

UNOFFICIAL COPY

DECLARATION AND AGREEMENT REGARDING LOT LINE ADJUSTMENT

This Declaration and Agreement Regarding Lot Line Adjustment (the "Declaration") is made this 17th day of November, 1997, by The Mutual Life Insurance Company of New York, a New York mutual life insurance company ("Owner"), the Owner of Lot 1 and Lot 2 (as described below).

RECITALS

A. Owner owns fee simple title to that certain parcel of land, together with the improvements located thereon, commonly known as 2205-2255 Enterprise Drive, Westchester, Illinois, more particularly described in Exhibit A attached hereto and by this reference incorporated herein ("Lot 1").

B. Owner owns fee simple title to that certain parcel of land located off of Enterprise Drive, and contiguous to Lot 1, as more particularly described in Exhibit B attached hereto and by this reference incorporated herein ("Lot 2").

C. Owner intends to sell Lot 1 and Lot 2, and in order to facilitate such sales and for Lot 2 to be developed, the northernmost east-west lot line of Lot 2 (the southernmost eastwest lot line of Lot 1) must be adjusted ("Lot Line Adjustment" defined below), and the parking presently located adjacent to such lot line on Lot 1 must be relocated ("Parking Adjustment" defined below), as more fully set forth in this Declaration.

D. Owner wishes to execute and record this Declaration to facilitate the Lot Line Adjustment and the Parking Adjustment as set forth herein.

DECLARATION

NOW THEREFORE, for good and valuable consideration, owner declares and agrees as follows:

1. The Owner of Lot 1 and Lot 2, at the election of the owner of Lot 2, hereby agrees to adjust the southernmost east-west lot line of Lot 1 and the northernmost eastwest lot line of Lot 2 so that after the adjustment, Lot 1 will be: (i) increased by Parcel A designated on Exhibit C attached hereto comprising a strip of land 217.00' x 32.50' and Parcel B designated on Exhibit C attached hereto comprising a strip of land 205.83' x 32.50'; and (ii) decreased by Parcel C designated on Exhibit C attached hereto comprising a strip of land 163.00' x 75.50'; such adjustments as more fully designated on Exhibit C attached hereto are herein referred to as the "Lot Line Adjustment". The Lot Line Adjustment shall cause Lot 2 to be (i) decreased by Parcel A and Parcel B and (ii) increased by Parcel C.

17

COMMONWEALTH AND
TITLE INSURANCE COMPANY
11/17/97

2. The owner of Lot 2 shall have the primary responsibility to seek and obtain all necessary permits and approvals from the Village of Westchester and any other applicable governmental authority in order to complete the Lot Line Adjustment; and evidence of the receipt of all such permits and approvals shall be delivered to the owner of Lot 1 prior to the Lot Line Adjustment. All costs and expenses incurred in connection with obtaining and recording the Lot Line Adjustment, including but not limited to governmental approvals, recording fees, surveys and title insurance ("Lot Line Costs") shall be paid by the owner of Lot 2. In the event Lot 1 has been sold by the Owner prior to the completion of the Lot Line Adjustment, the new owner of Lot 1 shall have no responsibility for payment of the Lot Line Costs.

3. For purposes of this Declaration "Parking Adjustment" shall mean and include (a) the construction, paving and striping of at least 40 parking spaces on Parcels A and B designated on Exhibit C hereto, and (b) the reconfiguration, relocation, adjustment and installation of existing parking, curbs and landscaping on Lot 1 affected by the Lot Line Adjustment, all as described on Exhibit C hereto. The owner of Lot 2 shall submit to the owner of Lot 1, for its reasonable approval, plans and specifications for the work comprising the Parking Adjustment in a timely manner sufficient to permit the owner of Lot 2 to complete the Parking Adjustment in accordance with the provisions of this Declaration.

4. If the owner of Lot 2 has elected to make the Lot Line Adjustment, it shall cause the Parking Adjustment and the Parking Improvements to be made in accordance with the provisions of this Declaration. All costs in connection with completing the Parking Adjustment, including, demolition, installation of curbs or landscaping, re-paving and re-striping (collectively "Parking Improvements") shall be paid by the owner of Lot 2. The owner of Lot 2 shall use reasonable efforts to complete the Parking Adjustment and the Parking Improvements in no event later than May 31, 1998. The owner of Lot 1 recognizes and agrees that during the period of completing the Parking Improvements, the number of parking spaces available for use on Lot 1 shall be reduced by no more than forty spaces and the owner of Lot 2 shall have no liability for compensation to the owner of Lot 1 for said lack of use, provided the owner of Lot 2 performs its obligations under this Declaration. In the event the owner of Lot 1 notifies the owner of Lot 2 in writing of a need for additional parking prior to the completion of the parking Improvements, no later than ten days thereafter, the owner of Lot 2 shall cause temporary parking to be made available at the north border of Lot 2 adjacent to Lot 1 reasonably sufficient to meet such need.

5. The owner of Lot 1 grants to the owner of Lot 2 a temporary license, coupled with an interest, to enter onto Lot 1 for the purpose of and to the reasonable extent necessary to make the Parking Adjustment and complete the Parking Improvements. The Parking Adjustment and the Parking Improvements shall be constructed in accordance with Exhibit C and all applicable laws, ordinances and regulations, and in a good and workmanlike manner by reputable contractors. The temporary license hereinabove granted by the owner of Lot 1 shall not include construction access or staging with respect to development activities or improvements being made on Lot 2.

UNOFFICIAL COPY

87887893

6. In the event the owner of Lot 2, after starting the work, fails to complete the Parking Improvements as required herein, the owner of Lot 1 shall have the right, upon 30 days advance written notice of default to the owner of Lot 2, and such default is not cured or reasonable action is not commenced to cure such default within such 30 day period, to take such action as it deems necessary to complete the Parking Improvements. All costs incurred by the owner of Lot 1 in completing the Parking Improvements shall be paid by the owner of Lot 2 on demand.

7. The owner of Lot 2 indemnifies and holds the owner of Lot 1 harmless from and against any claims, demands, liabilities or causes of action, costs and expenses (including reasonable attorneys fees), incurred in connection with making the Parking Improvements in accordance with the Parking Adjustment, including but not limited to personal injuries, property damage or lien claims. The owner of Lot 2 shall cause the owner of Lot 1 to be named as an additional party insured on its comprehensive general liability insurance to provide coverage against claims arising out of the Parking Adjustment or the Parking Improvements.

8. The owner of Lot 1 and the owner of Lot 2 shall mutually cooperate and take such action, and execute and approve such documents as either may reasonably request to complete the Lot Line Adjustment, Parking Adjustment and Parking Improvements.

9. This Declaration shall terminate and be of no further force and effect on the date which is the earliest of: (i) completion of the Lot Line Adjustment and Parking Adjustment and installation of the Parking Improvements in accordance with this Declaration; (ii) five years from the date of this Declaration; or (iii) the mutual agreement of the owners of Lot 1 and Lot 2 to terminate this Declaration. This Declaration may also be amended by written agreement between the owners of Lot 1 and Lot 2.

10. This Declaration shall inure to the benefit of and be binding upon the Owner of Lot 1 and Lot 2, and its respective successors and assigns. The provisions of this Declaration shall burden and benefit Lot 1 and Lot 2 and run with the land. The proposed grantee of Lot 1, Enterprise Drive, L.C.C., and the proposed grantee of Lot 2, Chicago Realty Group L.L.C. are each entitled to rely on the provisions of this Declaration.

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

The Mutual Life Insurance Company of
New York, a New York mutual life
insurance company

By: [Signature]
Its: Asset Dept. VP

UNOFFICIAL COPY

97887993

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that Dana Vitt, Asset Management Vice President of The Mutual Life Insurance Company of New York, and 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 she signed and delivered this Declaration as her own free and voluntary act and as the free and voluntary act of said The Mutual Life Insurance Company of New York uses and purposes therein set forth.

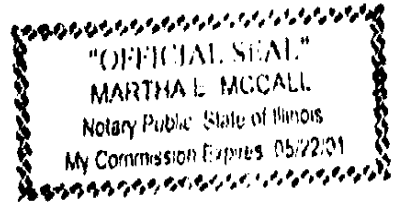
1997

Given under my hand and official seal, this day of November, 1997.

Martha E. McCall

Notary Public

Company of New York
After recording mail to:
The Mutual Life Insurance Company of New York
1740 Broadway, MD 7-25
New York, New York 10019
Attention: Victoria P. Smith, Esq.



UNOFFICIAL COPY

EXHIBIT A

97057993

Lot 1 in Enterprise Centre Subdivision, being a subdivision of part of the Northwest Quarter of the Northeast Quarter of Section 30, Township 30 North, Range 12, East of the Third Principal meridian, in Cook County, Illinois.

*Arbitration award regarding the
subdivision of the property
into two lots.*

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

97687993

Lot 2 in Enterprise Centre Subdivision, being a subdivision of part of the Northwest Quarter of the Northeast Quarter of Section 30, Township 30 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

Address

Enterprise Centre

South of ...

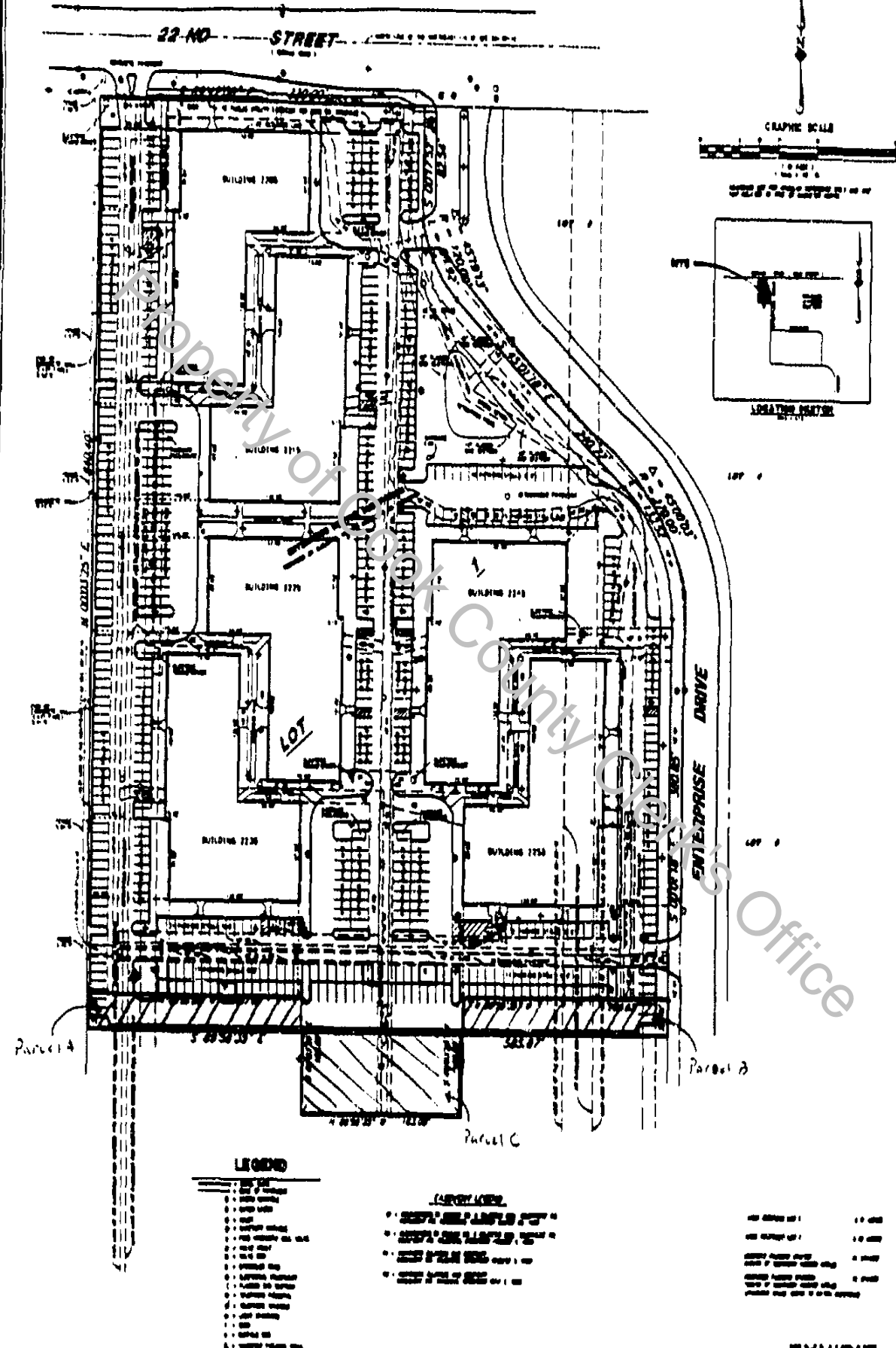
...

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit C

97887993



EXHIBIT



Engineering, Surveying, Planning
and Professional Services

1000 ...
1000 ...

1000 ...
1000 ...

1000 ...
1000 ...