

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, Sisters of Mercy Provincial House, and their successors in title, and

WHEREAS, the undersigned owns a tract of land adjacent to parts of aforesaid restricted area, which is expressly covered by said Declaration of Protective Covenant, with the undersigned's tract being 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 portion of 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

WHEREAS, the undersigned has examined the layout of said Office Tower building and has no objections to its construction, even though

it will be constructed in an area zoned "Ninth Residence District",

NOW, THEREFORE, the undersigned hereby forever waives and releases aforesaid Declaration of Protective Covenant only as to Paragraph 1 thereof which limits building height to six (6) stories, but only as to the portion of the real estate described in Exhibit "B" hereto attached, on which said fifteen (15) story Office Tower will be constructed, and to no other portion thereof.

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, by The Archbishop Bergan Mercy Hospital, Sisters of Mercy Provincial House and College of St. Mary.

Dated this 27 day of March, 1974.

A T T E S T:

COLLEGE OF ST. MARY,

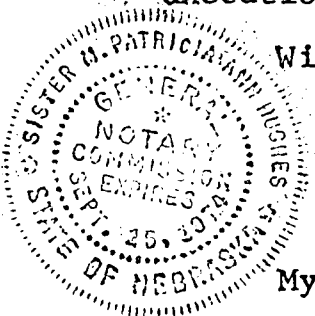
Robert McCabe
Secretary

BY: Sister Mary Angelica Costello, R.S.M.
President Title

STATE OF NEBRASKA,)
COUNTY OF DOUGLAS,) SS.

Before me, a Notary Public qualified for said County, personally came Sister M. Angelica Costello, R.S.M. known to me to be the President of College of St. Mary and the identical person who signed the foregoing instrument and acknowledged the execution thereof to be its voluntary act and deed.

Witness my hand and Notarial Seal on March 22nd, 1974.



Sister M. Patricia Ann Hughes
Notary Public

My Commission expires: September 15, 19 74

Tax Lot 9, and Sub Lots 5, 6, 7, 8 and 9 of Tax Lot 10, which are all located in the southwest quarter of the northwest quarter of Section 25, in Township 15 North of Range 12 East, as recorded in the County Surveyor's Office, except part thereof conveyed to the County of Douglas, State of Nebraska; and

That part of the northeast quarter of the southwest quarter of said Section 25, lying southwesterly of the Chicago and Northwestern Railroad right-of-way; and

That part of the southwest quarter of the northwest quarter of Section 25, Township 15 North, Range 12 East of the 6th P.M., lying east of Tax Lot 10 except the right-of-way of the Chicago and Northwestern Railroad, and the northwest quarter of the southwest quarter of Section 25, Township 15 North, Range 12 East of the 6th P.M., except the right-of-way of the Chicago and Northwestern Railroad, and except part thereof conveyed to the County of Douglas, State of Nebraska; except that part deeded to the Governors of the Knights of Ak-Sar-Ben, dated November 12, 1956, recorded December 13, 1956, Book 1008, Page 175; of the deed records of Douglas County, Nebraska and except that part described as follows:

A Tract of land located in the west half of Section 25, Township 15 North, Range 12 East of the 6th P.M., in Douglas County, Nebraska, the boundaries of which are more particularly described as follows:

Beginning at a point located 400.00 feet south and 33.00 feet east of the southwest corner of the northwest quarter of said Section 25, which point of beginning is located on the east right-of-way line of 72nd Street; thence due north 400.00 feet, along the east right-of-way line of 72nd Street, to a point located 33.00 feet east of the southwest corner of the northwest quarter of said Section 25, thence North $0^{\circ} 08' 39''$ east, along the east right-of-way line of 72nd Street, 466.20 feet; thence north $2^{\circ} 53' 39''$ east, along the east right-of-way line of 72nd Street, 62.87 feet; thence continuing along the east right-of-way line of 72nd Street, in a northeasterly direction 60.05 feet along the arc of a circular curve to the right whose radius is 90.00 feet, and whose chord length and bearing are 58.72 feet and North $19^{\circ} 14' 32''$ east respectively, to a point; thence continuing along the easterly right-of-way line of 72nd Street 40.03 feet in a northeasterly direction along the arc of a

circular curve to the left whose radius is 60.00 feet and whose chord length and bearing are 39.14 feet and North $19^{\circ} 16' 26''$ east respectively, to a point; thence continuing along the east right-of-way line of 72nd Street north $0^{\circ} 08' 57''$ east 155.30 feet to a point located 68.00 feet east of the west line of the northwest quarter of said Section 25; thence South $89^{\circ} 32' 09''$ east 788.08 feet to a point on the westerly right-of-way of the Chicago Northwestern Railway; thence southeasterly, along the westerly right-of-way line of The Chicago Northwestern Railway, 123.82 feet along the arc of a circular curve to the right whose radius is 5,679.58 feet and whose chord length and bearing are 123.82 feet and South $22^{\circ} 34' 47.42''$ east respectively; thence continuing along the westerly right-of-way line of The Chicago Northwestern Railway South $21^{\circ} 57' 19''$ east for a distance of 342.00 feet to a point; thence South $89^{\circ} 39' 20''$ west 460.00 feet; thence South $35^{\circ} 05' 17''$ west 178.92 feet; thence South $17^{\circ} 03' 08''$ east 108.00 feet; thence South $0^{\circ} 00' 59''$ east 290.00 feet; thence South $62^{\circ} 01' 11''$ west 418.06 feet; thence North $89^{\circ} 58' 49''$ west 100.00 feet to the point of beginning, containing 16.1 acres more or less.

In this description, the west line of the southwest quarter of Section 25-15-12 is assumed to bear due north and south.

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 3:21 P.M. C. HAROLD OSTLER, REGISTER OF DEEDS

12.25