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Cook County Recorder of Deeds
Date: 08/05/2003 01:51 PM Pg: 1 of 10

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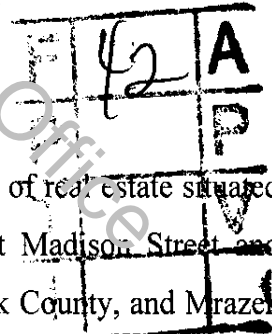
Frank W. Jaffe
Jaffe & Berlin, L.L.C.
111 W. Washington #1401
Chicago, IL 60602

DECLARATION OF PARTY WALL

This Declaration of Party Wall (the "Declaration") is made as of this 17 day of June, 2003, by Peter M. Bukowski and Marzena E. Szajer-Bukowska ("Bukowski") and George G. Mrazek and Leslie A. Mrazek ("Mrazek")(individually the "Party") and (together the "Parties")

WITNESSETH:

WHEREAS, Bukowski is the holder of fee title to a certain parcel of real estate situated in Chicago, Cook County, Illinois, commonly known as 1219-21 West Madison Street and legally described in Exhibit "A" ("Parcel No.1") situated in Chicago, Cook County, and Mrazek is the holder of fee title to a certain parcel of real estate situated in Chicago, Cook County, Illinois, commonly known as 1215-17 West Madison Street and legally described in Exhibit "B" ("Parcel No. 2") attached hereto and by referenced made a part hereof (collectively, the "Parcels"); and,



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OK BY [Signature]

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WHEREAS, Parcel No. 1 and Parcel No.2 share a common boundary line (the "Boundary Line") with Parcel No. 1 located to the west of the Boundary Line and Parcel No. 2 being located to the east of the Boundary line; and

WHEREAS, it is the Parties belief that the improvements currently located on Parcel No.1 and on Parcel No.2 share a common wall (the "Party Wall") located on the Boundary Line, 50% of the Party Wall being located on Parcel No. 1 and 50% of the Party Wall being located on Parcel No. 2. The Parties now desire to provide for the future use and maintenance of the Party Wall; and

WHEREAS, Bukowski intends to demolish and renovate a portion of the building located on Parcel No. 1 including demolishing that portion of the Party Wall located above the roof of the improvements on Parcel No. 2 and making repairs to the remaining portion of the Party Wall (the "Repair Project"); and

WHEREAS, Bukowski requires a temporary license from Mrazek to access a portion of the roof of the improvements on Parcel No. 2 in order to undertake the Repair Project and Mrazek desires to grant such temporary license;

NOW, THEREFORE, the Parties do hereby declare that the following rights, obligations, easements, covenants, burdens, uses and privileges shall exist at such times, in the manner and to the extent hereinafter set forth,

1. **Demolition and Use of Party Wall.** Bukowski shall have the right to demolish and remove at his sole cost and expense, the Party Wall to a level not less than three (3) feet above the roofing termination point of the improvements located on Parcel No. 2 as indicated on Exhibit C attached hereto and made a part hereof. The remaining portion of the Party Wall now standing on the Boundary Line shall be and remain a Party Wall for the joint use and benefit of the Parties hereto, without claim for contribution or compensation, except as herein provided, by either of the Parties against the other. The Parties shall be entitled to rest upon the Party Wall one-half of the load which it is capable of supporting and may cut into the Party Wall in such

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manner and make such use thereof as will not impair its stability or interfere with its use by the other party in the manner herein provided. It is agreed, however, that neither party shall cut into the Party Wall to a depth of more than one-half of the thickness thereof. Neither Party shall be permitted to increase the height of the Party Wall without the written consent of the other Party, such consent not be unreasonably withheld. If either Party elects, with the required consent, to increase the height of the Party Wall, the cost to construct the additional Party Wall, shall be borne solely by the constructing Party unless agreed in writing otherwise by the Parties. If the non-constructing Party thereafter makes use of the added Party Wall within five (5) years from the completion thereof, said Party shall promptly pay the constructing Party fifty percent (50%) of the cost of constructing the added portion of the Party Wall. The construction of any new portion of the Party Wall shall be performed in the same manner as required for repairs as provided in paragraph 3 below. Further, a Parties consent shall not be required unless and until such Party receives from the constructing Party a written and stamped letter and plans from a licensed structural engineer certifying that the Party Wall has the structural integrity to support the proposed construction. It is further agreed that other than that the Party Wall, no portion of the improvements of either Party shall extend beyond the Boundary Line onto or over the property of the other Party.

2. **Repair and Maintenance of the Party Wall.** Bukowski or Mrazek, at its sole cost and expense, shall have the right to paint, decorate, clean and perform other similar activities on the interior surface of the Party Wall facing its respective Parcel.

3. **Casualty, Repair and Maintenance.** In the event of destruction or damage to the Party Wall, including the foundation, by fire or other casualty, or if the repair and/or maintenance of the Party Wall is reasonably necessary to insure that it shall remain structurally sound, Bukowski or Mrazek may repair or restore the Party Wall, at its sole cost and expense; provided, however, that, except as otherwise provided in Section 5 below, if the non-repairing party currently or thereafter makes use of the repaired Party Wall, said Party shall promptly pay to the repairing Party fifty percent (50%) of the cost of repair or restoration of the Party Wall. All such repair and restoration shall be performed in a good and workmanlike manner with materials comparable to those originally used in the Party Wall and shall conform in all respects with all

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laws, ordinances, rules and regulations of all applicable governmental authorities. Whenever the Party Wall or any portion thereto shall be repaired or restored, it shall be erected in the same location, of the same line and be of the same height, width, length and load-bearing capacity as the Party Wall in existence prior to the casualty or repair work.

4. **Indemnification.** Bukowski and Mrazek each hereby indemnifies and agrees to hold the other harmless from and against any and all loss, cost, claim, liability or expense (including any obligation to contribute to repair or restoration) arising out of or relating to any damage caused to the Party Wall by its negligent acts or omissions or those of its employees, agents, and representatives. No such indemnifying Party shall be permitted to seek contribution from the indemnified Party for repairs or restoration of the damaged Party Wall resulting from any such negligent act or omission. This paragraph shall not apply to acts or omissions which may have occurred prior to the date hereof.

5. **Bukowski Repair Project** Bukowski shall ensure that at all times, including during the Repair Project, the remaining Party Wall and the supports furnished thereby shall remain unimpaired. Any damage, injury or other impairment to Parcel No. 2 or the improvements thereon, the Party Wall or any other structural element related thereto which results from the Repair Project shall be immediately repaired and restored by Bukowski, at his sole cost and expense, in a good and workmanlike manner to the same condition as existed prior to the commencement of such work, subject to Mrazek's reasonable satisfaction.

Bukowski shall further indemnify and hold harmless Mrazek, their successors, assigns, agents, heirs and representatives against any and all damage to the roof portion or any other improvements or other property located on Parcel No. 2 and for any and all bodily injuries or death which occur as a result of the Repair Project.

Bukowski and Mrzaek, both agree herein that Bukowski shall pay no compensation to Mrazek for the loss of that portion of the future use of the Party Wall permitted to be demolished hereunder. Bukowski shall make repairs to the existing parapet walls, including tuckpointing both the east and west sides to a clean finish to the roofing termination point of Parcel 2 and

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copying, at Bukowski's expense. The repairs shall include Bukowski's removal of the Party Wall and protruding chimneys to the level not less than three (3) feet above the roofing termination point of Parcel No. 2. Bukowski shall also grout and cap the top one foot portion of the protruding chimney. The repairs shall be made pursuant to the drawing attached hereto as Exhibit "C" and incorporated herein. Finally, Bukowski shall make no repairs to the interior of the building located on Parcel No. 2.

6. **License for Access to Roof.** Mrazek hereby grants to Bukowski and Bukowski hereby accepts a temporary license to allow Bukowski access to the westerly fifteen (15) feet of roof of the improvements located on Parcel No. 2 ("Roof Portion"). The license granted hereunder shall be limited solely to access for the purpose of installing protective materials such as plywood and styrofoam in accordance with Exhibit D attached hereto and made a part hereof, on the Roof Portion to prevent damage to the Roof Portion on Parcel No. 2. Bukowski shall be permitted access for himself, his agents and assigns to install said protective materials only as contemplated in this paragraph 6. This license shall terminate on the earlier of July 31, 2003 or completion of the demolition of the Party Wall.

7. **Insurance.** Prior to Bukowski undertaking the Repair Project or accessing the Roof Portion, Bukowski shall tender to Mrazek or his attorney a copy of a current builders risk liability policy from a triple AAA rated insurance company acceptable to Mrazek, with policy limits of two million dollars (\$2,000,000.00) per occurrence naming Mrazek as an additional insured. The cost of the policy shall be borne by Bukowski.

8. **Amendment and Termination.** All of the covenants, agreements, rights, duties interest and benefits created hereby or contained herein may be terminated or amended, in whole or in part, only by an instrument executed by both Bukowski and Mrazek or their respective successors in interest. The legal descriptions of Parcel No. 1 and Parcel No. 2, as currently set forth on Exhibits "A" and "B" hereto, respectively, may be modified or amended by an instrument executed by Bukowski or Mrazek or their respective successors in interest to the Parcel in question.

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9. **Binding Effect: Recording.** This Agreement and all of the rights, obligations, easements, covenants, burdens, uses and privileges contained herein are appurtenant to the Parcels described herein, shall run with the land and shall bind and inure to the benefit of the Owners and their respective representatives, heirs, successors and assigns. The Parties shall record this Agreement in the office of the Recorder of Deeds, Cook County, Illinois. The cost of such recording shall be shared equally by the Owners.

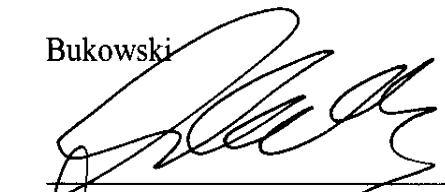
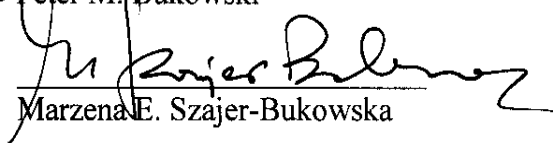
10. **Attorneys' Fees** All legal fees incurred by either party in successfully enforcing the terms and provisions of this Agreement in a court of law shall be borne by the other party.

11. **Applicable Law.** This Agreement shall be governed by the laws of the State of Illinois. If any of the provisions contained herein shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not in any event affect any of the other provisions contained herein and such other provision shall be valid and enforceable to the fullest extent permitted by law.


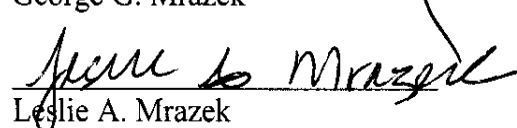
12. **Entire Agreement.** This Agreement contains the entire agreement of the Owners in respect of the subject matter hereof and supersedes any prior understandings and agreements between the Owners regarding the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Party Wall to be executed and delivered as of the day and year first above writer.

Bukowski


Peter M. Bukowski

Marzena E. Szajer-Bukowska

Mrazek


George G. Mrazek

Leslie A. Mrazek

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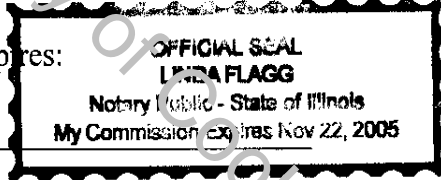
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, _____, a Notary Public in and for said County and State, do hereby certify that **Peter M. Bukowski and Marzena E. Szajer-Bukowska**, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this day 6th of June 2003.

Linda Flagg
Notary Public

My Commission expires:



I, Mary Ann Kelly, a Notary Public in and for said County and State, do hereby certify that **George G. Mrazek and Leslie A. Mrazek**, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this day 6th of June 2003.

Mary Ann Kelly
Notary Public

My Commission expires:

07/02/05



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EXHIBIT A

Parcel 1:

That part of Block 3 in the Canal Trustees' Subdivision of the West Half and the West Half of the Northeast Quarter of Section 17, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows: Commencing on the South line of West Madison Street, 227 Feet West of the Northeast corner of said Block 3; thence East of the South line of Madison Street, 45 feet; thence South parallel to the East line of Said Block, 189 feet, more or less, to the North line of an existing alley; thence West parallel to the North line of said Block 45 feet; thence North on a line parallel to the East line of said Block, 189 feet, more or less, to the point of beginning, in Cook County, Illinois

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EXHIBIT B

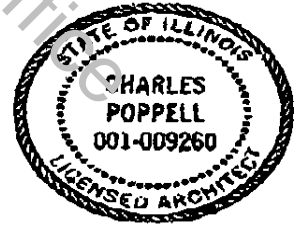
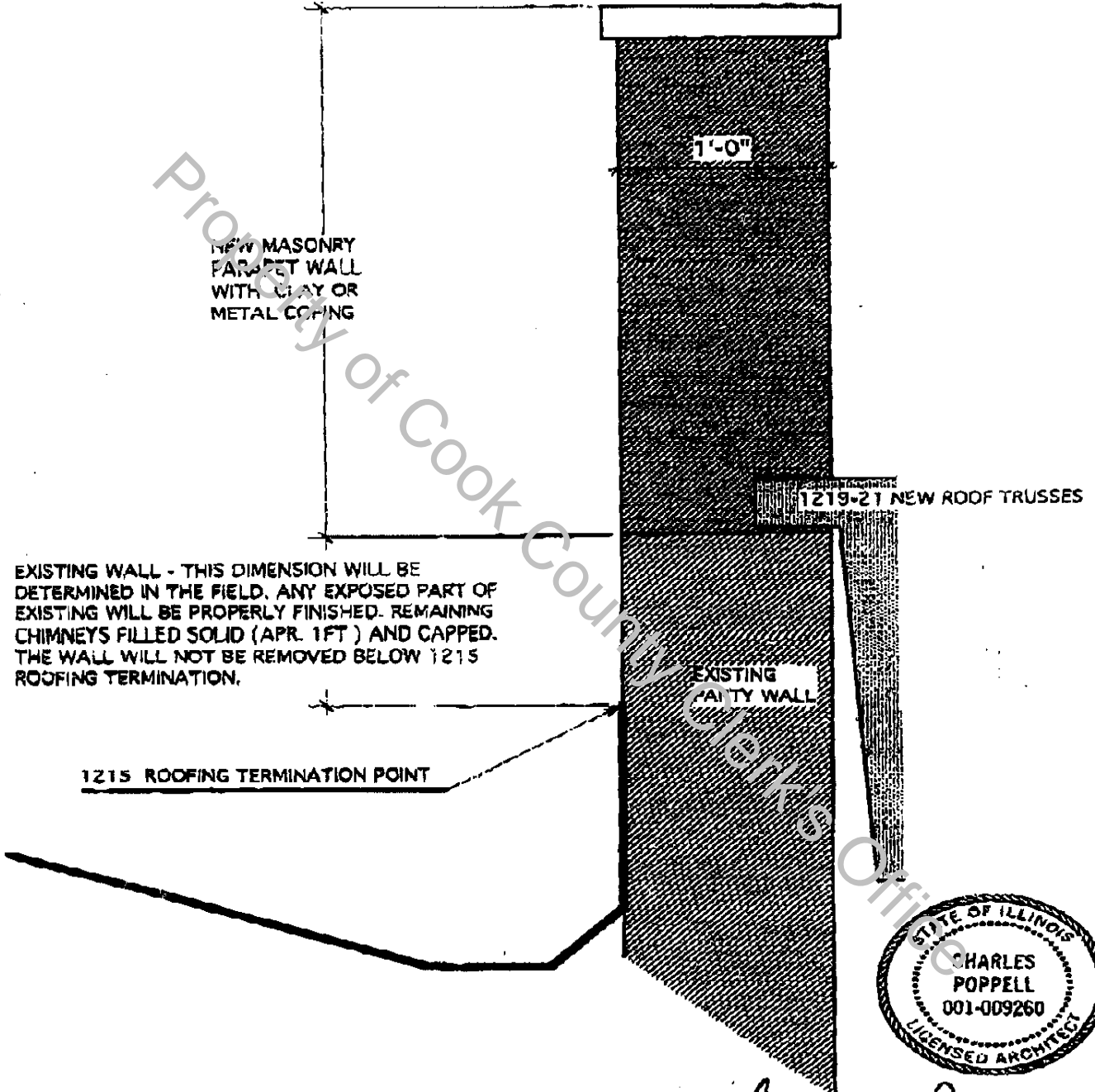
Parcel 2:

SUB LOT 5 IN ASSESSOR'S DIVISION OF LOT 1 IN BLOCK 3 OF CANAL TRUSTEES SUBDIVISION OF THE WEST 1/2 AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

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1219/21 NEW PARAPET WALL DETAIL
(EAST PARTY WALL)



Charlie Poppell

