.205	15.205
507 So. 35th Ave.	5	41,950	15.205	15.205
509 So. 35th Ave.	6	41,950	15.205	15.205
TOTALS		\$255,700	100.000%	100.000%

Note: All of the above street addresses are in Omaha, Douglas County, Nebraska.

13 R. ed

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