

**DECLARATION OF PARTY WALL AGREEMENT
AND AGREEMENT FOR JOINT EXTERIOR MAINTENANCE**

WHEREAS, BLACKHAWK ENTERPRISES, INC., an Illinois corporation, is the owner of the fee simple title to the following-described real estate situated in the City of Elgin, Kane County, Illinois:

Lot 27 in Bent Tree Village, being a subdivision of part of the East Half of the West Half of Section 7, Township 41 North, Range 9 East of the Third Principal Meridian in the City of Elgin, Cook County, Illinois.

commonly known as 1055-1057 Bent Tree Court, Elgin, Illinois 60120, hereinafter sometimes called "the Property"; and,

PKO
PIN# 06-07-123-005
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WHEREAS, said owner has constructed or intends to construct, upon said premises for sale to various persons, a duplex dwelling unit connected by a common wall between the individual units of such duplex; and,

WHEREAS, it is intended by the undersigned to create, in favor of each purchaser, an easement covering such common wall which is intended to be placed equally on the lot line separating the individual units upon which the duplex is located; and,

WHEREAS, it is intended by the undersigned to create in favor of the purchaser of each unit of the duplex the right to enforce equal contribution from the owner of the other unit for repairs to portions of the exterior premises which are located upon or above the lot line, including but not limited to all building materials, siding, eaves, roofing materials, walkways and driveways.

NOW, THEREFORE, the undersigned, BLACKHAWK ENTERPRISES, INC., an Illinois corporation, in order to protect each individual purchaser, their successors and assigns, of any lot or parcel of the Property, does hereby create the following easements and rights relating to each duplex dwelling unit:

DECLARATION OF PARTY WALL AGREEMENT
AND AGREEMENT FOR JOINT EXTERIOR MAINTENANCE

WHEREAS, BLACKHAWK ENTERPRISES, INC., an Illinois corporation, is the owner of the fee simple title to the following-described real estate situated in the City of Elgin, Kane County, Illinois:

Lot 27 in Bent Tree Village, being a subdivision of part of the East Half of the West Half of Section 7, Township 41 North, Range 9 East of the Third Principal Meridian in the City of Elgin, Cook County, Illinois.

commonly known as 1055-1057 Bent Tree Court, Elgin, Illinois 60120, hereinafter sometimes called "the Property," and,

WHEREAS, said owner has constructed or intends to construct, upon said premises for sale to various persons, a duplex dwelling unit connected by a common wall between the individual units of such duplex; and,

WHEREAS, it is intended by the undersigned to create, in favor of each purchaser an easement covering such common wall which is intended to be placed equally on the lot line separating the individual units upon which the duplex is located; and,

WHEREAS, it is intended by the undersigned to create in favor of the purchaser of each unit of the duplex the right to enforce equal contribution from the owner of the other unit for repairs to portions of the exterior premises which are located upon or above the lot line, including but not limited to all building materials, siding, eaves, roofing materials, walkways and driveways.

NOW, THEREFORE, the undersigned, BLACKHAWK ENTERPRISES, INC., an Illinois corporation, in order to protect each individual purchaser, their successors and assigns, of any lot or parcel of the Property, does hereby create the following easements and rights relating to each duplex dwelling unit:

UNOFFICIAL COPY

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1. **Declaration of Party Wall:** The above-described common wall shall constitute a party wall between the adjoining residences to be erected on the Property. Each wall, which is built as a part of the original construction of the dwellings and garages upon the property and placed on the dividing line between the homesites, shall constitute a party wall; and, to the extent not inconsistent with the provisions of this agreement, the general rules of law regarding party walls and of liability for property damage due to negligence or wilful acts or omissions shall apply thereto.

2. **Repair and Maintenance of Party Wall and All Exterior Portions of the Dwellings and Garages:** The cost of reasonable repair, maintenance and replacement of a party wall and the improvements placed on the dividing lot line (including, but not limited to, all siding, eaves, roofing materials, walkways and driveways), shall be shared equally by the owners on either side of said wall, who make use of the wall, except that the entire cost of repairing damages caused by the negligence or wilful act or omission of one owner shall be paid for by that owner.

3. **Destruction to Party Wall and Exteriors:** If a party wall and the improvements placed on the dividing lot line are destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and the other owner who shared the use of the wall shall contribute to the cost of restoration equally, without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or wilful acts or omissions.

4. **Negligence:** Notwithstanding any other provision of this agreement, an owner who, by negligence or wilful act, causes a party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements.

5. **Contribution:** The right of any owner to contribution from any other owner under this agreement shall be appurtenant to the land and shall pass to such owner's successors in title.

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2. Repair and Maintenance of Party Wall and All Exterior Portions of the Dwellings and Garages: The cost of reasonable repair, maintenance and replacement of a party wall and the improvements placed on the dividing lot line (including, but not limited to, all siding, eaves, roofing materials, walkways and driveways), shall be shared equally by the owners on either side of said wall, who make use of the wall, except that the entire cost of repairing damages caused by the negligence or willful act or omission of one owner shall be paid for by that owner.

3. Destruction to Party Wall and Exterior: If a party wall and the improvements placed on the dividing lot line are destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and the other owner who shared the use of the wall shall contribute to the cost of restoration equally, without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

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5. Contribution: The right of any owner to contribution from any other owner under this agreement shall be appurtenant to the land and shall pass to such owner's successors in title.

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6. **Easement:** Neither owner shall alter or change such party wall in any manner, or the improvements which are located on or above the dividing lot line, and such party wall and improvements shall always remain in the same location as when erected, and each party to such common wall shall have a perpetual easement in that part of the premises of the other on which such party wall is located for party wall purposes.

7. **Exterior Additions or Changes:** No exterior addition to or change or alteration in the building, fence, wall, antenna, awning or other structure to be erected as a duplex on the property shall be made, except such as are erected or approved by the present owner of the fee simple title to the property, until written plans and specifications showing the nature, kind, shape, height, materials, color scheme and location of the same, and the approximate cost thereof, shall have been submitted to and approved in writing by the other owner of the duplex to be constructed hereunder.

8. **Arbitration:** Any controversy or claim arising out of or relating to this agreement or breach thereof, which may be properly submitted to arbitration, shall be settled by arbitration, and such arbitration shall comply with and be governed by the Uniform Arbitration Act (Ill.Rev.Stat., Ch. 10, Sec. 101-113).

9. **Covenants Running with the Land:** Easements and rights hereby created are, and shall be perpetual and construed as covenants running with the land, and each and every person accepting a deed to any unit shall be deemed to accept such deed with the understanding that each and every purchaser is also bound by the provisions herein contained, and each and every purchaser, by subsequent deed to any unit, shall thereby consent and agree to be bound by the covenants herein contained, to the same extent as though he or she had signed this instrument. The undersigned, in executing and delivering the deeds to such units, shall insert in such conveyances by reference, that the same are made subject to the terms, conditions and covenants herein contained.

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6. Assessment: Neither owner shall alter or change such party wall in any manner, or the improvements which are located on or above the dividing lot line, and such party wall and improvements shall always remain in the same location as when erected, and each party to such common wall shall have a perpetual easement in that part of the premises of the other on which such party wall is located for party wall purposes.

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IN WITNESS WHEREOF, the undersigned has executed this instrument on the 18th day of November, 1986.

-86-581267

BLACKHAWK ENTERPRISES, INC.,
an Illinois corporation,

By: *Theodore E. Heise*
Its President

ATTEST:

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Georgeann Heise
Its Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

DEC--5-86 47463 = 86581267 u A -- Rec

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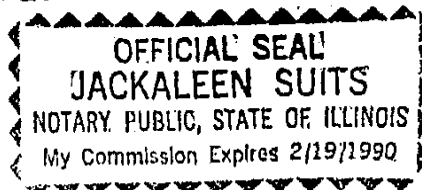
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that THEODORE E. HEISE, President of BLACKHAWK ENTERPRISES, INC., an Illinois corporation, and GEORGEANN HEISE, Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and that the said Secretary did also then and there acknowledge that she, as custodian of the corporate seal of said corporation, did affix the said corporate seal of said corporation to said instrument as her own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of November, 1986.

Jackaleen Suits
Notary Public

Document Prepared By:

Clarence F. Wittenstrom, Jr.
Gromer, Wittenstrom & Meyer, P.C.
Suite 1, 75 Market Street
P.O. Box 1209
Elgin, Illinois 60121-0209
Phone: 312/741-6700



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This Document Prepared by: Clarence F. Wittenstrom, Jr.
P. O. Box 1209
Elgin, IL 60121-0209

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UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned has executed this instrument on the 17th day of November, 1988.

BLACKHAWK ENTERPRISES, INC.,
an Illinois corporation,

By: _____
Its President

ATTEST:

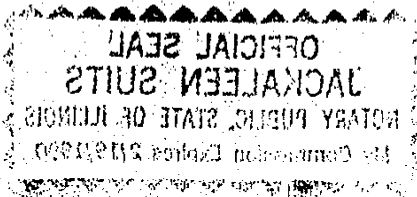
Its Secretary

STATE OF ILLINOIS)
) ss.
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that THEODORE E. HEISE, President of BLACKHAWK ENTERPRISES, INC., an Illinois corporation, and GEORGEANN HEISE, Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such president and secretary, respectively, appeared before me in their free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and that the said secretary did also then and there acknowledge that she, as custodian of the corporate seal of said corporation, did affix the said corporate seal of said corporation to said instrument as her own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 17th day of November, 1988.

Notary Public



Document Prepared By:
Clarence F. Wittenstrom, Jr.
Groner, Wittenstrom & Meyer, P.C.
Suite 1, 75 Market Street
P.O. Box 1200
Egan, Illinois 60121-0200
Phone: 312/741-6700

This document prepared by:
Clarence F. Wittenstrom, Jr.
P.O. Box 1200
Egan, IL 60121-0200

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