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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
03/02/2011 13:17:06.00



2011020280

THE ABOVE SPACE IS RESERVED FOR THE REGISTER OF DEEDS RECORDING INFORMATION

**THIS PAGE INCLUDED
FOR INDEXING**

EASEMENT DECLARATION
WEST HAMPTON PARK APARTMENT HOMES

This Easement Declaration ("Declaration") is made this 28th day of FEBRUARY, 2011, by Edward Rose Development Company, L.L.C., a Michigan limited liability company ("Rose"), 30057 Orchard Lake Road, Suite 100, P.O. Box 9070, Farmington Hills, Michigan 48333-9070:

WHEREAS, Rose is the owner of the following described parcel (hereinafter called "Total Property"):

01-60000

A parcel of property in that part of the South Half (S ½) of Section 7, Township 15 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska, described as follows:

NWSW NWSE SW NESW
NESE SESE SE SESW SWSW

Beginning at the East Quarter corner of said Section 7; thence S00°25'27"E (assumed bearing), 2,572.55 feet on the East line of said Section 7 to a point 75.00 feet North of the Southeast corner of said Section 7; thence S89°34'33"W, 50.00 feet; thence South 00°25'27"E, 75.37 feet on a line 50.00 feet West of and parallel to the East line of said Section 7 to the South line of said Section 7; thence S89°09'04"W, 94.75 feet on the South line of said Section 7 to a point 100.00 feet northerly from the centerline of the Union Pacific Railroad right-of-way; thence N70°55'54"W, 642.00 feet on a line 100.00 feet northerly from and parallel to the centerline of said railroad right-of-way; thence S16°46'18"W, 50.04 feet to the northerly line of said railroad right-of-way; thence N70°55'54"W, 57.07 feet on the northerly line of said railroad right-of-way; thence N19°04'06"E, 50.00 feet on the easterly line of said railroad right-of-way; thence N70°55'54"W, 2,118.08 feet on the northerly line of said railroad right-of-way to a point of curve; thence northwesterly on the northerly line of said railroad right-of-way on an 11,559.16 foot radius curve to the left, chord bearing N71°42'28"W, chord distance 313.14 feet, an arc distance of 313.15 feet to a point of tangency; thence N72°29'02"W, 764.90 feet on the northerly line of said railroad right-of-way to a point of curve; thence northwesterly on the northerly line of said railroad right-of-way on a 5,829.58 foot radius curve to the left, chord bearing N74°01'10"W, chord distance 312.43 feet, an arc distance of 312.47 feet to a point of tangency; thence N75°33'18"W 375.68 feet on the northerly line of said railroad right-of-way to a point 253.00 feet southeasterly of the East line of Tax Lot 3 in the Northwest Quarter of the Southwest Quarter of said Section 7 as measured along the northerly line of said railroad right-of-way; thence N14°32'11"E, 97.00 feet; thence N75°35'19"W, 278.10 feet to the East line of said Tax Lot 3; thence South 99.43 feet on the East line of said Tax Lot 3 to a point 52.20 feet North of the northerly line of said railroad right-of-way; thence N57°52'27"W, 288.61 feet to a point on the East line of State Highway No. 31; thence N06°08'00"W, 281.15 feet on the East line of State Highway No. 31 to a point on the North line of said Tax Lot 3, said point being 120.00 feet East of the West line of said Section 7; thence North 209.26 feet on the East line of State Highway No. 31 on a line 120.00 feet East of and parallel to the West line of said Section 7 to the North line of Lot 11, Block 2, Poppleton's Addition to Elkhorn, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska; thence N89°06'57"E, 300.44 feet on the North line of Lots 10 and 11, Block 2, said Poppleton's Addition to Elkhorn, and on the South line of a tract of land described in Deed Book 1718 at page 671 of the Douglas County Records and hereinafter called Tract "A"; thence N00°01'03"W, 45.00 feet on the South line of said Tract "A"; thence N89°06'57"E, 579.63 feet on the South line of said Tract "A" to the Southeast corner of said Tract "A"; thence N00°01'03"W, 392.96 feet on the East line of said Tract "A" and on the East line of a tract of land described in Miscellaneous Book 578 at page 333 of the Douglas County Records to the North line of the South half of said Section 7; thence N89°06'04"E, 1,460.94 feet on the North line of the South half of said Section 7 to the Northwest corner of the Southeast Quarter of said Section 7; thence N89°06'33"E, 2655.90 feet on the North line of said Southeast Quarter to the Point of Beginning.

Subject to all legal easements and rights-of-way.

and WHEREAS, said Total Property includes a section referred to as Phase 1 which is further described as Lot 1 of *West Hampton Park Lot 1 Final Plat* and Lot 4 of *West Hampton Park Lots 2, 3, and 4 and Outlot B Final Plat*.
OC-42510

and WHEREAS, said Total Property also includes a section referred to as Phase 2 which is further described as Lot 5.

and WHEREAS, Said Total Property also includes a section referred to as Phase 3 which is further described as Lot 6.

and WHEREAS, Rose has partially constructed on the Total Property and may at some future time complete construction of an apartment and townhome complex consisting of 882 total dwelling units in 38 buildings of which: 594 apartment dwelling units in 19 buildings are in Phase 1; 66 townhome dwelling units in 11 buildings are in Phase 2; and 222 apartment dwelling units in 8 buildings are in Phase 3 and are commonly known as the West Hampton Park Apartment Homes (“West Hampton” and/or “Apartment Land”);

and WHEREAS, Rose is the owner of: Lots 2 and 3 and Outlot B of *West Hampton Park Lots 2, 3, and 4 and Outlot B Final Plat*; Outlots A and C of *West Hampton Park Lots 5 and 6 and Outlots A and C Final Plat*; and unplatted land that is not part of Phase 1, 2 or 3 but is part of the Total Property (hereinafter collectively called “Remaining Land”).

and WHEREAS, there are existing public roads and rights-of-way (Grant Avenue, Blondo Parkway and 203rd Terrace) within the Total Property.

and WHEREAS, Rose has partially constructed and may at some future time complete a network of sanitary sewers, water mains, storm sewers, landscape irrigation, cable television, telephone and telecommunications systems including earth stations and other necessary electronic equipment and underground wiring (all of which is hereinafter called “Improvements”);

and WHEREAS, Rose has partially constructed and may at some future time complete a network of storm water retention areas (“ponds”) and roadways. Rose has also constructed community recreational facilities as shown on the drawing titled “West Hampton Park Apartment Homes Easement Drawing” (“Easement Drawing”) attached hereto and made a part hereof (all of which are also hereinafter called “Improvements”);

and WHEREAS, Rose intends and desires that the Improvements shall be available for the use and benefit of the owner(s) of Phases 1, 2 and 3 and of all the dwelling units constructed within the West Hampton project;

and WHEREAS, Rose desires that the cost of operation and maintenance of the Improvements be shared by the owner(s) of Phases 1, 2 and 3 of the Total Property in proportion to the respective benefit derived;

NOW THEREFORE, in consideration of One Dollar (\$1.00) the receipt of which is hereby acknowledged, the following is declared:

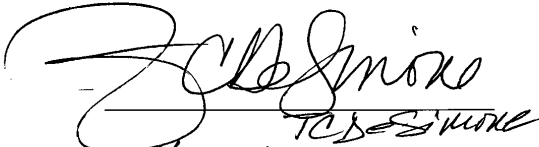
1. Rose as owner of the Total Property hereby establishes and creates non-exclusive perpetual easements in favor of the owner(s) of Phases 1, 2 and 3 of the Total Property for the use, benefit, maintenance, construction, repair, replacement, and operation of the Improvements, including ingress and egress, and including access to the underground Improvements to install stubs and building service lines.
2. The locations of the various Improvements are approximately as shown on the attached Easement Drawing, it being understood that the centerlines of the easements are intended at all times to coincide with the as actually built Improvements, and the

easements are intended to include sufficient adjoining land to accommodate construction, maintenance, repair or replacement of the Improvements.

3. The location of the earth stations and necessary electronic equipment for the cable television, telephone and telecommunications systems easement, underground wiring required to make cable television, telephone and telecommunications services available to each of the buildings and landscape irrigation distribution lines are not shown on the Easement Drawing but are located as necessary to service the Apartment Land at the sole determination of Rose, it being understood that the locations of these easements are intended to coincide with the as actually built Improvements.
4. This Declaration shall not create any rights nor impose any obligations as to any Improvements which are not constructed or as to any Improvements which are or at any time become the subject of any public easement granted to any governmental authority or to any utility company.
5. The use of the community recreational facilities by the owner(s) of Phases 1, 2 and 3 of West Hampton shall be in accordance with the rules established by and governing the owner of the phase where the facilities are located.
6. The duty to operate, maintain, repair or replace any particular Improvement shall be that of the owner of the dwelling units where said Improvement is located. All expenses resulting from these duties shall be shared by the owner(s) of dwelling units in proportion to the number of finished dwelling units each owner's parcel bears to the total number of finished dwelling units in the entire Apartment Land. Personal property taxes, real estate taxes and insurance premiums for the cable television, telephone and telecommunications systems and the community recreational facilities shall be included as operating expenses to be shared.
7. The easements declared herein are solely for the benefit of the owners, and their successors and assigns, of West Hampton. The owner(s) may grant or revoke at will the benefit of the easements over the roadways and for the use and enjoyment of the community recreational facilities to their respective tenants. Nothing herein contained establishes any rights for the general public or for any tenant. It is the expressed intent of Rose, and acknowledged as fact by anyone claiming any rights hereunder, that no easements, rights of access, or other interests are created or established by this Declaration in, over or through the interior space of the buildings or with respect to the cable television, telephone and telecommunications wires or equipment located within any of the building of West Hampton or anywhere else on the Total Property.
8. Unforeseen physical or other conditions may require additions, revisions or deletions to the routes or boundaries of the Improvements to be constructed in the future, which additions, revisions or deletions will not materially affect Improvements already in place or any owners' obligations or rights under this Declaration. Rose, therefore, reserves to itself, and its successors and assigns, the right to make such additions, revisions or deletions and amend and record appropriate modifications to this Declaration which shall be then valid and binding as though included herein now.
9. Rose in its sole discretion may delete and remove the Remaining Land from this Declaration regardless of whether any of the Total Property has been mortgaged or not or conveyed.
10. The property rights described herein, or any of them, may be mortgaged or conveyed with the West Hampton land by the owner(s) of Phases 1, 2 and 3 of the said Apartment Land.

IN WITNESS WHEREOF, the party hereto has set its hand on the date first written above.

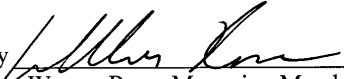
WITNESSES:



Nicholas G. Cucco

EDWARD ROSE DEVELOPMENT
COMPANY, L.L.C.

a Michigan limited liability company

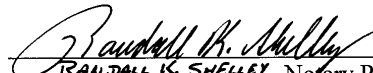
By 

Warren Rose, Managing Member

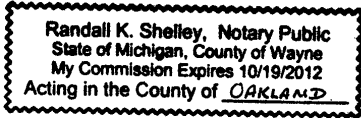
STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

On this 28th day of FEBRUARY, 2011, before me appeared Warren Rose, to me personally known, who being by me duly sworn did say that he is the Managing Member of Edward Rose Development Company, L.L.C., a Michigan limited liability company and that this Declaration was signed on behalf of and as the free act and deed of said company.

My Commission Expires: 10/19/12



RANDALL K. SHELLEY Notary Public
WAYNE County, Michigan
ACTING IN OAKLAND COUNTY



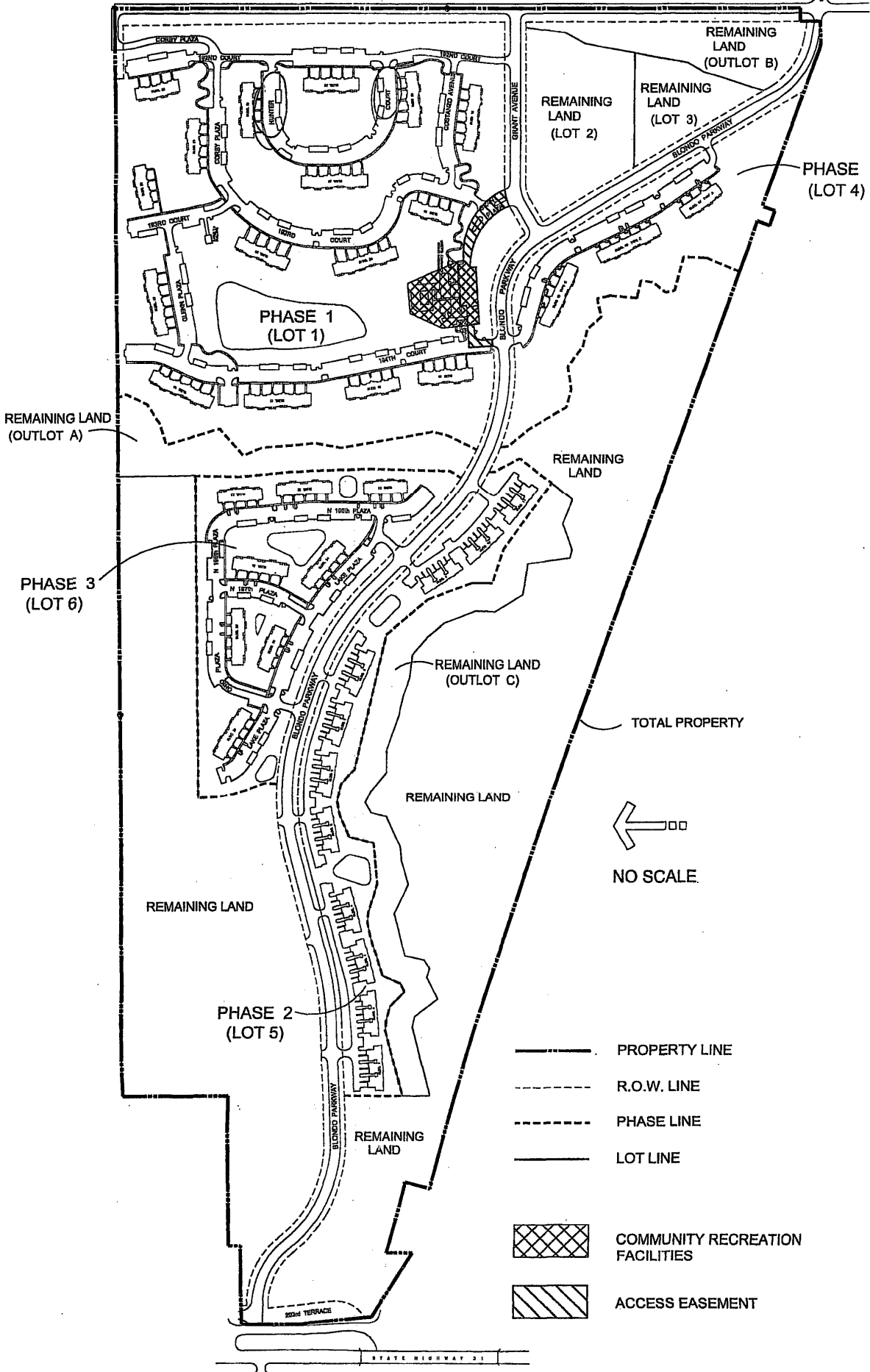
DRAFTED BY:

Mark Harrison
Edward Rose Development Company, L.L.C.
6101 Newport Road
Portage, MI 49002

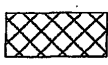
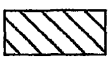
WHEN RECORDED PLEASE RETURN TO:

Edward Rose Development Company, L.L.C.
30057 Orchard Lake Road, Suite 100
Farmington Hills, MI 48334

**WEST HAMPTON PARK APARTMENT HOMES
EASEMENT DECLARATION DRAWING**



NO SCALE

- PROPERTY LINE
- - - R.O.W. LINE
- · - · - PHASE LINE
- LOT LINE
-  COMMUNITY RECREATION FACILITIES
-  ACCESS EASEMENT