



BK 0963 PG 137-140



MISC 1991 08722

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9 16

PARTY WALL AGREEMENT

THIS PARTY WALL AGREEMENT made and entered into this 16 day of April, 1991, by and between WILLIAM S. HUTCHESON and DORIS HUTCHESON, husband and wife, (hereinafter referred to as "Hutcheson"), and 1308 JACKSON PARTNERSHIP, a Nebraska partnership (hereinafter referred to as ("1308")).

W I T N E S S E T H

WHEREAS, Hutcheson was the owner of Lots 5, 6 and 7, Block 167, in the original City of Omaha, as surveyed and lithographed in Douglas County, Nebraska, and presently is the owner of Lot 5, Block 167, in the original City of Omaha, as surveyed and lithographed in Douglas County, Nebraska (hereinafter referred to as "West Tract"), and 1308 is the owner of Lots 6 and 7, Block 167 in the original City of Omaha as surveyed and lithographed in Douglas County, Nebraska (hereinafter referred to as "East Tract"), having received Deed to the East Tract on January 31, 1991; and,

WHEREAS, the buildings on the West Tract and East Tract were built at separate times. The Building on the East Tract was constructed subsequent to construction of the building on the West Tract; and the east building wall on the West Tract was used as the west building wall for the East Tract without appropriate recordation of permission and has been so used for over forty (40) years; that said wall is shown on Exhibit A and incorporated herein; and it is desired that such wall now be denoted a party wall to serve both the West and East Tracts.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) in hand received and paid each to the other, and other valuable consideration together with other benefits inuring to each and the other, the parties hereto covenant and agree for themselves, their heirs, successors, assigns and personal representatives as follows:

1. The parties acknowledge that the east wall of the West Tract and the west wall of the East Tract is a common wall, and that said wall serves as a boundary between the West Tract and the East Tract, and that the wall sits entirely on Lot 5, Block 167 in the original City of Omaha (West Tract). The wall shall be a party wall, and the parties hereto shall have the right to use same jointly.

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GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

2. In the event of damage or destruction of said wall from any cause, other than the negligence of either party thereto, the then owners shall, at joint expense, repair or rebuild said wall, and each party, his successors and assigns, shall have the right to the full use of said wall so repaired or rebuilt. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share, or all of such cost in case of negligence, the other party may have such wall repaired or restored and shall be entitled to have a mechanic's lien on the premises of the party so failing to pay, for the amount of such defaulting party's share of the repair or replacement cost.

3. Neither party shall alter or change said party wall in any manner, interior decoration excepted, and said party wall shall always remain in the same location as when erected and each party to said common wall shall have a perpetual easement in that part of the premises of the other on which said party wall is located, for party wall purposes; provided, however, if the building on either the East Tract or West Tract is removed, the owner thereof shall leave the party wall in good workmanlike manner and comply with all governmental regulations. If the building on the East Tract is removed, then this Party Wall Agreement shall be extinguished and the easements created herein shall be of no force and effect, and the owners of the real property shall have no further claim upon each other.

4. The easements hereby created are and shall be perpetual and construed as covenants running with the land and each and every person accepting a deed to either tract or portion thereof shall be deemed to accept said deed with the understanding that he is bound by the provisions herein contained, and each and every purchaser, by accepting a deed to either tract, shall thereby consent and agree to be bound by the covenants herein contained to the same extent as though he had signed this instrument.

5. This Agreement shall be binding upon the Personal Representatives, successor and assigns of the parties hereto.

William S. Hutcheson
William S. Hutcheson

Doris Hutcheson
Doris Hutcheson

1308 JACKSON PARTNERSHIP

By Emil Vohoska
Emil Vohoska, General Partner

STATE OF ^{Nebraska} ARIZONA)
) SS.
COUNTY OF Douglas)

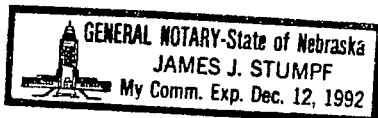
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On this 16 day of April, 1991, before me, a Notary Public, in and for said county, personally appeared William S. Hutcheson and Doris Hutcheson, husband and wife, known to me to be the identical persons whose names are affixed to the above and foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

My commission expires:

James J. Stumpf
Notary Public



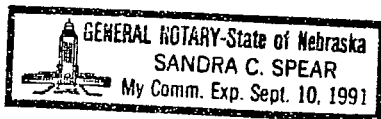
STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this 4th day of April, 1991, before me, a Notary Public in and for said county, personally appeared Emil Vohoska, general partner of 1308 Jackson Partnership, known to me to be the identical person whose name is affixed to the above and foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

My commission expires:

Sandra C. Spear
Notary Public



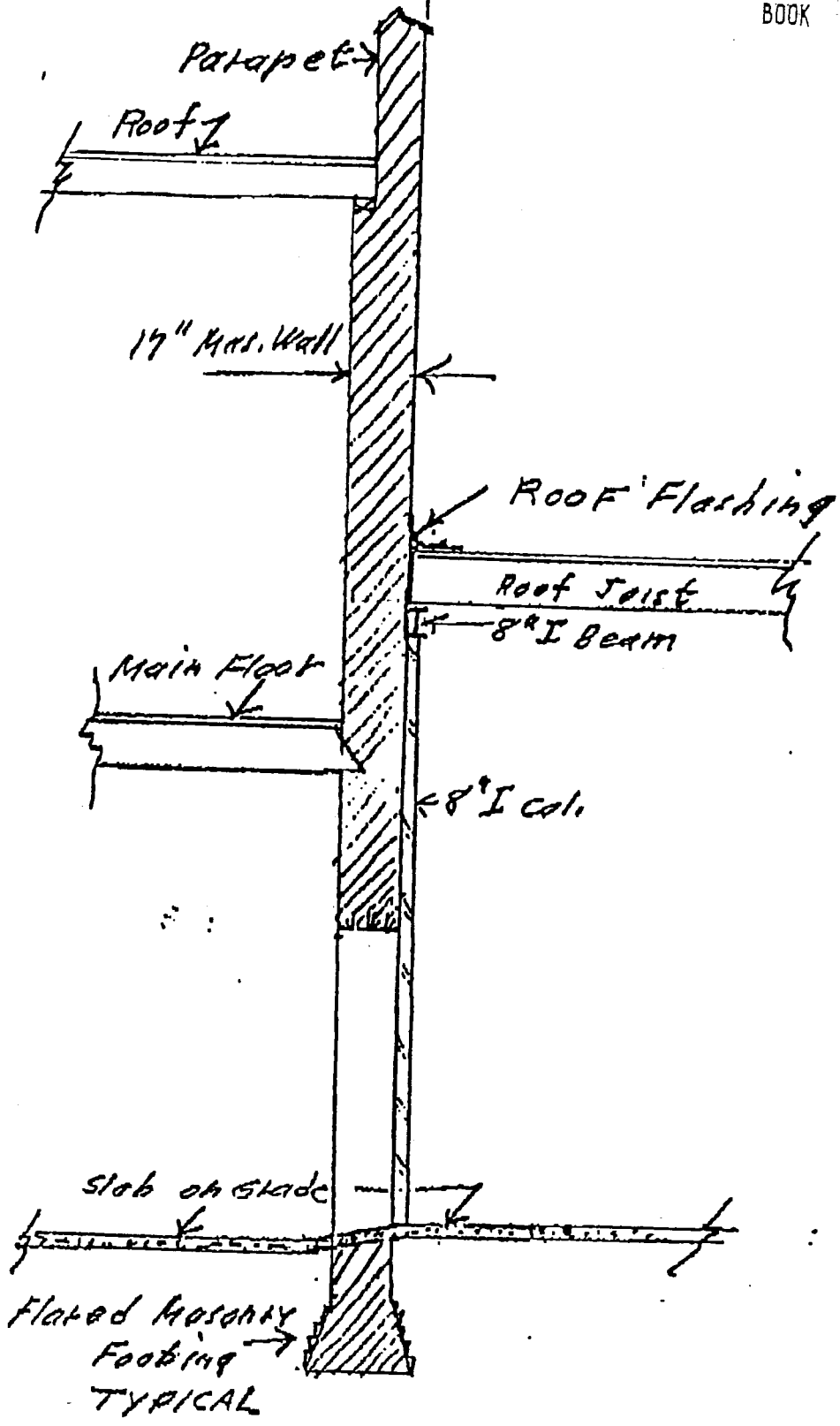


EXHIBIT "A"