

EXECUTION COPY
March 25, 1997

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THIS DOCUMENT
PREPARED BY:

Barbara A. Adams
Burke, Weaver & Prell
55 West Monroe Street
Suite 800
Chicago, IL 60603

AFTER RECORDING
RETURN TO:

Recorder's Box 337

97550001 \$51.00
DEPT-01 RECORDING
07/20/97 10AM 2016 07/29/97 15:42:00
\$546.48 K# #77-550001
COOK COUNTY RECORDER

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97550001

SECOND AMENDED RESTRICTIVE COVENANT

WHEREAS, Jacob Levitan and Maria Levitan, his wife (hereinafter referred to as "Levitans") whose address is 1202 Lincoln Ave. South, Highland Park, Illinois 60035, are the holders of record title to a parcel of real estate located in Cook County, Illinois, commonly known as 1885 Shermer Road, Northbrook, Illinois 60062, (hereinafter referred to as "Parcel A") and legally described as follows:

PROPERTY COMMONLY KNOWN AS 1885 SHERMER ROAD:

That part of the Northwest Quarter (1/4) of Section 15, Township 42 North, Range 12, East of the Third Principal Meridian, commencing at the center of Shermer Road, said point being the West line of the Northwest Quarter (1/4) of said Section, 2052.08 feet South of the North line of Section 15; thence East parallel to the South line of the Northwest Quarter (1/4) of Section 15, 330 feet; thence South parallel to the West line of the Northwest Quarter (1/4), 132 feet; thence West parallel to the South line of the Northwest Quarter (1/4), 330 feet, to the center of Shermer Road; thence North 132 feet to the place of beginning. (except that part taken for highway purposes, as per Document Number 3462855).

Permanent Index Number: 04-15-100-015-0000;

and

WHEREAS, Grant D. Erickson as Trustee under Trust Agreement dated November 1, 1988 and known as Trust No. 1000 (hereinafter referred to as "Trustee") whose address is 1625 Shermer

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Rd., Northbrook, Illinois 60062 is the holder of record title to a parcel of real estate located in Cook County, Illinois, commonly known as 1873 Shermer Road, Northbrook, Illinois 60062 (hereinafter referred to as "Parcel B") and legally described as follows:

PROPERTY COMMONLY KNOWN AS 1873 SHERMER ROAD:

That part of the Northwest Quarter (1/4) of Section 15, Township 42 North, Range 12, East of the Third Principal Meridian, commencing at the center of Shermer Road, said point being the West line of the Northwest Quarter (1/4) of said Section, nineteen hundred twenty and eight one hundredths (1920.08) feet South of the North line of Section 15; thence East parallel to the South line of the Northwest Quarter of Section 15, three hundred thirty (330) feet; thence South parallel to the West line of the Northwest Quarter one hundred thirty-two (132) feet; thence West parallel to the South line of the Northwest Quarter three hundred thirty (330) feet to the center of Shermer Road; thence North one hundred thirty-two (132) feet to the place of beginning, in Cook County, Illinois.

Permanent Index Number: 04-15-100-014-0000; and

WHEREAS, the only beneficiaries of Trust 1000 are Grant D. Erickson of 1625 Shermer Road, Northbrook, Illinois 60062, and Betty L. West, a widow and not since remarried, of 10127 Byrne Avenue, Cupertino, California 95014 (hereinafter collectively referred to as the "Beneficiaries"); and

WHEREAS, the Village of Northbrook's Ordinance No. 85-73, dated November 12, 1985, changed the zoning classification of Parcel A and Parcel B (collectively the "Subject Property") to B-2 Community Retail District and provides that a Covenant be executed and recorded running with the land guaranteeing unconditionally those matters as therein provided; and

WHEREAS, both Parcel A and Parcel B are subject to the terms of a Restrictive Covenant executed and recorded in compliance with the terms of the above-referenced Ordinance which Restrictive Covenant is dated November 29, 1985 and was recorded on December 3, 1985 with the Cook County Recorder of Deeds as Document Number 85307195; and

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WHEREAS, said Restrictive Covenant provides in paragraph eleven (11) as follows:

"This instrument and its effect shall not be modified, amended or annulled without the prior express approval of the Village of Northbrook acting pursuant to a resolution duly adopted by its President and Board of Trustees.";

and

WHEREAS, the Village of Northbrook amended its Zoning Code on November 22, 1988 and this amendment changed the classification of Parcels A and B from B-2 Community Retail District to O-2 Limited Office District; and

WHEREAS, the Levitans, the Trustee and the Beneficiaries subsequently filed a petition with the Village of Northbrook requesting permission for development of two separate office buildings, one on Parcel A and one on Parcel B with a special use for health services (Northbrook SIC Code No. 8000.02) of the office building to be constructed on Parcel A; and

WHEREAS, the Village of Northbrook's Ordinance No. 89-46, granted a special use permit and variation for Parcel A subject to the condition that an Amended Restrictive Covenant be presented to and approved by the Village Board of Trustees; and

WHEREAS, the Village of Northbrook, acting pursuant to a resolution duly adopted by its President and Board of Trustees, approved the terms of an Amended Restrictive Covenant, pursuant to Resolution No. 89-R-113; and

WHEREAS, both Parcel A and Parcel B are subject to the terms of the Amended Restrictive Covenant executed and recorded in compliance with the terms of the aforesaid Ordinance No. 89-46, which Amended Restrictive Covenant is dated August 1, 1989 and was recorded November 1, 1989 with the Cook County Recorder of Deeds as Document Number 3837307; and

WHEREAS, said Amended Restrictive Covenant provides in paragraph thirteen (13) as follows:

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"This instrument and its effect shall not be modified, amended or annulled without the prior express approval of the Village of Northbrook acting pursuant to a resolution duly adopted by its President and Board of Trustees.";

and

WHEREAS, The Family Doctors of Northbrook, P.C. (the "Family Doctors"), as authorized by the Levitans, have heretofore filed a petition with the Village of Northbrook requesting permission for the development of an office building on Parcel A with a special use for health services (Northbrook SIC Code No. 8000.01) of the office building to be constructed on Parcel A; and

WHEREAS, the Village of Northbrook's Ordinance No. 97-13 granted a special use permit and variation for Parcel A subject to the condition that a Second Amended Restrictive Covenant be presented to and approved by the Village Board of Trustees, and

WHEREAS, the Village of Northbrook, acting pursuant to a resolution duly adopted by its President and Board of Trustees, has approved the terms of this Second Amended Restrictive Covenant, pursuant to Resolution No. 97-R-41; and

WHEREAS, the Levitans, the Trustee and the Beneficiaries deem it desirable and intend that all current and future owners, occupants and any other persons acquiring an interest in the Subject Property, or in any portion thereof, shall at all times hold their interest subject to the further amended covenants and restrictions hereinafter set forth; and

WHEREAS, the Family Doctors is the contract purchaser of Parcel A, and has reviewed and consents to this Second Amended Restrictive Covenant;

NOW THEREFORE, the Levitans, the Trustee and the Beneficiaries declare that the property described herein, and all portions thereof, are and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, easements, charges and liens (hereinafter

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referred to as "covenants") hereinafter set forth, which covenants are for the purpose of protecting the value and desirability of the Subject Property and other properties in the Village of Northbrook.

1. The terms and conditions contained in this Second Amended Restrictive Covenant shall be deemed to supersede any and all terms or conditions contained in the Restrictive Covenant recorded as Document Number 85307195 and the Amended Restrictive Covenant recorded as Document Number 3837307, which are hereby declared null and void as to any and all terms and conditions which conflict with the terms of the Second Amended Restrictive Covenant.

2. Development of Parcel A will be in substantial compliance with specific site, parking and landscaping plans and the engineering plans, all as more fully described in Exhibit "A".

Development of Parcel B shall be in a manner such that any building or structure developed on Parcel B shall be designed in a manner that is architecturally compatible with the development of Parcel A.

Exhibits "A" and "B" are attached hereto and by this reference made a part hereof setting forth in detail the names of all parties and the dates of all drawings applicable to the project, and all of which are on file at the Village Hall in the Village of Northbrook, Illinois. The development of the Subject Property may be accomplished in two or more stages over a period of time.

For the purposes of this Section, "architecturally compatible" shall mean that the buildings and structures on one parcel shall be consistent with the buildings and structures on the other parcel as to roof style and roof lines, building materials, and window design. However, any building on Parcel B shall not be required to have brick as a building material on the second floor. In order to determine whether buildings and structures are "architecturally compatible," the owner of Parcel B shall submit to the Village Manager of the Village of Northbrook a site plan, floor plans, elevations and building materials for the proposed development for review and recommendation to the Village President and Board of Trustees on whether or not the buildings and structures are "architecturally

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compatible." Such owner shall concurrently provide a copy of such submittal to the owners of the other parcel. Review of the proposed development by the Village President and Board of Trustees under this Section shall be conducted at a regular or special meeting thereof; provided, however, that such meeting shall not be a public hearing and shall not require any additional public notice by the Levitans, the Family Doctors, the Trustee or the Beneficiaries as would otherwise be required for a public hearing under the Village's Zoning Code, and provided, further, that the Levitans, the Family Doctors, the Trustee or the Beneficiaries shall not be required to appear before the Plan Commission in connection with the proposed development unless otherwise required by the Zoning Code or by law. Any determination of whether or not the buildings are "architecturally compatible" shall be made by the Village President and Board of Trustees by resolution or ordinance duly adopted.

3. The development of the Subject Property shall be subject to final approval by the Village Engineer and the Director of Development. Prior to the issuance of any certificate of occupancy for any building on the Subject Property, appropriate Village staff shall be permitted to inspect the Subject Property to determine compliance with the provisions of this Second Amended Restrictive Covenant and to propose any additional requirements which may, in the opinion of the Village Engineer or Director of Development, be necessary to secure final approval.

4. Construction of the office buildings shall not exceed the specific building heights and total square footages shown on the floor and elevation plans on Exhibit "A" attached hereto which shall pertain only to Parcel A and Exhibit "B" attached hereto which shall pertain only to Parcel B, except as otherwise provided in this Covenant.

5. Notwithstanding any provision in the Northbrook Zoning Code (1988), as amended, which may allow a building to be built with a greater height, at no time may a building be built on Parcel A of the Subject Property with a height greater than thirty-one (31) feet off finished grade to

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the top of the roofline and on Parcel B of the Subject Property with a height greater than 34 feet off finished grade to the top of the roofline.

6. Notwithstanding any provision in the Northbrook Zoning Code (1988), as amended, which may provide for more or different uses, Parcel A may be used solely for business and professional offices, specifically including all uses allowed by Northbrook SIC Code No. 8000.01; employment agencies and banks and financial institutions; provided, however, that the following category of business and professional offices and banks and financial institutions shall, at all times, be prohibited on the Subject Property: major surgical care facilities, banks and financial institutions providing walk-up window, drive-up window, manual teller, or automated teller machine services on the Subject Property. In addition, retail businesses selling goods directly to the public shall at all times be prohibited on the Subject Property, provided, however, that dispensing of pharmaceuticals to patients within the office of the physicians shall be allowed.

Notwithstanding any provision in the Northbrook Zoning Code (1988), as amended, which may provide for more or different uses, Parcel B may be used solely for business and professional offices, employment agencies and banks and financial institutions; provided, however, that the following categories of business and professional offices and banks and financial institutions shall, at all times, be prohibited on the Subject Property: (a) licensed health practitioners, psychologists, social workers and similar health-related offices, provided, however, that the Levitans do not and will not object to the use of Parcel B for all uses allowed by Northbrook SIC Code No. 8000.01, in the event that the Trustee and the Beneficiaries apply for and obtain from the Village of Northbrook such special permit or other approvals as may be required by the Zoning Code, and that if such approvals are obtained from the Village of Northbrook for Parcel B, no further amendment to this Second Amended Restrictive Covenant shall be required; and (b) banks and financial institutions providing walk-up window, drive-up window, manual teller, or automated teller machine services on the

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Subject Property. In addition, retail uses of any kind shall at all times be prohibited on the Subject Property.

7. A front yard and setback of 55 feet 3 inches, as measured from the existing front lot line, shall be maintained in perpetuity on the Subject Property, and at no time shall parking be permitted in said 55 foot 3 inch front yard and setback unless expressly authorized pursuant to site plan review under the Zoning Code.

8. That basement area of the office buildings on the Subject Property will be used for no purpose other than storage.

9. All open space, landscaping, water detention areas, driveways and parking lots and facilities shall be continuously maintained by the respective owners of Parcel A and Parcel B.

9.A. No change shall be made in the finished grade of the land within the detention areas on the Subject Property, nor shall any construction of any kind whatsoever be erected or permitted to exist within the detention areas which might materially impede storm water drainage therein or materially reduce the storm water detention capacity thereof. Trees, shrubs, fences and normal landscape planting shall be permitted within the detention areas only with the prior written approval of the Village Manager of the Village of Northbrook. The respective owners of Parcel A and Parcel B shall maintain a grass cover in a trimmed condition on the detention area on their respective parcels.

10. Parcel A shall at all times have not less than: (a) fifty-one (51) parking spaces, based upon a formula of one space provided for every one hundred fifty (150) square feet of building floor area, which area shall not exceed seven thousand six hundred fifty (7,650) square feet; and (b) one loading space.

11. These covenants may be enforced by an owner of the Subject Property and by the Village of Northbrook. Enforcement of these covenants may be sought by any proceeding at law or

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in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation, to compel affirmative action, or to recover damages, and against the Subject Property to enforce any lien created by these covenants.

The Village of Northbrook, acting through its authorized officials and agents, shall have the right, in the event that the Levitans, the Trustee or the Beneficiaries or their respective successors and assigns shall fail to do so after twenty (20) days prior written notice from the Village of Northbrook to the Levitans, the Trustee and Beneficiaries, to enter upon the Subject Property and perform, or cause to be performed, such maintenance or rehabilitation work as may be necessary to preserve, maintain or restore any of the common elements in a first rate condition, including, without limitation, any and all lakes, detention ponds, sanitary lines, storm lines, landscaping and driveway/parking areas.

In the event that the Village shall cause to be performed any work pursuant to this Paragraph, or shall undertake any enforcement action pursuant to these covenants, it shall have the right, without the consent of the Levitans, the Trustee or the Beneficiaries, or their respective successors and assigns, to charge against the Subject Property or any one or more owners of the Subject Property as the case may be, an amount sufficient to defray the entire cost of such work or action, including administrative costs, either before or after such cost is incurred. If the amount so charged is not paid within thirty (30) days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien upon the Subject Property or portion of Subject Property in question, and the Village shall have the right to collect such charge, interest and costs, and to enforce such lien. Any such lien shall be and shall remain subject and subordinate to any and all liens then existing on the Subject Property, including but not limited to mortgages, trust deeds, assignments of rents, security agreements and leases.

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Nothing in this Paragraph shall be construed to constitute a dedication of any portion of the Subject Property to, or an acceptance thereof by, the Village.

Village shall be under no obligation to exercise the rights herein granted except as it shall determine to be in its best interests. No failure to exercise any right herein granted to the Village shall be construed as a waiver of that or any other rights.

12. The covenants, restrictions and the conditions of this declaration shall run with and bind the Subject Property, and shall inure to the benefit of and be enforceable by (a) the Levitans, the Trustee, the Beneficiaries, and their respective heirs, grantees, successors and assigns; and (b) the Village Northbrook, Illinois, and any of its successors and assigns, for a term of one hundred (100) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument amending this declaration shall be recorded and provide for some other duration. If any of the 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, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the current Governor of the State of Illinois as of the date of this Covenant.

13. This instrument and its effect shall not be modified, amended or annulled without the prior express approval of the Village of Northbrook acting pursuant to a resolution duly adopted by its President and Board of Trustees.

14. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

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15. No covenants, restrictions, obligations or provisions contained in this declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

DATED: This 9th day of APRIL, 1997.

Betty L. West
Betty L. West, a widow and not since remarried

Grant D. Erickson
Grant D. Erickson, as Trustee Under Trust Agreement dated 11/1/88 and known as Trust No. 1000

Grant D. Erickson
Grant D. Erickson

Jacob Levitan
Jacob Levitan

Man'a Levitan
Man'a Levitan

ATTEST:

THE FAMILY DOCTORS OF NORTHBROOK, P.C.

By: _____
Its: _____

By: [Signature]
Its: _____

ATTEST:

VILLAGE OF NORTHBROOK

[Signature]
its Village Clerk

By: [Signature]
its Village President

[AFFIX VILLAGE SEAL]

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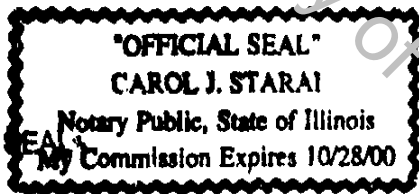
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ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

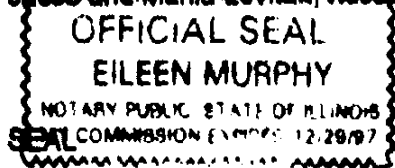
This instrument was acknowledged before me on July 13, 1997, by Mark W. Piroch, the Village President of the VILLAGE OF NORTHBROOK, an Illinois municipal corporation, and by Laura P. Piroch, the Village Clerk of said municipal corporation.



Carol J. Starai
Signature of Notary

STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

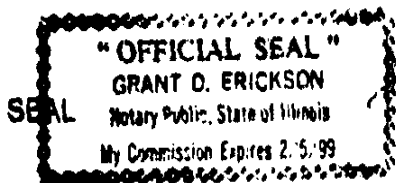
This instrument was acknowledged before me on May 22, 1997, by Jacob and Maria Levitan, husband and wife.



Eileen J. Murphy
Signature of Notary

STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

This instrument was acknowledged before me on 4/9, 1997, by Betty L. West, an individual.



Grant O. Erickson
Signature of Notary

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STATE OF ILLINOIS)
COUNTY OF DeKalb) SS

This instrument was acknowledged before me on April 9, 1997, by Grant D. Erickson, an individual.

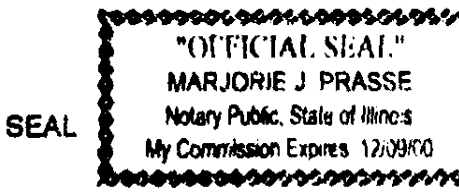


Marjorie J. Prasse
Signature of Notary

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STATE OF ILLINOIS)
COUNTY OF Cook) SS

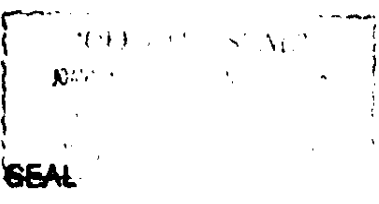
This instrument was acknowledged before me on April 9, 1997, by Grant D. Erickson, as Trustee under Trust Agreement dated 11/1/88 and known as Trust No. 1000.



Marjorie J. Prasse
Signature of Notary

STATE OF ILLINOIS)
COUNTY OF Cook) SS

This instrument was acknowledged before me on April 9, 1997, by Stephen J. Trosch, President, and Steven E. ..., Secretary, of THE FAMILY DOCTORS OF NORTHBROOK, P.C., an Illinois professional corporation.



Stephen J. Trosch
Signature of Notary

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EXHIBIT A ATTACHED TO AND MADE A PART OF
SECOND AMENDED RESTRICTIVE COVENANT
DEVELOPMENT OF PARCELA

1. Preliminary engineering drawing by Seton Engineering Company, Inc., with latest revision date of November 14, 1996 consisting of one (1) sheet.
2. Landscape Plans prepared by James Martin Associates, Inc., with latest revision date of February 20, 1997 consisting of two (2) sheets.
3. Site, Elevation and Floor Plans prepared by Fred Polito, Architect, with latest revision date of December 6, 1996 consisting of four (4) sheets.

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EXHIBIT B ATTACHED TO AND MADE A PART OF
SECOND AMENDED RESTRICTIVE COVENANT
DEVELOPMENT OF PARCEL B

1. Engineering drawings prepared by Civil Engineering Consultants, Inc., dated 12/9/88, and revised 3/2/90, consisting of five (5) sheets.
2. Site and Landscape Plan prepared by Karson and Associates, dated 1/10/89, consisting of three (3) pages.

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RESOLUTION NO. 97-R-41

(Approval of Second Amended Restrictive Covenant)

In 1985, a Restrictive Covenant was recorded against the properties commonly known as 1873 and 1885 Shermer Road (the "Subject Properties") regarding the future use and development of the Subject Properties. In 1989, an Amended Restrictive Covenant was proposed by the owners of the Subject Properties and approved by the Village in Resolution No. 89-R-113. To date, neither of the Subject Properties has been developed.

In connection with an application for special permit, variation and site plan approval for the development of the 1885 Shermer Road parcel, it was determined that certain additional modifications of the Amended Restrictive Covenant were required and the owners of the Subject Properties agreed on language for inclusion in a Second Amended Restrictive Covenant.

The Second Amended Restrictive Covenant has been reviewed by Village staff and the Village Attorney and found to be consistent with the approvals for the development of 1885 Shermer Road as granted in Ordinance No. 97-13.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois, THAT:

Section 1.

The Second Amended Restrictive Covenant for the Subject Properties is hereby approved in substantially the form attached to this Resolution.

Section 2.

The Village Manager is hereby directed to record the Second Amended Restrictive Covenant with the Cook County Recorder of Deeds upon receipt of at least two copies fully executed by the owner of fee simple title to the Subject Properties, and satisfactory completion of all administrative details relating thereto.

PASSED: This 11th day of March, 1997.

AYES: (5) Trustees Jaeger, Frum, Lew, Karagianis and Luehler

NAYS: (0)

ABSENT: (1) Trustee Hedien

ABSTAIN: (0)

Village President Pro Tem

ATTEST:

Village Clerk

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