

# UNOFFICIAL COPY

THIS INSTRUMENT PREPARED  
BY AND RETURN TO:  
GARY L. PLOTNICK  
Schain, Burney, Ross and Citron, Ltd.  
222 North LaSalle Street  
Suite 1910  
Chicago, Illinois 60601



Doc#: 0418826271  
Eugene "Gene" Moore Fee: \$38.00  
Cook County Recorder of Deeds  
Date: 07/06/2004 03:21 PM Pg: 1 of 8

Near North National Title Corp  
222 North LaSalle Street  
Chicago, Illinois 60601

## DECLARATION

This DECLARATION (the "Declaration") is made this 30<sup>th</sup> day of JUNE 2004 by 1260 W. WASHINGTON, LLC, an Illinois limited liability company (hereinafter referred to as "Declarant").

## PREAMBLES:

A. Declarant is the owner in fee simple of certain commercial real estate in the County of Cook, State of Illinois, legally described on Exhibit "A" attached hereto and made a part hereof, which the Declarant intends to develop into two (2) separate commercial spaces (hereinafter "Commercial Property 1" and "Commercial Property 2"), each of which are legally described on Exhibit "B" attached hereto and made part hereof (Commercial Property 1 and Commercial Property 2 are hereinafter collectively referred to as the "Commercial Property").

B. Pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easements dated the 30<sup>th</sup> day of September, 2002 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on the 4<sup>th</sup> day of October, 2002 as Document Number 0021091432 ("Original Declaration"), as modified by that certain Special Amendment to Declaration of Covenants, Conditions, Restrictions and Easements dated the 30<sup>th</sup> day of April, 2004, and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on the 27<sup>th</sup> day of May, 2004 as Document Number 0414832117 ("First Special Amendment") and as further modified by that certain Second Special Amendment to Declaration of Covenants, Conditions, Restrictions and Easements dated the \_\_\_ day of \_\_\_\_\_, 2004, and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on the \_\_\_ day of \_\_\_\_\_, 2004 as Document Number \_\_\_\_\_ ("Second Special Amendment"; the Original Declaration, the First Special Amendment and the Second Special Amendment are hereinafter collectively the "Westgate Declaration"), the owner of the Residential Property (as defined in the Westgate Declaration) is required to maintain, repair, and obtain and maintain insurance on the Total Property (as Defined in the Westgate Declaration), and the owner of the Commercial Property is required to pay to the owner of the Residential Property certain monthly assessments to reimburse the owner of the Residential Property for maintaining, repairing, and obtaining and maintaining insurance on the Total Property based upon a

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pro-rata share of specific budget items contained in the Residential Property budget, each of such budget items are set forth on Exhibit "D" of the Westgate Declaration, with such monthly assessments being a continuing lien upon the Commercial Property ("Assessments").

C. Exhibit "D" of the Westgate Declaration sets forth the Commercial Property's percentage of the Assessments as three and forty-four hundredths percent (3.44%).

D. Declarant desires to further apportion the pro-rata share of the Assessments between Commercial Property 1 and Commercial Property 2 in order to determine the percentages that each owner of the Commercial Property shall be obligated to pay to the owner of the Residential Property.

**NOW, THEREFORE**, Declarant hereby declares that the Property is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants and conditions hereinafter set forth.

1. **Pro-Rata Share of Assessments.** For the express purpose of paying to the owner of the Residential Property the amount due for the Assessments, Commercial Property 1 shall be obligated to pay twenty nine and thirty six hundredths percent (29.36%) of the Commercial Property's share of the Assessments set forth in the Westgate Declaration, and Commercial Property 2 shall be obligated to pay seventy and sixty four hundredths percent (70.64%) of the Commercial Property's share of the Assessments set forth in the Westgate Declaration.

2. **Westgate Declaration.** This Declaration in no way modifies, alters or amends the obligations of the owner of the Commercial Property as set forth in the Westgate Declaration, except to the extent that this Declaration clarifies and defines the pro-rate percentages of the Assessments that each Commercial Property owner is obligated to pay pursuant to the Westgate Declaration.

3. **Successors and Assigns.** All provisions of this instrument shall run with the land and are binding on and inure to the mortgagees, heirs, assigns, successors, and personal representatives of the Declarant, its successors, assigns and all future owners of Commercial Property 1 and Commercial Property 2, and their respective employees, agents, contractors, customers, invitees and licensees. Declarant, and all subsequent owners and mortgagees of Commercial Property 1 and Commercial Property 2, by acceptance of a deed of conveyance, contract or mortgage, accept said deed, contract or mortgage subject to this Declaration, and shall be deemed to have agreed to perform all undertakings and to be bound by all agreements, restrictions and covenants imposed upon such owner by this instrument.

4. **Perpetuities and Other Invalidity.** If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits with respect to real property or interests therein, then such

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options, privileges, covenants and rights shall continue only until twenty-one years after the death of the survivor of the now living descendants of the incumbent Governor of the State of Illinois and of the incumbent President of the United States of America.

5. **Termination of Covenant Liability.** Whenever a transfer of ownership of Commercial Property 1 or Commercial Property 2 or any portion thereof takes place, liability of the transferor for breach of covenant occurring thereafter automatically terminates, except in the event such transferor stills holds title to a part of the Commercial Property, such transferor may still be accounted liable for any breaches of covenant occurring until such time as such transferor no longer holds title to any part of the Commercial Property whatsoever.

6. **Construction.** This instrument shall be construed in conformity with the laws of the State of Illinois. The rule of strict construction does not apply to this grant. This grant shall be given a reasonable construction so that the intention of the parties is carried out.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and date first above written.

1260 W. WASHINGTON, LLC,  
an Illinois limited liability company

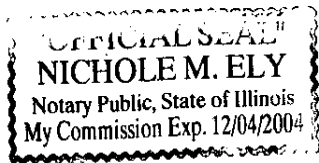
BY: **STONEGATE DEVELOPMENT OF ILLINOIS, INC.**  
Its: Manager

By: *Samuel L. Persico*  
Name: Samuel L. Persico  
Its: President

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF COOK            )

I, *Nichole M. Ely*, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT *Samuel L. Persico*, President of Stonegate Development of Illinois, Inc., as Manager of 1260 W. WASHINGTON, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the same instrument as his own free and voluntary act and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this *30<sup>th</sup>* day of *JUNE* 2004.



*Nichole M. Ely*  
Notary Public

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## CONSENT OF MORTGAGEE

AUSTIN BANK OF CHICAGO ("Bank"), holder of a Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents (the "Mortgage") dated as of March 28, 2003 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, on April 24, 2003, as Document Number 0311432127, hereby consents to the execution and recording of the attached Declaration and agrees that said Mortgage is subject thereto.

IN WITNESS WHEREOF, the said Bank has caused this Consent of Mortgagee to be signed by its duly authorized officers on its behalf in Chicago, Illinois, on this 30<sup>th</sup> day of JUNE 2004.

### AUSTIN BANK OF CHICAGO

By: Michael Campawile  
Name: Michael Campawile  
Title: Vice President

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for the County and State aforesaid., do hereby certify that Michael Campawile, Vice President, of AUSTIN BANK OF CHICAGO, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said Bank, for the use and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of June 2004, 2004.

Irena Krsto

Notary Public



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## EXHIBIT "A"

### LEGAL DESCRIPTION FOR COMMERCIAL PROPERTY

LOT 1 (EXCEPT THE NORTH 61 FEET) IN ASSESSOR'S DIVISION OF PARTS OF BLOCKS 4 AND 5 (EXCEPT THE NORTH 35 FEET) LOTS 7, 8 AND (EXCEPT THE WEST 2 FEET) LOT 6, ALL OF LOT 9 IN BLOCK 5 AND THE NORTH PART OF LOT 1 AND OF LOT 2 EAST OF THE WEST 102 FEET OF BLOCK 4, IN WRIGHTS ADDITION TO CHICAGO, IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART DESCRIBD AS FOLLOWS LYING ABOVE AN ELEVATION OF 16.50 FEET AND BELOW AN ELEVATION OF 28.00 FEET (ALL ELEVATIONS ARE REFERENCED TO THE CITY OF CHICAGO DATUM) IN COOK COUNTY, ILLINOIS.

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## EXHIBIT "B"

### LEGAL DESCRIPTION FOR COMMERCIAL PROPERTY 1 AND COMMERCIAL PROPERTY 2

#### COMMERCIAL PROPERTY 1:

THAT PART OF LOT 1 (EXCEPT THE NORTH 61 FEET) IN ASSESSOR'S DIVISION OF PARTS OF BLOCKS 4 AND 5 (EXCEPT THE NORTH 35 FEET) LOTS 7, 8 AND (EXCEPT THE WEST 2 FEET) LOT 6, ALL OF LOT 9 IN BLOCK 5 AND THE NORTH PART OF LOT 1 AND OF LOT 2 EAST OF THE WEST 102 FEET OF BLOCK 4, IN WRIGHTS ADDITION TO CHICAGO, IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN; DESCRIBED AS FOLLOWS: LYING ABOVE AN ELEVATION OF 16.50 FEET AND BELOW AN ELEVATION OF 28.00 FEET (ALL ELEVATIONS REFERENCE TO THE CITY OF CHICAGO DATUM);

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL, THENCE NORTH 00 DEGREES 01 MINUTES 51 SECONDS WEST, 14.80 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 59 SECONDS WEST, 12.50 FEET; THENCE NORTH 00 DEGREES 14 MINUTES 01 SECONDS EAST, 6.45 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 59 SECONDS WEST, 7.38 FEET; THENCE SOUTH 00 DEGREES 14 MINUTES 01 SECONDS WEST, 6.45 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 59 SECONDS WEST, 19.28 FEET; THENCE SOUTH 00 DEGREES 14 MINUTES 01 SECONDS WEST, 14.28 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 01 SECONDS EAST, 39.23 FEET, MOR OR LESS TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

#### COMMERCIAL PROPERTY 2:

THAT PART OF LOT 1 (EXCEPT THE NORTH 61 FEET) IN ASSESSOR'S DIVISION OF PARTS OF BLOCKS 4 AND 5 (EXCEPT THE NORTH 35 FEET) LOTS 7, 8 AND (EXCEPT THE WEST 2 FEET) LOT 6, ALL OF LOT 9 IN BLOCK 5 AND THE NORTH PART OF LOT 1 AND OF LOT 2 EAST OF THE WEST 102 FEET OF BLOCK 4, IN WRIGHTS ADDITION TO CHICAGO, IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; LYING BELOW AN ELEVATION OF 49.53 FEET (CITY OF CHICAGO DATUM); IN COOK COUNTY, ILLINOIS.

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL, THENCE SOUTH 89 DEGREES 48 MINUTES 01 SECONDS EAST, 58.42 FEET; THENCE NORTH 00 DEGREES 14 MINUTES 01 SECONDS EAST, 21.89 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 59 SECONDS WEST, 17.94 FEET; THENCE NORTH 00 DEGREES 17 MINUTES 50 SECONDS EAST, 13.17 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 59 SECONDS WEST, 23.82 FEET; THENCE SOUTH 00 DEGREES 14 MINUTES 01 SECONDS WEST, 17.56 FEET; THENCE NORTH 89

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DEGREES 45 MINUTES 59 SECONDS WEST, 16.75 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 51 SECONDS EAST, 17.53 FEET; MORE OR LESS TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 17-08-329-019

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