



Eugene "Gene" Moore Fee: \$58.00
Cook County Recorder of Deeds
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This document prepared by and
after recording return to:

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COMMON EASEMENT AGREEMENT

This Easement Agreement (the "Agreement") is made and entered into this 8th day of August, 2003, by and among **Division Midrise, L.L.C.**, an Illinois limited liability company ("Developer I"), **The Midrise of Old Town Village East Condominium Association**, an Illinois not-for-profit corporation (the "Midrise Association"), **Old Town Square Residential, L.L.C.**, an Illinois limited liability company ("Developer II"), **Old Town Village East Condominium Association**, an Illinois not-for-profit corporation (the "Condominium Association"), and **Old Town Village East Homeowners Association** (the "Homeowners Association"). (Each of the foregoing are hereinafter referred to individually as a "Party" and collectively as the "Parties"; each of the Midrise Association, the Condominium Association, and the Homeowners Association are hereinafter referred to individually as an "Association" and collectively as the "Associations".)

RECITALS:

WHEREAS, Developer I and Developer II are in the process of constructing a mixed use residential development called Old Town Village East in Cook County, Illinois, legally described on Exhibit A attached hereto and made a part hereof (the "Old Town Village East Development").

WHEREAS, Developer I owns in fee simple and is in the process of constructing 60 condominium units at The Midrise of Old Town Square Condominiums on a parcel of real estate legally described on Exhibit B attached hereto and made a part hereof (the "Midrise Development");

WHEREAS, the Midrise Association is the condominium association organized to administer the common interests of the unit owners at the Midrise Development;

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WHEREAS; Developer II owns in fee simple and is in the process of constructing 48 walk-up condominium units at The Condominiums of Old Town Village East on a parcel of real estate legally described on Exhibit C attached hereto and made a part hereof (the "Condominium Development");

WHEREAS, the Condominium Association is the condominium association organized to administer the common interests of the unit owners at the Condominium Development;

WHEREAS, Developer II also owns in fee simple and is in the process of constructing 23 fee simple townhomes and 8 fee simple single family homes on the parcels of land legally described on Exhibit D attached hereto and incorporated herein (the "Homeowners Development"); and

WHEREAS, Homeowners Association is the association organized to administer the common interests of the owners at Homeowners Development.

NOW, THEREFORE, the parties hereto hereby agree to, declare and grant the easements herein set forth, which shall attach to and constitute covenants running with the land:

A. Ingress/Egress and Access Easement

1. The Developer I and the Midrise Association hereby declare and grant a non-exclusive, irrevocable and perpetual easement over, upon and across any private sidewalks and roadways on the Midrise Development (the "Midrise Access Easement Areas"), to the members of the Condominium Association and Homeowners Association as well as their lessees, members of their households, guests and invitees, but not the public generally, solely for pedestrian and vehicular ingress and egress and for such other uses as the Midrise Association may, from time to time, make available to its members.
2. The Developer II and the Condominium Association hereby declare and grant a non-exclusive, irrevocable and perpetual easement over, upon and across any private sidewalks and roadways in the Condominium Development (the "Condominium Access Easement Areas"), to the Midrise Association and members of the Midrise Association and Homeowners Association as well as their lessees, members of their households, guests and invitees, but not the public generally, solely for pedestrian and vehicular ingress and egress and for such other uses as the Condominium Association may, from time to time, make available to its members.
3. The Developer II and the Homeowners Association hereby declare and grant a non-exclusive, irrevocable and perpetual easement over, upon and across any common area sidewalks and roadways in the Homeowners Development (the "Homeowners Access Easement Areas" and together with the Midrise Easement Areas and Condominium Easement Areas collectively referred to herein as the "Access Easement Areas"), to the Midrise Association and members of the Condominium Association and Midrise Association as well as their lessees, members of their households, guests and invitees, but not the public generally,

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solely for pedestrian and vehicular ingress and egress and for such other uses as the Homeowners Association may, from time to time, make available to its members and a non-exclusive, irrevocable and perpetual easement over, upon and across any private sidewalks and steps serving individual homes inside of fences to the Midrise Association, but not its members, lessees, guests, invitees or members of the public generally (the "**Limited Access Easement Area**").

4. The Easements described in Section A of this Agreement are easements appurtenant, running with the land, and shall inure to the benefit of, burden and be binding upon the undersigned, their successors and assigns, and upon any owner, purchaser, mortgagee, or other person having an interest in the Midrise Development, the Condominium Development or the Homeowners Development.

B. Shared Expenses

1. Sewer and Water. The Midrise Association shall maintain, repair, and replace and pay all use charges, assessments, or taxes in connection with, the sewer and water lines benefiting all Parties that are subject to a perpetual non-exclusive easement for access, ingress and egress over, across, under and upon the sewer and water easement parcels depicted on the Plat of Subdivision for Old Town Village East Subdivision (the "**Sewer and Water Easement**").
2. Snow Removal and Street and Sidewalk Maintenance, Landscaping, External Exterminating, Piers and Site Lighting. The Midrise Association shall be responsible for each of the following maintenance matters as specified below.
 - (a) Snow Removal and Street and Sidewalk Maintenance. The Midrise Association shall contract for all snow removal services at all roadways, sidewalks, walkways and steps within the Old Town Village East Development and on public sidewalks adjacent to it. The Midrise Association shall contract for all maintenance, repair, and replacement of all roadways, sidewalks, and walkways within the Access Easement Areas but not the Limited Access Easement Areas.
 - (b) Landscaping. The Midrise Association shall contract for all general landscaping of the common and private landscaped areas. General landscaping is limited to maintenance of existing grass and shrubbery and developer installed flower beds but, expressly excludes any planting or maintenance of any flower beds or annual or perennial flowers planted subsequent to any individual owner's acquisition of their condominium unit, townhome or single family home.
 - (c) External Exterminating. The Midrise Association shall contract for all outdoor exterminating services at the Old Town Village East Development necessary, in the reasonable discretion of the Midrise Association.
 - (d) Piers, Site Lighting and Electrical Service. The Midrise Association shall contract for all maintenance, repair and replacement of any and all

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masonry piers, lighting and light poles at the Old Town Village East Development, except for light fixtures affixed to any of the buildings, the maintenance, repair and replacement of each of which shall be the responsibility of the Association that is responsible for the building to which such fixture is attached. Notwithstanding any other provision of this Agreement, each of the Midrise Association, Condominium Association and Homeowners Association shall be solely responsible for electrical usage by site lighting attached to their respective electrical meters without any right to contribution or reimbursement from any other Party.

C. Construction and Maintenance Easement

A non-exclusive construction, repair and maintenance easement (the "**Construction Easement**") is hereby reciprocally granted by Developer I and Developer II to each other and to their successors and assigns, over, across and upon the other's portion of the Easement Areas for construction, installation and maintenance of the Midrise Development, the Condominium Development, and the Homeowners Development. The Construction Easement is granted together with all reasonable rights of access, ingress and egress over, across and upon the Easement Areas for the period of time reasonably necessary to complete construction and perform maintenance of each respective development project. Any party entering another's property pursuant to this Agreement covenants to maintain and, upon request, provide the burdened party with evidence of sufficient insurance coverage.

D. Assessments - Maintenance Fund. The Midrise Association shall be reimbursed for maintenance, repair, and replacement of the sidewalks and streets in the Access Easement Areas, the maintenance, repair, and replacement and use of the sewer and water lines, the maintenance and replacement of the Landscaping, the performance of external exterminating and the maintenance, repair, and replacement of Piers and Site Lighting as follows:

1. Each year on or before October 1st, the Midrise Association shall estimate the annual budget of expenses including the total amount required for the cost of wages, materials, insurance, services and supplies that will be required during the ensuing calendar year for the rendering of all services by the Midrise Association as provided herein, together with a reasonable amount considered by the Board of Directors of the Midrise Association (the "**Board**") to be necessary for a reserve for contingencies and replacements, if any, and it shall also notify the Homeowners Association and the Condominium Association on or before October 1st in writing as to the amount of such estimate with a reasonable itemization thereof. Such common expenses shall be assessed to each Association as follows: Condominium Association 26.7%, Homeowners Association 40.0% and Midrise Association 33.3% (each Association's percentage hereinafter referred to as the "Share").

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A copy of proposed annual budget shall be made available to each Association at least thirty (30) days prior to the adoption of such annual budget by the Board of the Midrise Association. The annual budget for the following year shall be adopted not later than the end of the then current calendar year.

On or before the first day of January following receipt of the annual budget and the first day of each and every month or calendar quarter, as the Board may determine, of such year thereafter, each Association shall pay to the Midrise Association, or as the Midrise Association may direct, one-twelfth (1/12) or one-quarter (1/4), as the case may be, of the assessment made pursuant to this paragraph 1. On or before the first day of April of each year commencing 2005, the Board shall supply to the other Associations an itemized accounting of the Midrise Association's expenses for the preceding year pursuant to this Common Easement Agreement, whether paid or accrued, together with a tabulation of the amounts collected, and showing the net income or deficit of income over expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves as provided herein shall be credited pro rata by Share against the next installments due from the other Associations under the current year's annual budget until such excess is exhausted. Any net shortage shall be divided pro rata by Share among the Associations and added to each Associations next installment in the month succeeding the rendering of the accounting.

The Board may build up and maintain a reasonable reserve for contingencies and replacements of the facilities located within the easements granted herein. Any such reserves shall be kept in a segregated interest bearing account. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged against such reserve. If the annual budget proves inadequate for any reason, including non-payment of any Association's assessment, the Board may at any time prepare an adjusted budget and levy a further assessment based thereon, which shall be assessed pro rata by Share to the Associations. The Board shall deliver notice of such further assessment on the other Associations by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the next monthly installment which is due more than thirty (30) days after the delivery of such notice of further assessment.

The failure or delay of the Board in preparing or delivering the annual or adjusted budget to the other Association shall not constitute a waiver or release in any manner of the Associations' obligations to pay the assessments, as herein provided, whenever the same shall be determined, and in the absence of the preparation and delivery of any annual budget or adjusted budget, the Associations shall continue to pay the monthly assessment charges at the then existing monthly rate established for the previous period until the first monthly installment which is due more than ten (10) days after such new annual or adjusted budget shall have been mailed or delivered.

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2. The Board shall keep full and correct books of account on such basis as the Board shall determine. Upon request of any Association, such books of account may be inspected by such requesting person or its representative, duly authorized in writing, at such office and at such reasonable time or times during the Board's normal business hours, as the Board shall designate in writing.
3. If an Association is in default in the payment of any charges or assessments hereunder for fifteen (15) days, the unpaid balance of such charges and assessments shall bear interest at the lower of (i) the rate of one per cent (1%) per month for each month or part thereof that such amount remains unpaid or (ii) the highest lawful rate that may be charged under the Illinois usury laws to borrowers such as an Association.

E. Miscellaneous

1. If a dispute arises between the Condominium Association, Homeowners Association and the Midrise Association with respect to the enforcement of this Agreement, the non-prevailing party will pay to the prevailing party all of its costs and fees, including reasonable attorneys' fees, associated therewith.
2. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.
3. Notices or invoices required or permitted to be given hereunder shall be given personally, by U.S. mail, by registered, or certified mail and shall be addressed to each party as specified below:

Developer I:	Division Midrise, L.L.C. c/o MCL Companies of Chicago, Inc. 455 E. Illinois Street, Suite 565 Chicago, Illinois 60611 Attn: Daniel E. McLean
Midrise Association:	Prior to turnover of the Midrise Association to unit owners: c/o Developer I at the above address After the turnover of the Midrise Association to unit owners: c/o the designated management company
Developer II:	Old Town Square Residential, L.L.C. c/o MCL Companies of Chicago, Inc. 455 East Illinois Street, Suite 565 Chicago, Illinois 60611 Attn: Daniel E. McLean

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<p>Condominium Association:</p>	<p>Prior to turnover of the Condominium Association to unit owners: c/o Developer II at the above address</p> <p>After the turnover of the Condominium Association to unit owners: c/o the designated management company</p>
<p>Homeowners Association:</p>	<p>Prior to turnover of the Homeowners Association to unit owners: c/o Developer II at the above address</p> <p>After the turnover of the Homeowners Association to unit owners: c/o the designated management company</p>

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on the day and year first above written.

DIVISION MIDRISE, L.L.C., an Illinois limited liability company

By: MCL Companies of Chicago, Inc., an Illinois corporation, its manager

By: *Camille Lee*
Its: President

OLD TOWN SQUARE RESIDENTIAL, L.L.C., an Illinois limited liability company

By: MCL Companies of Chicago, Inc., an Illinois corporation, its manager

By: *Camille Lee*
Its: President

THE MIDRISE OF OLD TOWN VILLAGE EAST CONDOMINIUM ASSOCIATION, an Illinois not-for-profit corporation

By: *Camille Lee*
Its: President

OLD TOWN VILLAGE EAST CONDOMINIUM ASSOCIATION, an Illinois not-for-profit corporation

By: *Camille Lee*
Its: President

OLD TOWN VILLAGE EAST HOMEOWNERS ASSOCIATION, an Illinois not-for-profit corporation

By: *Camille Lee*
Its: President

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STATE OF ILLINOIS)
) SS:
 COUNTY OF COOK)

The Undersigned, a Notary Public within and for said County, in the State aforesaid, duly commissioned and acting, does hereby certify that on this 13TH day of AUGUST, 2003, personally appeared before me DANIEL E. McLEAN, the President of Old Town Village East Homeowners Association, an Illinois not-for-profit corporation, which person is to me personally well known and known to be the person who signed the foregoing instrument, and who, being by me duly sworn, stated and acknowledged that as the President of the said association, as was free and voluntary act and deed for the uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public the day and year in this certificate above written.

Kathleen Bartalone
 Notary Public

My commission expires:



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EXHIBIT A

Legal Description of Old Town Village East

Lots 1 through 41 at Old Town Village East being a Subdivision in the West Half of the Northeast Quarter of Section 4, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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EXHIBIT B

Legal Description for Midrise Development

Lots 32 and 39 in Old Town Village East being a Subdivision in the West Half of the Northeast Quarter of Section 4, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

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EXHIBIT C

Legal Description for the Condominium of Old Town Village East Development

Lots 33 to 38 in Old Town Village East being a Subdivision in the West Half of the Northeast Quarter of Section 4, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

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EXHIBIT D

Legal Description for the Homeowners Development

Lots 1 to 31, 40, and 41 in Old Town Village East being a Subdivision in the West Half of the Northeast Quarter of Section 4, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

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