



MISC 2017041548



MAY 31 2017 13:44 P 8

Fee amount: 52.00
FB: 10-28598
COMP: MJ

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
05/31/2017 13:44:37.00



2017041548

[The Space Above is for Recording Data]

After recording, please return to:
Omar-5, LLC
Attn: Ray Trimble
4383 Nicholas Street, Suite 300
Omaha, NE 68131

PERMANENT ACCESS EASEMENT

THIS PERMANENT ACCESS EASEMENT (this "Agreement") is made effective as of this 30th day of MAY, 2017 (hereinafter referred to as the "Effective Date"), by and between Omar-5, LLC, a Nebraska limited liability company ("Grantor") and Peter Ciaccio, Trustee of the Ciaccio Living Trust Dated June 1, 2007 ("Grantee").

RECITALS:

WHEREAS, Grantor is the lawful owner of the following legally described, to-wit:

Lot 1, Walnut Hill Replat 8, an Addition to the City of Omaha, Douglas County, Nebraska (hereinafter referred to as the "Burdened Property").

NOW KNOWN AS: SEE ATTACHED EXHIBIT B) (DHN)

WHEREAS, Grantee is the lawful owner of the following legally described, to-wit:

10-40611 Lot 2, Walnut Hill Replat 8, an Addition to the City of Omaha, Douglas County, Nebraska (hereinafter referred to as the "Benefited Property").

WHEREAS, Grantor intends to grant Grantee a permanent, non-exclusive easement to provide vehicular and pedestrian ingress and egress in, over and across that portion of the Burdened Property depicted on Exhibit "A" attached hereto (hereinafter referred to as the "Access Easement Area") for the purposes described herein;

WHEREAS, by virtue of the recording of this Agreement, the Benefited Property and Burdened Property shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Agreement and every grantee of any interest in any said real property, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said real property, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take

subject to the provisions of this Agreement and shall be deemed to have consented to the terms hereof.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Permanent Access Easement. Grantor hereby grants to Grantee for the benefit of Grantee and its mortgagees, contractors, tenants, sub-tenants, agents, invitees, visitors, successors and assigns (hereinafter referred to as "Permittees"), a non-exclusive, permanent vehicular and pedestrian access easement (but not parking), in, over, upon and across the Access Easement Area.

2. Nature of Easement. The provisions of this Agreement are not intended and shall not be deemed to constitute a dedication for public use, and the rights and easements granted herein are private and for the benefit only of the persons and entities set forth herein.

3. Maintenance of Easement Area. Grantee shall be solely responsible for maintaining the Access Easement Area, as well as the cost and expense thereof. The maintenance obligations of Grantee shall include, but not be limited to, any resurfacing of the Access Easement Area and the removal of snow and ice from the Access Easement Area.

4. Restrictions. No barricades, signs, fences, or other dividers will be constructed and nothing will be done to prohibit or discourage the free and uninterrupted flow of vehicular and pedestrian traffic through the access drive within the Access Easement Area.

5. Effect of Covenants. Each party hereto, and its successors and assigns, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Agreement or to which this Agreement is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person or entity having at any time any interest of estate in said property, and shall inure to the benefit of such property owners on like manner as though the provisions, terms and restrictions of this Agreement were received and stipulated at length in each and every deed of conveyance.

6. Waiver. No covenant, restriction, condition or provision of this Agreement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

7. Indemnification. Grantee and its successors and assigns shall defend, indemnify and hold harmless Grantor and its successors and assigns and their respective directors, officers, employees, agents, representatives, insurers, servants and affiliates from and against any and all suits, losses, demands, damages, claims, liabilities, causes of action, claims for indemnity or contribution, costs and expenses, including, without limitation, liability for bodily injury (including death), property damage, automobile accident liability or environmental liability of any nature whatsoever, including reasonable attorneys' fees and expenses, to the extent such arise out of, are caused or alleged to have been caused by (i) any action or inaction of Grantee,

its successors and assigns or their respective Permittees in connection with or related to, directly or indirectly, the Access Easement Area, this Agreement or any agreements contemplated hereby, or (ii) the negligent acts, negligent omissions or willful misconduct of Grantee or its successors and assigns or their respective Permittees. The provisions of this Section shall survive termination of this Agreement.

Grantor and its successors and assigns shall defend, indemnify and hold harmless Grantee and its successors and assigns and their respective directors, officers, employees, agents, representatives, insurers, servants and affiliates from and against any and all suits, losses, demands, damages, claims, liabilities, causes of action, claims for indemnity or contribution, costs and expenses, including, without limitation, liability for bodily injury (including death), property damage, automobile accident liability or environmental liability of any nature whatsoever, including reasonable attorneys' fees and expenses, to the extent such arise out of, are caused or alleged to have been caused by (i) any action or inaction of Grantor, its successors and assigns or their respective Permittees in connection with or related to, directly or indirectly, the Access Easement Area, this Agreement or any agreements contemplated hereby, or (ii) the negligent acts, negligent omissions or willful misconduct of Grantor or its successors and assigns or their respective Permittees. The provisions of this Section shall survive termination of this Agreement.

8. Estoppel. Either party shall deliver to the other party, within twenty (20) days after request therefore, a written statement, setting forth that, to the best of such party's knowledge, the requesting party is not in default, in the performance of any of its obligations under this Agreement or, if in default, setting forth the nature of such default, and such other matters as may be reasonably requested.

9. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Agreement herein contained, as the case may be, shall not render the remainder of the Agreement invalid, nor any other part therein contained.

10. Amendment, Modification, Notices.

(a) This Agreement may only be amended by the written consent and agreement of the record owner of the Benefited Property and Burdened Property or their respective successors and assigns. Any such modification or amendment shall be effective when duly recorded in the office of the Douglas County, Nebraska Register of Deeds.

(b) Wherever in this Agreement the consent or approval of an owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an owner under this Agreement, to be effective, must be given, denied or conditioned expressly and in writing.

(c) Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept

delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses of Grantor and Grantee are as follows:

Grantor: Omar-5, LLC
Attn: Ray Trimble
4383 Nicholas Street, Suite 300
Omaha, NE 68131

Grantee: Peter Ciaccio
4420 IZARD Street
Omaha, NE 68131

11. Title. Grantor confirms with Grantee that Grantor is seized in fee of the Burdened Property, which includes the Access Easement Area and that it has the right to grant and convey the easement and rights granted herein, and that it will warrant and defend such easement and rights to Grantee against the lawful claims and demands of all persons.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

13. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

14. Default; Remedies. In the event of a default by either party hereto of any of its obligations under this Agreement, then the non-defaulting party may deliver written notice thereof to the defaulting party. Thereafter, in the event that such default continues for thirty (30) days after delivery of such written notice, or for such longer period of time as may be reasonable in the event that the default cannot be cured within such thirty-day period and so long as the defaulting party has commenced to cure such default within said thirty-day period and thereafter continues to diligently pursue such cure to completion, then (a) the non-defaulting party shall have any and all remedies available to it under this Agreement and otherwise at law or in equity; and (b) the non-defaulting party may take such reasonable actions as it deems appropriate to cure such default (including, without limitation, taking the required action on behalf of the defaulting party) and thereafter recover the cost of such cure from the defaulting party. In the event of a default or breach of the provisions of this Agreement, the non-defaulting party shall be entitled to recover from the defaulting party reasonable costs and attorneys' fees incurred by the non-defaulting party as a result of such default or breach.

[Remainder of page left intentionally blank – signature page follow]

IN WITNESS WHEREOF, the parties have executed this Permanent Access Easement as of the date and year first above written.

Omar-5, LLC,
a Nebraska limited liability company

By: [Signature]
Name: Ray Trimble
Its: Member

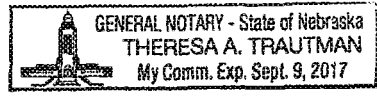
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

PHH
PERMANENT ACCESEASEMENT

Before me, a Notary Public qualified for said County and State, personally came Ray Trimble, Member of Omar-5, LLC, a Nebraska limited liability company, known to me to be the identical person who signed the foregoing ~~Quitclaim Deed~~, and acknowledged the execution thereof to be his voluntary act and deed on behalf of said limited liability company.

WITNESS my hand and Notary Seal on this 19 day of April, 2017.

[Signature]
Notary Public



GRANTEE:

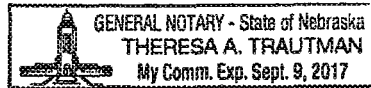
Peter Ciaccio, Trustee of the Ciaccio Living
Trust Dated June 1, 2007

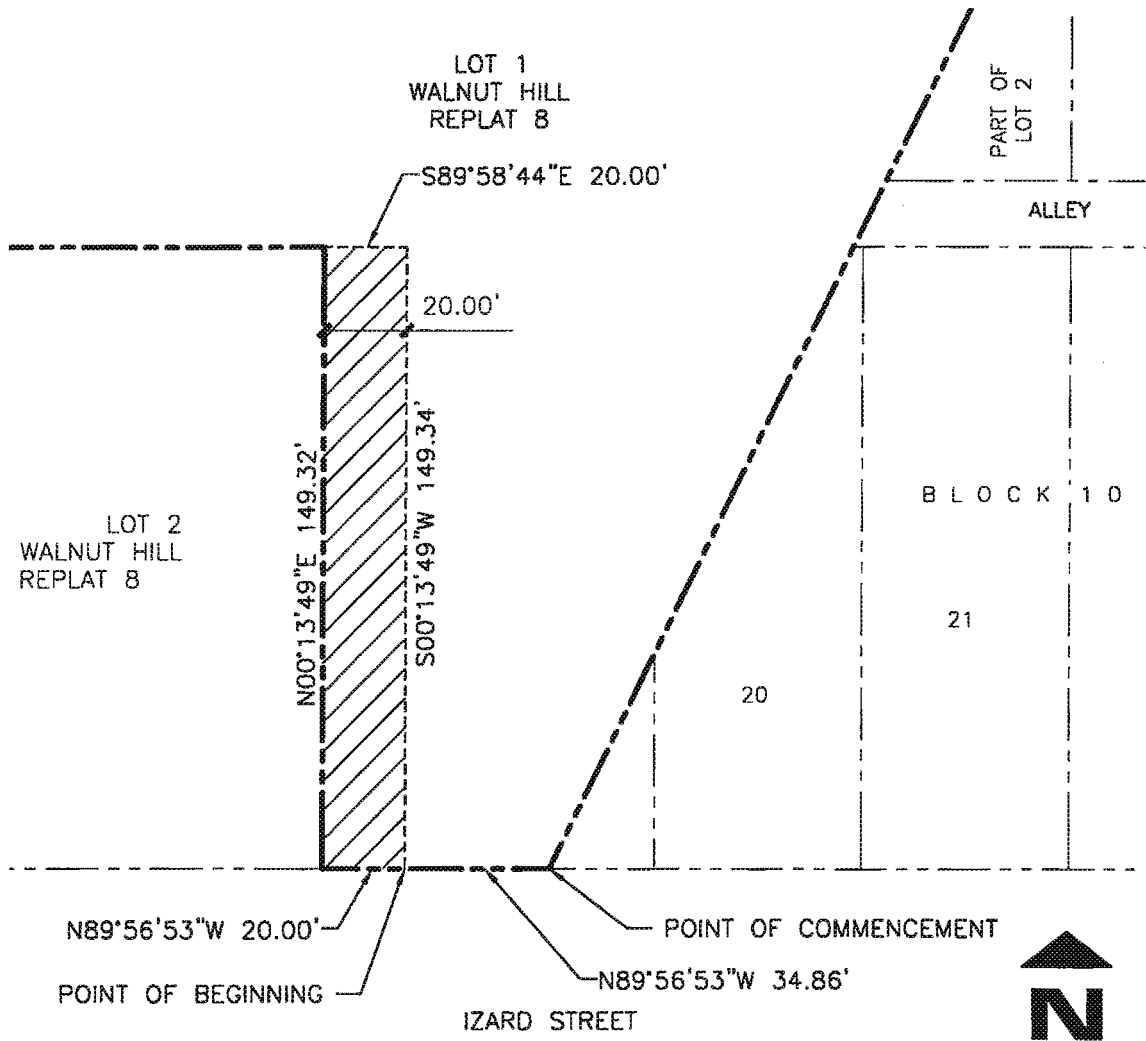

Peter Ciaccio, Trustee

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 19 day of April 2017,
by Peter Ciaccio, Trustee, Trustee of the Ciaccio Living Trust Dated June 1, 2007.


Notary Public





LEGAL DESCRIPTION

A 20.00 FOOT WIDE STRIP OF LAND LYING WITHIN LOT 1, WALNUT HILL REPLAT 8, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE N89°56'53"W (ASSUMED BEARING) 34.86 FEET ON THE SOUTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE CONTINUING N89°56'53"W 20.00 FEET ON THE SOUTH LINE OF SAID LOT 1; THENCE N00°13'49"E 149.32 FEET ON A WEST LINE OF SAID LOT 1; THENCE S89°58'44"E 20.00 FEET; THENCE S00°13'49"W 149.34 FEET ON A LINE 20.00 FEET EAST OF AND PARALLEL WITH A WEST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.



Job Number: 1929-101 EX 4
 thompson, dreessen & dorner, inc.
 10836 Old Mill Rd
 Omaha, NE 68154
 p.402.330.8860 f.402.330.5866
 td2co.com

Date: 04/12/2017
 Drawn By: MRS
 Reviewed By: DHN
 Revision Date:

EXHIBIT "A"

Book
 Page

10-28598

Exhibit B

Unit 101, Unit 120, Unit 200, Unit 201, Unit 202, Unit 203, Unit 204, Unit 210, Unit 211, Unit 212, Unit 220, Unit 300, Unit 301, Unit 302, Unit 303, Unit 304, Unit 305, Unit 306, Unit 307, and Unit 308, in the Omar Baking Condominiums, a condominium property regime organized under the laws of the State of Nebraska, in the City of Omaha, in Douglas County, Nebraska pursuant to the Declaration of Omar Baking Condominiums recorded on May 18, 2017, as Instrument No. 2017037944 of the Records of Douglas County, Nebraska (the "Declaration"); together with Allocated Interests assigned thereto as set forth and in accordance with the Declaration, as may be amended from time to time in accordance with the terms and conditions of the Declaration.