

26-15-12

BOOK 511 PAGE 77

WAIVER AND RELEASE OF PROTECTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, on April 1, 1964, Herman Cohen and Rosalie Cohen, husband and wife, and Pennie Z. Davis and Florence C. Davis, husband and wife, then owners of the following described real estate situated in Douglas County, Nebraska, to-wit:

The Northeast Quarter (NE $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section Twenty-six (26), Township Fifteen (15) North, Range Twelve (12) East of the 6th P. M., except the Northwest Quarter (NW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty-six (26), and excepting that portion taken for streets and highways;

executed a Declaration of Protective Covenant providing in part that no building shall be constructed upon that portion of the above described real estate as shall be zoned "Ninth Residence District" which shall exceed six (6) stories in height, which Declaration of Protective Covenant was duly filed in the Office of the Register of Deeds of Douglas County, Nebraska on July 23, 1964 and recorded in Book 415 of Misc. records at Page 75, and

WHEREAS, said Declaration of Protective Covenant expressly runs with the land and is binding upon and inures to the benefit of the present and future owners of said real estate, and The Archbishop Bergan Mercy Hospital and Sisters of Mercy Provincial House, and

WHEREAS, the undersigned are the owners of a tract of land within aforesaid restricted area, legally described in Exhibit "A" hereto attached and made a part hereof by reference, and

WHEREAS, Carl W. Renstrom et al now desire to construct an Office Tower building fifteen (15) stories in height, with separate parking garage, on a 5.09 acre tract of land on the Northwest corner of 72nd and Mercy Road, Omaha, Nebraska, which is within aforesaid restricted area, legally described in Exhibit "B" hereto attached and made a part hereof by reference, and

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WHEREAS, the undersigned have examined the layout of said Office Tower building and have no objections to its construction, even though it will be constructed in an area zoned "Ninth Residence District",

NOW, THEREFORE, the undersigned hereby forever waive and release aforesaid Declaration of Protective Covenant only as to Paragraph 1 thereof which limits building height to six (6) stories, and only as to the real estate described in Exhibit "B" hereto attached.

It is understood that this Waiver and Release of Protective Covenant shall become operative and effective only upon the filing of similar Waivers and Releases executed by all landowners in aforesaid restricted area, and by The Archbishop Bergan Mercy Hospital and Sisters of Mercy Provincial House.

Dated this 20 day of February, 1974.

*Jim P. Mola*  
\_\_\_\_\_  
Jim P. Mola

*Merton S. Anderson*  
\_\_\_\_\_  
Merton S. Anderson

*Esther L. Ives*  
\_\_\_\_\_  
Esther L. Ives

*Morton A. Ives*  
\_\_\_\_\_  
Morton A. Ives

STATE OF Colorado }  
COUNTY OF Denver } SS

Before me a Notary Public qualified for said County, personally came Jim P. Mola, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal on February 22, 1974.

*Douglas C. Cumbaker*  
\_\_\_\_\_  
Notary Public

My commission expires: November 27, 19 77.

STATE OF Colorado )  
COUNTY OF Lincoln ) SS.

Before me, a Notary Public qualified for said County, personally came Merton S. Anderson, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal on February 22, 1974.

David L. Bunchaker  
Notary Public

My commission expires: November 27, 19 77.


STATE OF NEBRASKA )  
COUNTY OF Douglas ) SS.

Before me, a Notary Public qualified for said County, personally came Esther L. Ives and Morton A. Ives, known to me to be the identical persons who signed the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed.

Witness my hand and Notarial Seal on February 20, 1974.

Edward Shafton  
Notary Public

My commission expires: Sept. 12, 19 77.

 EDWARD SHAFTON  
General Notary - State of Nebr.  
My Commission Expires  
September 12, 1977

That part of the NE 1/4 of the SE 1/4 of Section 26, T 15 N, R 12 E of the 6th P. M., City of Omaha, Douglas County, Nebraska, described as follows: Beginning at a point 484.78 feet South and 316.10 feet West of the Northeast corner of said NE 1/4 of the SE 1/4 of Section 26, thence South 210.0 Feet; thence West 200.0 feet; thence North 120.45 feet; thence N 25° 35' 20" E, 36.38 feet to a point of curve; thence on a curve to the right (radius being 100.0 feet - chord bearing N 57° 47' 39" E) for an arc distance of 112.42 feet; thence East 94.27 feet to the point of beginning. (The East line of the NE 1/4 of the SE 1/4 of Section 26 assumed North-South in direction.) (Containing 39,409.94 Sq. feet).

EXHIBIT "A"

Legal Description 1.

That part of the NE 1/4 of the SE 1/4 of Section 26, T 15 N, R 12 E, of the 6th P.M., Douglas County, Nebraska, more particularly described as follows: (East line of said 1/4 Section assumed North-South in direction.) Beginning at a point which is 485.00 feet South of and 122.31 feet West of the East 1/4 corner of said Section 26; thence S 02° 58' 52" W for 85.00 feet; thence N 90° 00' 00" E for 43.00 feet; thence S 02° 58' 52" W for 149.68 feet; thence along a curve to the right (having a radius of 1216.50 feet and long chord bearing S 09° 01' 04" W for 256.03 feet ) for an arc distance of 256.51 feet; thence along a curve to the right (having a radius of 472.91 feet and long chord bearing S 18° 56' 55" W for 64.18 feet) for an arc distance of 64.23 feet; thence S 22° 50' 23" W for 36.61 feet; thence along a curve Left (having a radius of 308.58 feet and long chord bearing S 17° 03' 50" W for 62.11 feet) for an arc distance of 62.22 feet; thence S 11° 17' 16" W for 78.81 feet; thence along a curve to the Right (having a radius of 42.05 feet and long chord bearing S 47° 46' 45" W for 50.02 feet) for an arc distance of 53.58 feet; thence along a curve to the right (having a radius of 662.22 feet and long chord bearing S 87° 11' 38" W for 66.94 feet) for an arc distance of 66.97 feet; thence N 89° 54' 32" W for 113.74 feet; thence North for 415.87 feet; thence West 173.00 feet to the East R.O.W. line of 73rd Street; thence North for 53.94 feet; thence along a curve to the Right (having a radius of 175.00 feet and long chord bearing N 12° 47' 40" E for 77.51 feet) for an arc distance of 78.16 feet; thence N 25° 35' 19" E for 133.66 feet; thence South 120.91 feet; thence East 200.00 feet; thence North 210.00 feet; thence East 193.79 feet to the point of beginning, containing 5.09 acres more or less.

## EXHIBIT "B"

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 ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA  
 22 DAY OF Aug 1974 AT 3:24 P.M. C. HAROLD OSTLER, REGISTER OF DEEDS 15.25