



BK 0894 PG 533



MISC 1989 12831

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INDEXING
PAGE DOWN FOR BALANCE OF INSTRUMENT

BOOK 894 PAGE 533

PROTECTIVE COVENANT AGREEMENT

WHEREAS, Industrial Five, a Partnership, organized and existing under the laws of the State of Nebraska is the owner of the property known as Lots 12, 13, 15, 16, 17, 18 and 19, Southwest Park, and John and Trudy Galaska, husband and wife, are owners of Lot 14, Southwest Park, which property shall hereinafter collectively be referred to as the "subject property" and such owners are hereinafter referred to as "Developers"; and

WHEREAS, Developers have applied for rezoning of the subject property from its present General Office Classification (R-9 under zoning code in effect prior to 1987 amendment) to Limited Industrial as described in the Omaha City Code, Chapter 55, Section 484 et seq.; and

WHEREAS, the owners of certain property contiguous to the subject property to the north have expressed a desire to have certain restrictions placed on the use and development of the subject property. For purposes of this Agreement, those properties are identified as Lots 17 through 29, inclusive, 57 through 62, inclusive, and 135 through 139, inclusive, Montclair West Replat, a subdivision hereinafter described as "Montclair West Replat"; and

WHEREAS, on May 16, 1978, Industrial Five, as the owner of certain property within Southwest Park, including the subject property, established and filed a set of Revised Protective Covenants at Book 597, Page 379, of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska, which covenants the parties agree expired as they relate to Montclair West or Montclair West Replat after ten (10) years from their inception; and

WHEREAS, the Developers and Montclair West Replat have agreed that in return for Montclair West Replat supporting Developer's application to rezone the subject property from General Office (old R-9) to Limited Industrial, that the Developer shall reinstate the Revised Protective Covenants (Book 597, Page 379) with certain modifications and additions and that this document shall serve to accomplish that purpose.

RECEIVED

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GEORGE J. GUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

BK 894 N _____ C/O _____ FEE 69.5
PG 533-543 N _____ DEL MC WC
OF Misc 13 COMP _____ FIB 61-36635
61-26275

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NOW, THEREFORE, it is agreed by and between the parties that the "Revised Protective Covenants" (Book 597, Page 379) are reinstated for the benefit of the subject property and the Montclair West Replat property for its original term with the following amendments and additions:

1) That Paragraph 2 thereof restricting the use of the subject property to Residential Ninth District uses (now General Office) is eliminated in its entirety along with any other similar restriction found elsewhere in the covenants.

2) That Paragraph 20 be eliminated and the following paragraph be inserted:

"These Covenants may be enforced by and are for the benefit of the owners of Lots 12 through 19, inclusive, Southwest Park and Lots 17 through 29, inclusive, Lots 57 through 62, inclusive, and Lots 135 through 139, inclusive, Montclair West Replat, a subdivision in Omaha, Douglas County, Nebraska."

3) That in addition to the applicable provisions of the Revised Protective Covenants, the following restrictions apply:

a) That no overhead doors, driveways, parking areas or other outdoor storage will be allowed on the north side of any of the buildings to be built on the subject property.

b) That prior to the granting of any certificate of occupancy for any building permit on the subject property, that a landscape screen be installed according to the present provisions of the Omaha City Code, Chapter 55, Section 717. That any such landscape screen shall contain a significant number of Austrian pine trees and that no cedar trees will be installed within the landscape screen.

c) That any building built on the subject property shall not exceed twenty-five (25') feet in height.

d) That the existing landscaping located within the landscape screen of the subject property as shown on the plat of Southwest Park will remain so long as they are not diseased or conflict with any reasonable uses of the subject property.

e) That reasonable steps be taken to provide that any party constructing a building on the subject property will provide that the lighting of the building and the site be directed away from the Montclair West.

f) Any provision of the Revised Protective Covenants inconsistent with the provisions of this Paragraph 3 shall be superseded hereby.

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4. The benefits of these covenants granted to the properties designated as Montclair West Replat shall only inure to those properties in Montclair West Replat who are signatories hereto and such rights shall not inure to those properties not signed at the date of filing.

IN WITNESS WHEREOF, the parties have signed this Agreement this 24 day of ~~September, 1988~~:

July, 1989

INDUSTRIAL FIVE, A Partnership

By Roger D. Haney
Partner

By _____
Partner

John Galaska
JOHN GALASKA

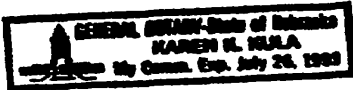
Trudy Galaska
TRUDY GALASKA

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Roger D. Haney and _____ to me known to be the Partners of Industrial Five, a Partnership, and acknowledged their execution to be their voluntary act and deed and the voluntary act and deed of said Partnership.

WITNESS my hand and Notarial Seal this 24th day of July, 1988. 1989

Karen K. Kuen
Notary Public



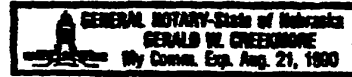
STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

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Before me, the undersigned, Notary Public in and for said County and State appeared John Galaska, to me known to be the identical person who executed the above instrument and acknowledged his execution to be his voluntary act and deed.

~~89~~ 1988. WITNESS my hand and Notarial Seal this 1st day of August,

Gerald W. Creechmore
 Notary Public



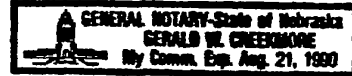
STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Trudy Galaska, to me known to be the identical person who executed the above instrument and acknowledged her execution to be her voluntary act and deed.

~~89~~ 1988. WITNESS my hand and Notarial Seal this 1st day of August,

Gerald W. Creechmore
 Notary Public

ACCEPTANCE



The undersigned being the owners of Lots 17 through 29, inclusive, Lots 57 through 62, inclusive, and Lots 135 through 139, inclusive, Montclair West Replat hereby consent and agree to the above and foregoing Protective Covenant Agreement.

NAME

LOT NO.
 MONTCLAIR WEST REPLAT

<i>John S. Speer</i>	Lot 17
<i>Frank King</i>	Lot 18
<i>Richard A. Hall</i>	Lot 19
<i>Michael G. Lynch</i>	Lot 20
	Lot 21

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LOT NO.
MONTCLAIR WEST REPLAT

NAME

Robert F. Wickham
 Room 2 Second
 Andrew L. Ten Hake
 1000 1/2 E. 10th St.

Lisa R. Wickenkamp Lot 22

William A. Chase Lot 23

Lot 24

Donna M. Robinson Lot 25

Lot 26

Lot 27

Kevin B. McCudde Lot 28

Lot 29

Lot 57

Mary Ann Lake Lot 58

127th Avenue Lot 59

Elie Robertson Barber Lot 60

Sandra Teekemeier Lot 61

Margaret M. Hansen

Lot 13

Lot 13

Samuel M. Miller Lot 13

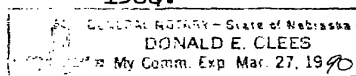
Lot 13

Lot 13

STATE OF NEBRASKA))
COUNTY OF DOUGLAS)) ss.

Before me, the undersigned, Notary Public in and for said County and State appeared Sandra L. Tenhaken and, to me known to be the owner(s) of lot 24, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

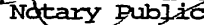
1988. WITNESS my hand and Notarial Seal this 15th day of May,



Donald E. Clark
Notary Public

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

89
1988. WITNESS my hand and Notarial Seal this 22 day of May,

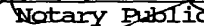


89
1988. WITNESS my hand and Notarial Seal this 22 day of May.



89
1988

WITNESS my hand and Notarial Seal this 22 day of May.

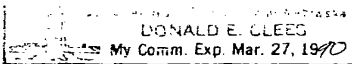


STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

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Before me, the undersigned, Notary Public in and for said County and State appeared Scott A McCuddin and Karen K McCuddin to me known to be the owner(s) of Lot 28, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

1989. WITNESS my hand and Notarial Seal this 27 day of April,

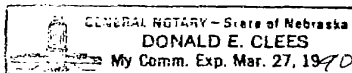


Donald E. Clees
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Mark S Dudley and to me known to be the owner(s) of Lot 29, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

1989. WITNESS my hand and Notarial Seal this 27th day of April,

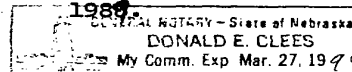


Donald E. Clees
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Lawrence J Sak and Mary Ann Sak, to me known to be the owner(s) of Lot 58, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

1989. WITNESS my hand and Notarial Seal this 27th day of April,



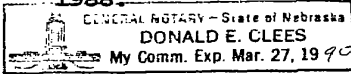
Donald E. Clees
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

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Before me, the undersigned, Notary Public in and for said County and State appeared Sandra L. Germer and Joseph Abboud, to me known to be the owner(s) of Lot 59, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

WITNESS my hand and Notarial Seal this 27th day of April, 1988.

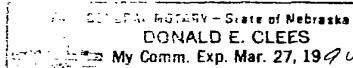


Donald E. Clees
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Claudia Marie Bonh and Eric Robertson, to me known to be the owner(s) of Lot 60, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

WITNESS my hand and Notarial Seal this 27th day of April, 1988.

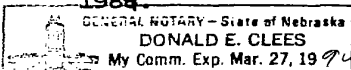


Donald E. Clees
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared John S. Elvers and , to me known to be the owner(s) of Lot 18, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

WITNESS my hand and Notarial Seal this 15th day of May, 1988.



Donald E. Clees
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

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Before me, the undersigned, Notary Public in and for said County and State appeared Robert J. Wickham and Lisa R. Wickham, to me known to be the owner(s) of Lot 22, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

⁸⁹
 1988. WITNESS my hand and Notarial Seal this 30 day of April 1989

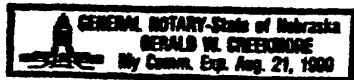


Gerald W. Creekmore
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Michael H. April and —, to me known to be the owner(s) of Lot 21, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

⁸⁹
 1988/9 WITNESS my hand and Notarial Seal this 30 day of April 1989

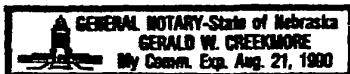


Gerald W. Creekmore
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Frank Krueger and BARB Krueger, to me known to be the owner(s) of Lot 19, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

⁸⁹
 1988. WITNESS my hand and Notarial Seal this 9 day of May.



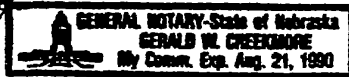
Gerald W. Creekmore
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

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Before me, the undersigned, Notary Public in and for said County and State appeared Douglas E. Will and _____, to me known to be the owner(s) of Lot 13, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

1988. WITNESS my hand and Notarial Seal this 9 day of May.



Gerald W. Creechmore
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared JAMER R. Feehremeyer and SONDRA Feehremeyer, to me known to be the owner(s) of Lot 61, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

1988. WITNESS my hand and Notarial Seal this 9 day of May.

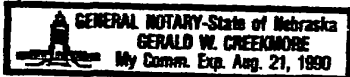


Gerald W. Creechmore
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared RICHARD O. HALL and SUSAN M. HALL, to me known to be the owner(s) of Lot 20, Montclair West Replat, and the identical person(s) who executed the above instrument and acknowledged his, her or their execution to be his, her or their voluntary act and deed.

1988. WITNESS my hand and Notarial Seal this 9 day of May.



Gerald W. Creechmore
 Notary Public