

DECLARATION  
OF  
CARRIAGE HOUSE CONDOMINIUM



Livingston/State Street, Ltd., a Texas limited partnership ("Declarant"), owns the real property described in Appendix A of this Declaration. By recording this Declaration, Declarant submits the property described in Appendix A to the provisions of the Uniform Condominium Act, Chapter 82 of the Texas Property Code; for the purpose of creating Carriage House Condominium.

Declarant DECLARES that the property described in Appendix A will be held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's representations and reservations in the attached Appendix E, which run with the real property and bind all parties having or acquiring any right, title, or interest in the property, their heirs, successors, and assigns, and inure to the benefit of each owner of the property.

ARTICLE 1  
DEFINITIONS

DEFINITIONS. Unless defined otherwise in this Declaration, words and phrases defined in Section 82.003 of the Act have the same meaning when used in this Declaration. The following words and phrases, whether or not capitalized, have specified meanings when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1 "Act" means Chapter 82 of the Texas Property Code, the Uniform Condominium Act, as it may be amended from time to time.

1.2 "Assessment" means any charge levied against a unit or owner by the Association, pursuant to the Documents and the Act, including but not limited to Annual Assessments, Special Assessments, Individual Assessments, and Deficiency Assessments, as defined in Article 5 of this Declaration.

1.3 "Association" means the association of owners of all units in the Property, and constitutes the unit owners' association organized under Section 82.101 of the Act. The Association is initially organized as a Texas nonprofit corporation and is initially named Carriage House Condominium Association, Inc.. The Association exists independent of its corporate charter.

1.4 "Bylaws" means the bylaws of the Association, as they may be amended from time to time.

1.5 "Declarant" means Livingston/State Street, Ltd., a Texas limited partnership, or its successor, who is developing the Property.

1.6 "Declarant Control Period" means that period of time, beginning the date this Declaration is recorded, during which Declarant controls the operation and management of the Association, pursuant to Appendix E of this Declaration.

1.7 "Declaration" means this document, as it may be amended from time to time.

1.8 "Development Period" means that period of time during which the Property is being developed, constructed, or marketed, and extends from the date this Declaration is recorded until title to all of the units that may be created (including on land subject to annexation) has been conveyed to owners other than Declarant. The Development Period may not exceed 5 years after the date this Declaration is recorded.

1.9 "Director" means a member of the Association's board.

1.10 "Documents" means, singly or collectively as the case may be, this Declaration, the Plat and Plans recorded pursuant to the Act, the Bylaws, the Association's Articles of Incorporation, and the rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a document is a part of the Document.

1.11 "Majority" means more than half.

1.12 "Member" means a member of the Association, each member being an owner of a unit, unless the context indicates that member means a member of the board or a member of a committee of the Association.

1.13 "Mortgagee" means a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a unit.

1.14 "Officer" means an officer of the Association.

1.15 "Owner" means a holder of recorded fee simple title to a unit. Declarant is the initial owner of all units. Sellers under contracts for deed are owners. Mortgagees who acquire title to a unit through a deed in lieu of foreclosure or through judicial or nonjudicial foreclosure are owners. Persons or entities having ownership interest merely as security for the performance of an obligation are not owners. Every owner is a member of the Association.

1.16 "Property" means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Carriage House Condominium. The Property is located entirely in the City of Dallas, Dallas County, Texas.

1.17 "Resident" means an occupant of a unit, regardless of whether the person owns the unit.

1.18 "Rules" means rules and regulations adopted by the board in accordance with the Documents or the Act.

1.19 "Underwriting Lender" means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (FHA), Federal National Mortgage Association (Fannie Mae), or U. S. Department of Veterans Affairs (VA), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an owner's financing options nor as a representation that the Property is approved by any institution.

## ARTICLE 2 PROPERTY SUBJECT TO DOCUMENTS

2.1 PROPERTY. The real property described in Appendix A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant's representations and reservations in the attached Appendix E, which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of the Property.

2.2 PLAT DEDICATIONS, EASEMENTS & RESTRICTIONS. In addition to the easements and restrictions contained in this Declaration, the Property is subject to the dedications, limitations, easements, restrictions, and reservations shown or cited on the plats and instruments identified in Appendix G, which is incorporated herein by reference.

2.3 MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by owners representing at least two-thirds of the total allocated votes. On merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

ARTICLE 3  
UNITS AND LIMITED COMMON ELEMENTS

3.1 UNITS. Each unit shall be the element of the Condominium which is not owned in common with other Owners in the Condominium. Each unit is identified in a diagrammatic floor plan of the building in which it is situated as shown on the Plan attached as Appendix G and shall consist of a fee simple interest in the area bounded by the perimeter walls, floors, ceilings, windows, and doors thereof and the exterior surfaces of balconies and patios. A unit includes both the portions of the building so described and the air space so encompassed. Each unit in the Property consists of 2 parts -- a dwelling and a 1-car garage. The identifying number of each unit is shown on the Plat and Plans attached as Appendix G. The boundaries of both the dwelling and the garage are further described as follows:

3.1.1 Lower Horizontal Boundary: The unfinished surfaces of the floors of the dwelling and the garage are the unit's lower horizontal boundaries. The first, second and third floors (excluding finish and/or covering) shall be Limited Common Elements (defined hereinafter in Section 3.3) for which the Association is responsible to repair or restore.

3.1.2 Upper Horizontal Boundary: The exterior (roof-facing) surface of the sheetrock comprising the perimeter ceiling (third floor) is the unit's upper horizontal boundary. All ceiling sheetrock (first, second and third floors) are part of the unit.

3.1.3 Vertical Perimeter Boundaries - Exterior Walls: The unit's vertical perimeter boundaries are (1) the exterior (outside-facing) surfaces of the sheetrock comprising the perimeter walls; (2) the exterior (outside) surfaces of window glass and window frames; (3) the exterior (outside) surfaces of closed perimeter doors and door frames; (4) the outside vertical planes of the patio (outside surface of railing).

3.1.4 Vertical Perimeter Boundaries - Party Walls: On party walls -- walls between 2 units -- the unit's vertical boundaries are the planes defined by the midpoints of the party wall. The unit on each side of a party wall extends to the middle of the party wall.

3.1.5 Patios. Each patio is included within the unit to which it is appurtenant.

3.1.6. Other Components. The areas marked "Storage" and "Water Heater" on the 1st Floor on Appendix G and the areas designated as stairways thereon are a part of the unit to which they are appurtenant.

3.1.7 What the Unit Includes: Each unit includes the spaces and improvements within the above-described vertical and horizontal boundaries. Each unit also includes the following components, improvements, and equipment serving the unit exclusively, whether located inside or outside the unit, whether or not attached to or contiguous with the unit: attic areas, chimney flues, hot water closets, space heaters, water heaters, air conditioners, utility meters, fuse boxes, electrical switches, wiring, pipes, ducts, conduits, smoke detectors, security systems, television antenna and satellite dishes, lighting fixtures, and telephone and electrical receptacles.

NOTE: SHEETROCK, GARAGE  
& PATIO ARE PART OF UNIT

3.1.8 Exclusions: Except as specifically included above, each unit excludes the spaces and improvements lying outside of the vertical and horizontal boundaries. Each unit also excludes any chute, pipe, flue, duct, wire, or conduit running through a unit for the purpose of furnishing utility and similar services to other units and common elements or both.

3.1.9 Inconsistency with Plans: If this Section's description of unit boundaries is inconsistent the Plats and Plans, then this Section will control.

3.1.10. Representations of Size. The space contained within the unit's vertical and horizontal boundaries is not related to the size of the unit's living areas. Similarly, the units are initially marketed on the basis of a limited number of representational floor plans, each of which is marked with a rounded and estimated size of air-conditioned space, taken from architectural drawings. Those marketing sizes may bear no relation to the size of the actual space contained within the unit's vertical and horizontal boundaries.

3.2. SHEETROCK. All sheetrock in or on the partition and perimeter walls and ceilings of a unit is included within the parameters of the unit and is part of the unit ownership. Maintenance, repair, and replacement of sheetrock is solely the expense and responsibility of the unit owner, regardless of the source of damage. If the Association obtains insurance proceeds for an insured loss that includes damage to sheetrock, the owner is entitled to a share of the proceeds.

3.3 INITIAL DESIGNATIONS OF LIMITED COMMON ELEMENTS. The following portions of the common elements are limited common elements assigned to the units.

3.3.1 Shown on Plats and Plans. Portions of the common elements may be allocated as limited common elements on the Plats and Plans, attached hereto as Appendix G, by use of "LCE" and the identifying number of the unit to which the limited common element is appurtenant, or by use of a comparable method of designation.

3.3.2 Appurtenant Areas. Only to the extent they are not part of the unit, porches, decks, fenced yards, partially covered parking, stairways, walkways, driveways, and any other components that are obviously intended for the sole and exclusive use of the unit to which the area is appurtenant are deemed limited common elements, whether or not the area is so designated on Plats and Plans. If the boundaries of a deck, or fenced yard change -- with the board's approval -- the altered boundaries of the deck or fenced yard are the boundaries of the limited common element.

3.4 SUBSEQUENT ALLOCATION OF LIMITED COMMON ELEMENTS.

A common element not allocated by this Declaration as a limited common element may be so allocated only pursuant to the provisions of this Article. Declarant reserves the right, under Appendix E of this Declaration, to subsequently allocate unassigned parking spaces as limited common elements. If a parking space is so allocated, it may be assigned to a particular unit by amendment to this Declaration. On termination of the Developments Rights period, the right to assign parking spaces passes from Declarant to the board and Declarant may not thereafter exercise the right. Parking spaces that have not been allocated by Declarant at the termination of the Development Rights period may be allocated as limited common elements by the Association, requiring amendment of the Declaration; or may be assigned by the board, from time to time, to different units; or may be limited by Rule to use by visitors only.

3.5 REALLOCATION OF LIMITED COMMON ELEMENTS. A limited common element may not be reallocated, except by amendment. An amendment of reallocation requires the approval of all owners and mortgagees of units whose interest are to be allocated or reallocated. The parties executing the amendment will provide an executed copy of the amendment to the Association, which will record it, provided that the amendment complies with the provisions of the Declaration and the Act. The amendment must contain words of conveyance and must be recorded and indexed in the names of the parties and the Property. The amendment will specify to which unit or units the limited common element is allocated. The parties executing the amendment are responsible for the preparation of the amendment and will reimburse the Association for its reasonable attorneys' fees in connection with review and recording of the amendment.

ARTICLE 4  
ALLOCATED INTERESTS

4.1. ALLOCATION OF INTERESTS. The table showing the identifying number and allocated interests of each unit is attached as Appendix B. The interests have been allocated in accordance with the formulas set out in this Article.

4.2. COMMON ELEMENT INTERESTS. The share of undivided interest in the common elements allocated to each unit is uniform for all units. Each unit's fractional share is calculated by dividing 1 by the total number of units in the Property.

4.3. **COMMON EXPENSE LIABILITIES.** The share of liability for common expenses allocated to each unit is uniform for all units. Each unit's fractional share is calculated by dividing the total liability by the total units in the Property.

4.4. **VOTES.** The total number of votes equals the total number of units in the Property. The 1 vote appurtenant to each unit is uniform and equal to the vote appurtenant to every other unit.

## ARTICLE 5 COVENANT FOR ASSESSMENTS

5.1 **PURPOSE OF ASSESSMENTS.** The Association will use Assessments for the general purposes of preserving and enhancing the Property, and promoting the recreation, common benefit, and enjoyment of owners and residents, including but not limited maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the board's decision with respect to the use of Assessments is final.

5.2 **PERSONAL OBLIGATION.** An owner is obligated to pay Assessments levied by the board against the owner or his unit. Payments are made to the Association at its principal office or at any other place the board directs. Payments must be made in full regardless of whether an owner has a dispute with the Association, another owner, or any other person or entity regarding any matter to which this Declaration pertains. No owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the common elements or by abandonment of his unit. An owner's obligation is not subject to offset by the owner. Payment of Assessments is both a continuing affirmative covenant personal to the owner and a continuing covenant running with the unit.

5.3 **TYPES OF ASSESSMENTS.** There are 4 types of Assessments: Regular, Special, Individual, and Deficiency.

### 5.4 **REGULAR ASSESSMENTS.**

5.4.1 **Purpose of Regular Assessments.** Regular Assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair, and replacement, as necessary, of the common elements, and improvements, equipment, signage, and property owned by the Association.
- b. Utilities billed to the Association.
- c. Services billed to the Association and serving all units, such as trash removal and pest control.

- d. Taxes on property owned by the Association and the Association's income taxes.
- e. Management, legal, accounting, auditing, and professional fees for services to the Association.
- f. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- g. Insurance premiums and deductibles.
- h. Contributions to the reserve funds.
- i. Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Documents.

5.4.2 Annual Budget. The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and common expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The board will make the budget or its summary available to an owner of each unit, although failure to receive a budget or summary does not affect an owner's liability for Assessments. The board will provide copies of the detailed budget to owners who make written request and pay a reasonable copy charge.

5.4.3 Basis of Regular Assessments. Regular Assessments will be based on the annual budget, minus estimated income from sources other than Regular Assessments. Each unit will be liable for its allocated share of the annual budget. If the board does not approve an annual budget or fails to determine new Regular Assessments for any year, or delays in doing so, owners will continue to pay the Regular Assessment as last determined.

5.4.4. Supplemental Increases. If during the course of a year the board determines that Regular Assessments are insufficient to cover the estimated common expenses for the remainder of the year, the board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. The Declarant will pay any budget shortfall of the Association above \$175 per unit per month, the initial budget, for the period ending on the earlier of (i) the expiration of the Declarant Control Period, or (ii) twenty four months following formation of the Association.

IF YOU OWN A UNIT IN LIVINGTON SQUARE  
CONDOMINIUM,  
YOU MUST PAY ASSESSMENTS

5.5. SPECIAL ASSESSMENTS. In addition to Regular Assessments, the board may levy one or more Special Assessments against all units for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. For any of the following purposes, a special Assessment must be approved by at least a majority of the votes in the Association: (1) acquisition of real property; (2) construction of additional improvements to the Property – not repair or replacement of existing improvements; or (3) any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

5.6. INDIVIDUAL ASSESSMENTS. In addition to Regular and Special Assessments, the board may levy an Individual Assessment against a unit and its owner. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred by the Association in bringing an owner or his unit into compliance with the Documents; fines for violations of the Documents; transfer and resale certificate fees; insurance deductibles; submetered utilities serving the unit; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the units, which may be assessed according to benefit received; and "pass through" expenses for services to units provided through the Association and which are equitably paid by each unit according to benefit received.

5.7. DEFICIENCY ASSESSMENTS. The board may levy a Deficiency Assessment against all units for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

5.8. CONTROL FOR ASSESSMENT INCREASES. At least 30 days prior to the effective date of a Special Assessment or increase in Regular Assessments, the board will notify an owner of each unit of the amount of, the budgetary basis for, and the effective date of the Special or increased Regular Assessment. The Special Assessment or increase will automatically become effective unless owners representing at least a majority of the votes in the Association disapprove the Special Assessment or increase by petition or at a meeting of the Association on or before the effective date stated in the notice from the Board. In that event, the last-approved budget will continue in effect until a revised budget is approved.

5.9. DUE DATE. Regular Assessments are due on the first day of each month, and are delinquent if not received by the Association on or before the first day of the month. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given.

5.10. RESERVE FUNDS. The Association will establish, maintain, and accumulate reserves for operational emergencies and contingencies, and for replacement and repair of major components of the common elements. The Association will budget for reserves and use its best efforts to fund reserves out of Regular Assessments.

5.11. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of owners representing at least a majority of the votes in the Association and the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed-in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.

## ARTICLE 6 ASSESSMENT LIEN

6.1. ASSESSMENT LIEN. Each owner, by accepting an interest in or title to a unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the unit and is secured by a continuing lien on the unit. Each owner, and each prospective owner, is placed on notice that his title may be subject to the continuing lien for Assessments attributable to a period prior to the date he purchased his unit.

6.2. SUPERIORITY OF ASSESSMENT LIEN. The Assessment lien is superior to all other liens and encumbrances on a unit, except only for (a) real property taxes and assessments levied by governmental and taxing authorities and (b) a purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent Assessment became due. The Assessment lien is superior to a lien for construction of improvements to the unit, regardless of when recorded or perfected.

6.3. EFFECT OF MORTGAGEE'S FORECLOSURE. A Mortgagee's foreclosure of its deed of trust lien extinguishes the Association's claim against the unit for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former owner. The purchaser at the Mortgagee's foreclosure sale is liable for assessments coming due from and after the date of the sale, and for the owner's pro rata share of the pre-foreclosure deficiency as a common expense.

6.4. NOTICE AND RELEASE OF NOTICE. To evidence the Assessment lien, the board may, but is not required to, cause a written notice of the lien to be recorded in the county's real property records. After the debt for which the notice was recorded has been cured, the Association will record a release of the notice. The Association may require reimbursement of its costs of preparing and recording the notices before granting the release.

6.5. POWER OF SALE. By accepting an interest in or title to a unit, each owner grants to the Association a private power of nonjudicial sale in connection with the Association's Assessment lien. The board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.

Yes, the Association *can* foreclose!  
If you fail to pay assessments to the Association,  
you may lose title to your home if the Association  
forecloses its assessment lien against your unit.

6.6. FORECLOSURE OF LIEN. The Assessment lien may be enforced by judicial or nonjudicial foreclosure. A nonjudicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the unit at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.

## ARTICLE 7 EFFECT OF NONPAYMENT OF ASSESSMENTS

An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The board is responsible for taking action to collect delinquent Assessments. Neither the board nor the Association, however, is liable to an owner or other person for its failure or inability to collect or attempt to collect an Assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

7.1. INTEREST. Delinquent Assessments are subject to interest from the due date until paid, at a rate to be determined by the board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the board fails to establish a rate, the rate is 10 percent per annum. Interest is an Individual Assessment.

7.2. LATE FEES. Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the board from time to time. Late fees are an Individual Assessment.

7.3. COLLECTION EXPENSES. The owner of a unit against which Assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, including attorney' fees and processing fees charged by the manager. Collection costs are in Individual Assessment.

7.4. ACCELERATION. If an owner defaults in paying an Assessment that is payable in installments, the board may accelerate the remaining installments on 10 days' written notice to the defaulting owner. The entire unpaid balance of the Assessment becomes due on the date stated in the notice.

7.5. SUSPENSION OF USE. If an owner's account has been delinquent for at least 30 days, the board may suspend the right of owners and residents to use common elements and common services during the period of delinquency, provided the owner is given written notice of and a reasonable opportunity to cure the delinquency before the suspension becomes effective. Services include master-metered or sub-metered utilities serving the unit. The board may not suspend an owner or resident's right of access to the unit. Suspension does not constitute a waiver or discharge of the owner's obligation to pay assessments.

7.6. SUSPENSION OF VOTE. The board may suspend the right to vote appurtenant to a unit for which assessments have been delinquent for at least 30 days. The board may determine that a member may not vote at meetings of the Association if – 30 days before the date of a meeting of the Association at which members will vote – the member's financial account with the Association is in arrears and has been delinquent for at least 30 days, provided the ineligible member is given written notice of the arrearage and a reasonable opportunity to become eligible prior to the meeting. A delinquency that arises less than 60 days before an Association meeting may not be the basis for ineligibility at that meeting. The board may specify the manner, place and time for payment for purposes of restoring eligibility. A determination of members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than 45 days after the original meeting. A member who is ineligible to vote may attend the Association meeting and may be counted towards a quorum.

7.7. MONEY JUDGMENT. The Association may file suit seeking a money judgment against an owner delinquent in the payment of Assessments, without foreclosing or waiving the Association lien for Assessments.

7.8. NOTICE TO MORTGAGEE. The board may notify and communicate with any holder of a lien against a unit regarding the owner's default in payment of Assessments.

7.9. APPLICATION OF PAYMENTS. The board may refuse to accept partial payment, i.e., less than the full amount due and payable. The board may also refuse to accept payments to which the payer attaches conditions or directions contrary to the board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the unit account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer.

ARTICLE 8  
MAINTENANCE AND REPAIR OBLIGATIONS

8.1. ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, all common elements, except components of the common elements for which the owners are individually responsible according to the Maintenance Responsibility Chart attached hereto as Appendix C.

8.1. OWNER RESPONSIBILITY. Every owner, at the owner's sole expense, must maintain, repair, and replace his unit and maintain components of the common elements assigned to him by the Maintenance Responsibility Chart attached hereto as Appendix C. An owner may not do any work or fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value thereof, or impair any easement or hereditament thereto. Each owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of common elements or the property of another owner.

8.3. MAINTENANCE RESPONSIBILITY CHART. The Maintenance Responsibility Chart attached hereto as Appendix C allocates responsibilities for maintaining, repairing, and replacing components of the Property along lines that may differ from ownership of those components. In interpreting the chart, a component that is not addressed or an allocation that is not clearly understood will be construed as a responsibility of the Association.

8.4. OWNER'S DEFAULT IN MAINTENANCE. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which is a Individual Assessment against the owner and his unit. In case of a emergency, however, the board's responsibility to give the owner written notice may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense.

8.5. SATELLITE DISH/ANTENNA. A satellite dish or antenna that is permitted by the "Television" section of Article 11 of this Declaration or by public law is subject to this Section.

8.5.1. Definitions. As used in this Section "Antenna/Dish Unit" means the condominium unit served by a satellite dish or antenna, or the unit that is

obviously intended to be served by a satellite dish or antenna, regardless of whether the service is operational. "Antenna/Dish Owner" means the owner of a unit served by a satellite dish or antenna, regardless of whether the unit owner purchases, uses, or has actual knowledge of the satellite dish or antenna.

8.5.2. Owner Responsibility. The installation of an Antenna/Dish on common elements automatically subjects the Antenna/Dish Unit and its owner to this Section, regardless of who installs the Antenna/Dish and regardless of whether the Antenna/Dish Owner has actual notice of the installation. The Antenna/Dish Owner is solely responsible for (1) the cost of maintaining, repairing, replacing, and removing, as necessary, the Antenna/Dish, and (2) the cost of repairing common elements if such repairs are necessitated by the Antenna/Dish or its installation, maintenance, repair, or replacement, irrespective of whether the repairs are undertaken by the Antenna/Dish Owner or the Association. If required by the Association, the Antenna/Dish Owner will remove the Antenna/Dish, as necessary, to permit the Association to maintain, repair, or replace common elements as the Association, in its sole discretion, deems necessary or desirable.

8.5.3. Association Controls. To the extent permitted by public law, the Association may adopt and amend reasonable standards for the color, appearance, location, method of installation, maintenance, camouflaging, screening, and use of Antenna/Dishes. The location and installation of an Antenna/Dish on the Common elements must have the prior written approval of the Association, unless the location and installation comply with the most current standards that have been adopted and published by the Association.

8.5.4. Interference. An Antenna/Dish or the use of an Antenna/Dish may not interfere with satellite or broadcast reception to other units or the common elements, or otherwise be a nuisance to residents of other units or to the Association. The board of directors may determine what constitutes a nuisance to the Association.

8.5.5. Risk. An Antenna/Dish on the common elements exists at the sole risk of the owner and/or occupant of the Antenna/Dish Unit. The Association does not insure the Antenna/Dish and is not liable to the Antenna/Dish Owner or any other person for any loss or damage to the Antenna/Dish from any cause. The Antenna/Dish Owner indemnifies the Association, its directors and members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from his Antenna/Dish.

## ARTICLE 9 PROPERTY EASEMENTS AND RIGHTS

9.1. GENERAL. In addition to other easements and rights established by the Documents, the Property is subject to the easements and rights contained in this Article.

9.2. RECORDED RESTRICTIONS, EASEMENTS & LICENSES. The attached Appendix D contains a description of and the recording date for recorded restrictions, easements, and licenses appurtenant to or included in the Property or to which any portion of the Property is or may become subject by reservation in this Declaration.

9.3. OWNER'S EASEMENT OF ENJOYMENT. Every owner is granted a right and easement of enjoyment over the general common elements and to use of improvements therein, subject to other rights and easements contained in the Documents. An owner may delegate this right of enjoyment to the residents of his unit.

9.4. OWNER'S MAINTENANCE EASEMENT. Every owner is granted an easement over adjoining units and common elements for the maintenance or reconstruction of his unit, subject to the consent of the owner of the adjoining unit, or the Association in the case of common elements, and provided the easement does not damage or materially interfere with the use of the adjoining unit or common element. Requests for entry to an adjoining unit or common element will be made in advance for a time reasonably convenient for the adjoining owner, who may not unreasonably withhold consent. If an owner damages an adjoining unit or common element in exercising this easement, the owner is obligated to restore the damaged property to its original condition, at his expense, within a reasonable period of time.

9.5. OWNER'S INGRESS/EGRESS EASEMENT. Every owner is granted a perpetual easement over the Property, as may be reasonably required, for unrestricted ingress to and egress from his unit or the appurtenant limited common elements.

9.6. OWNER'S ENCROACHMENT EASEMENT. Every owner is granted an easement for the existence and continuance of any encroachment by his unit on any adjoining unit or common element now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the improvement stands.

9.7. ASSOCIATION'S ACCESS EASEMENT. The Association is granted an easement of access and entry into every unit and common element to perform maintenance, to enforce architectural and use restrictions, to respond to emergencies, and to perform any other duties required by the Documents.

9.8. UTILITY EASEMENT. The Association may grant permits, licenses, and easements over the common elements for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised

without prior notice to the board. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

READERS, PLEASE PAY PARTICULAR HEED TO  
THE NEXT PROVISION TITLE "SECURITY"

9.9. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each owner and resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and its directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each owner and resident further acknowledges that Declarant, the Association, and its directors, officers, committees, agents, and employees have made no representations or warranties, nor has the owner or resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each owner and resident acknowledges and agrees that Declarant, the Association, and its directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE 10  
ARCHITECTURAL COVENANTS AND CONTROL

10.1. PURPOSE. Because the units are part of a single, unified community, the Association has the right to regulate the exterior design, use, and appearance of the units and common elements in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements.

10.2. ARCHITECTURAL CONTROL COMMITTEE. The Architectural Control Committee (the "ACC") consists of 3 persons appointed by Declarant during the Development Period. After the Development Period, the ACC consists of 3 persons appointed by the board, pursuant to the bylaws, or, at the board's option, the board may act as the ACC. If the board acts as the ACC, all references in the Documents to the ACC are construed to mean the board. Members of the ACC need not be owners or residents.

10.3. LIMITS ON LIABILITY. The ACC has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the ACC have

no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ACC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with city codes and ordinances, state and federal laws.

BEFORE MAKING ANY IMPROVEMENT OR ALTERATION TO ANY  
PART OF THE PROPERTY, A BUILDER OR OWNER MUST  
APPLY FOR THE ACC'S PRIOR WRITTEN APPROVAL.

10.4. PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the ACC's prior written approval, a person may not commence or continue any construction, alteration, addition, improvement, installation, modification, redecoration, or reconstruction of or to the Property, or do anything that affects the appearance, use, or structural integrity of the Property. The ACC has the right but not the duty to evaluate every aspect of construction and property use that may adversely affect the general value or appearance of the Property. Nothing herein shall impair the Owner's right to redecorate or alter his unit so long as the work does not affect the exterior appearance of the Property.

10.5. ACC APPROVAL. To request ACC approval, an owner must make written application and submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. The ACC will return one set of plans and specifications to the applicant marked with the ACC's response, such as "Approved", "Denied", "Submit Additional Information". The ACC will retain the other set of plans and specification, together with the application, for the Association's files. Verbal approval by a director, officer, member of the ACC, or the Association's manager does not constitute ACC approval, which must be in writing.

10.5.1 Deemed Approval. If the ACC fails to respond in writing – negatively, affirmatively, or requesting information – within 60 days after the ACC's actual receipt of the owner's application, the owner may submit a second request for processing of its original application. If the board fails to respond within 45 days after the board's actual receipt of the owner's second request, the owner's application is deemed approved. The owner may then proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the owner to document the board's actual receipt of the owner's initial application and second request.

10.5.2. Building Permit. If the application is for work that requires a building permit from the city, the owner must obtain the appropriate permit. The

ACC's approval of plans and specifications does not mean that they comply with the City's requirements.

10.5.3. Prior Approval. Notwithstanding the foregoing, no permission or approval is required for work that strictly complies with guidelines, plans, specifications, or policies previously developed and approved for all units by the ACC and still in effect at the time work is initiated. Written approval for specified improvements or alterations on certain units or limited common elements does not constitute approval for all units and limited common elements.

10.5.4. No Approval Required. No approval is required to rebuild a unit in accordance with originally approved plans and specifications. Nor is approval required for an owner to remodel or repaint the interior of a unit, provided the work does not impair the structural soundness of the building.

10.6. PROHIBITED ACTS. Prohibited acts include, but are not limited to the following:

- a. Installation of an exterior antenna, microwave or satellite dish, receiving or transmitting tower, except as permitted by public law, and then subject to reasonable rules of the Association.
- b. Installation of ornamental iron or burglar bars, storm window or door, exterior lighting, storage shed, basketball goal, treehouse, free standing mailbox, trash can enclosure, patio cover, chimney, or skylight — if any are visible from another unit, a street, or the common elements.
- c. Installation of equipment that may create a noise annoyance, such as noise-producing security devices and exterior pumps.
- d. Installation of walls, screens, fences, gates, or carports.
- e. Enclosure of patios, balconies, garages, or carports.
- f. Installation of impermeable decking or other improvement that may interfere with established drainage patterns.

ARTICLE 11  
USE RESTRICTIONS

11.1. VARIANCE. The use of the Property is subject to the restrictions contained in this Article, and subject to rules adopted pursuant to this Article. The board may grant a variance or waiver of a restriction or rule on a case-by-case basis, and may limit or condition its grant.

**11.2. ASSOCIATION'S RIGHT TO PROMULGATE RULES.** The Association, acting through its board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and Penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property.

**11.3. RULES AND REGULATIONS.** In addition to the restrictions contained in this Article, each unit is owned and occupied subject to the right of the board to establish Rules, and penalties for infractions thereof, governing:

- a. The types, sizes, numbers, conditions, uses, and locations of motorized and recreational vehicles on the Property.
- b. The use of the easements and firelanes within the Property, including speed limits and parking restrictions.
- c. The disposal of trash, including types and locations of containers.
- d. Hazardous, illegal or annoying materials or activities in and upon the Property.
- e. The use and maintenance of a private security system for the Property.
- f. The occupancy and leasing of units.
- g. The wasteful consumption of utilities billed to the Association.
- h. The use, maintenance, and appearance of windows, garages, porches, balconies, patios, and yards visible from the street or other units.
- i. The types, sizes, numbers, locations, and behavior of animals at the Property.
- j. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for residents.

**11.4. ANIMALS.** No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose. Customary domesticated household pets may be kept subject to the Rules. A household pet means a house dog, a house cat, a small caged bird, or aquarium fish. In the event the Rules fail to establish animal occupancy quotas, no more than 2 dogs, or 2 cats, or 1 dog and 1 cat, may be maintained in each unit. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the board.

**11.5. ANNOYANCE.** No unit or limited common element may be used in any way that: (a) may reasonably be considered annoying to neighbors; (b) may be

calculated to reduce the desirability of the Property as a residential neighborhood; (c) may endanger the health or safety of residents; (d) may result in the cancellation of insurance on the buildings, or (e) will violate any law. The board has the sole authority to determine what constitutes an annoyance.

11.6. APPEARANCE. Both the exterior and interior of the units, must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring units. The board will be the arbitrator of acceptable standards.

11.7. DRAINAGE. No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the board.

11.8. EVICTION OF TENANTS. Every lease agreement on a unit is subject to and is deemed to include the following provisions:

11.8.1. Violation Constitutes Default. Failure by the tenant or his invitees to comply with the Documents, federal or State law, or local ordinance is deemed to be a default under the lease. When the Association notifies an owner of his tenant's violation, the owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or State law for the default, including eviction of the tenant, subject to the terms of this Section.

11.8.2. Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Documents by the Association, each owner appoints the Association as his attorney-in-fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the Documents against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf, provided the Association gives the owner at least 10 days' notice, by certified mail, of its intent to so enforce the Documents.

11.8.3. Association Not Liable for Damages. The owner of a leased unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the owner for any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of the Documents against the owner's tenant.

11.9. GARAGES. The automatic garage door opener is to be maintained by its owner. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

11.10 LANDSCAPING. No person may perform landscaping, planting, or gardening anywhere upon the Property, except within fenced or enclosed limited common areas.

11.11. LEASING OF UNITS. An owner may lease his unit, subject to the conditions of this Article and to rules adopted by the board. The leasing of units is subject to the following conditions: (a) no unit may be rented for transient or hotel purposes or for a period less than 7 days; (b) no unit may be subdivided for rent purposes, and not less than an entire unit may be leased; (c) all leases must be in writing and must be made subject to the Documents; (d) and owner is responsible for informing his tenant about the Documents and notifying him of changes thereto; and (e) each tenant is subject to and must comply with all provisions of the Documents, federal and State laws, and local ordinances.

11.12. NOISE & ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring units. The Rules may prohibit the use of noise-producing security devices and windchimes.

11.13. OCCUPANCY OF UNITS. The board may adopt rules regarding the occupancy of units. If the Rules fail to establish occupancy standards, no more than 2 persons per bedroom may occupy a unit, subject to the exception for familial status. The Association's occupancy standard for residents who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (*i.e., the fewest people per unit*) permitted by the U. S. Department of Housing and Urban Development. A person may not occupy a unit if the person constitutes a direct threat to the health or safety of other person, or if the person's occupancy would result in substantial physical damage to the property of others.

11.14. RESIDENTIAL USE. The use of a unit is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a resident from using the unit for personal business or professional pursuits provided that: (a) the uses are incidental to the use of the unit as a dwelling, (b) the uses conform to all applicable governmental ordinances, (c) there is no external evidence of the uses, and (d) the uses do not entail visits to the unit by employees or the public.

11.15. SIGNS. No signs advertising the units for sale or lease, other advertising signs, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows in the units without written authorization of the board. The board's authorization may specify the location, nature, dimensions, number, and time period of any advertising sign.

11.16. SPECIFIC USES. Except for ingress and egress, sidewalks and driveways on the Property may not be used for any purpose that has not been authorized in writing by the board.

11.17. STRUCTURAL INTEGRITY. No person may directly or indirectly impair the structural soundness or integrity of a building or another unit, nor do any work that will impair an easement or hereditament.

11.18. TELEVISION. Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Without the prior written consent of the ACC, no person may install an antenna, microwave or satellite dish on the Property.

11.19. VEHICLES. All vehicles on the Property, whether owned or operated by the residents or their families and guests, are subject to the following restriction:

11.19.1. Types. No large commercial-type vehicle, mobile home, motor home, camper, bus, trailer, boat, aircraft, inoperable vehicle, or any other similar vehicle or any vehicular equipment, mobile or otherwise, which the board deems to be a nuisance, unsightly, or inappropriate may be kept, parked, or stored anywhere on the Property unless used for daily transportation and, in that event, subject to board approval.

11.19.2. Repairs. Repairs or restorations of vehicles are prohibited on the Property, except in garages.

11.19.3. Obstruction. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the Property.

11.19.4. Removal. The Association may effect the removal of any vehicle in violation of this Section or Rules regulating vehicles.

11.20. WINDOWS. All window treatments within the unit, that are visible from the street or another unit, must appear to be white in color.

## ARTICLE 12 MORTGAGEE PROTECTION

12.1. INTRODUCTION. This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. Some sections of this Article apply to "Mortgagees", as defined in Article 1. Other sections apply to "Eligible Mortgagees", as defined below.

12.2. AMENDMENT. This Article establishes certain standards for the benefit of Underwriting Lenders, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the board, without approval of owners or mortgagees, may amend this

Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender.

12.3. KNOWN MORTGAGEES. An owner who mortgages his unit will notify the Association, giving the complete name and address of his mortgagee and the loan number. The Association's obligations to mortgagees under the Documents extend only to those mortgagees known to the Association. All actions and approvals required by mortgagees will be conclusively satisfied by the mortgagees known to the Association, without regard to other holders of mortgages on units. The Association may rely on the information provided by owners and mortgagees.

12.4. ELIGIBLE MORTGAGEES. "Eligible Mortgagee" means the holder, insurer, or guarantor of a first purchase money mortgage secured by a recorded deed of trust lien against a unit who has submitted to the Association a written notice containing its name and address, the loan number, and the identifying number and street address of the mortgaged unit. A single notice per unit will be valid so long as the Eligible Mortgagees holds a mortgage on the unit. The board will maintain this information. The Association will treat the notice as the Eligible Mortgagee's request to be notified of any proposed action requiring the consent of Eligible Mortgagees. A provision of the Documents requiring the approval of a specified percentage of Eligible Mortgagees will be based on the number of units subject to mortgages held by Eligible Mortgagees. For example, "51 percent of Eligible Mortgagees" means Eligible Mortgagees of 51 percent of the units that are subject to mortgages held by Eligible Mortgagees.

12.5. NOTICE OF ACTIONS. The Association will use its best efforts to send timely written notice to Eligible Mortgagees of the following actions:

- a. Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged unit.
- b. Any 60-day delinquency in the payment of assessments or charges owed by the owner of the mortgaged unit.
- c. A lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- d. Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.
- e. Any proposed amendment of a material nature, as provided in this Article.
- f. Any proposed termination of the condominium status of the Property.

12.6. AMENDMENTS OF A MATERIAL NATURE. A Document amendment of a material nature must be approved by owners representing at least 67 percent of the votes in the Association, and by at least 51 percent of Eligible Mortgagees.

This approval requirement does not apply to amendments effected by the exercise of a Development Right. A change to any of the provisions governing the following would be considered material;

- a. Voting rights.
- b. Increases in assessments that raise the previously assessed amount by more than 25 percent, assessment liens, or the priority of assessment liens.
- c. Reductions in reserves for maintenance, repair, and replacement of common elements.
- d. Responsibility for maintenance and repairs.
- e. Reallocation of interests in the general or limited common elements, or rights to their use; except that when limited common elements are reallocated by agreement between owners, only those owners and only the Eligible Mortgagees holding mortgages against those units need approve the action.
- f. Redefinitions of boundaries of units, except that when boundaries of only adjoining units are involved, or a unit is being subdivided, then only those owners and the Eligible Mortgagees holding mortgages against the unit or units need approve the action.
- g. Convertability of units into common elements or common elements into units.
- h. Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property.
- i. Property or fidelity insurance requirements.
- j. Imposition of any restrictions on the leasing of units.
- k. Imposition of any restrictions on owners' right to sell or transfer their units.
- l. Restoration or repair of the Property, in a manner other than that specified in the Documents, after hazard damage or partial condemnation.
- m. Any provision that expressly benefits mortgage holders, insurers, or guarantors.

12.7. TERMINATION. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by owners representing at

least 67 percent of the votes in the Association, and by at least 51 percent of Eligible Mortgagees. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least 67 percent of Eligible Mortgagees. This Section supplements the article titled Termination and Condemnation.

12.8. IMPLIED APPROVAL. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within 30 days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

12.9. INSPECTION OF BOOKS. The Association will maintain current copies of the Documents and the Association's books, records, and financial statements. Mortgagees may inspect the Documents and records, by appointment, during normal business hours.

12.10. FINANCIAL STATEMENTS. If a Mortgagee submits a written request, the Association will give the Mortgagee a statement for the preceding fiscal year within 120 days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

12.11. ATTENDANCE AT MEETINGS. A representative of an Eligible Mortgagee may attend and address any meeting which an owner may attend.

12.12. RIGHT OF FIRST REFUSAL. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

12.13. MANAGEMENT CONTRACT. If professional management of the Association is required by this Article, the contract for professional management may not require more than 90 days' notice to terminate the contract, nor payment of a termination penalty.

#### 12.14. INSURANCE POLICIES.

12.14.1. Notice of Cancellation. Insurance policies maintained by the Association should require the insurer to notify in writing each Mortgagee named in the mortgage clause at least 10 days before the insurer cancels or substantially changes the Association's coverage. Additionally, the association will use its best efforts to send timely written notice to Eligible Mortgagees of a lapse, cancellation, or material modification of any insurance policy maintained by the Association.

12.14.2. Insurance Carrier. The Association's property insurance policy must be written by an insurance carrier that meets or exceeds the requirements,

from time to time, of an Underwriting Lender. The initial requirements are those of Section 701.01, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993, which are incorporated herein by reference.

12.14.3. Policy Deductible. The deductible on the Association's property insurance policy must not exceed the maximum limits permitted by an Underwriting Lender. The initial deductible requirements for property insurance policies are those of Section 701.03, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993, which requires a maximum deductible in an amount that is the lesser of \$10,000, or 1 percent of the policy face amount. Funds to cover the deductible should be included in the Association's operating reserve account.

12.14.4. Full Replacement Cost. The Association's property insurance policy should cover 100 percent of the insurable replacement cost of the insurable improvements, as required by an Underwriting Lender. The initial amount requirements are those of Section 701.03, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993, which permits use of a guaranteed replacement cost endorsement, or a replacement cost endorsement, together with an agreed amount endorsement in case of coinsurance.

12.14.5. Endorsements. The Association will obtain endorsements to its property insurance policy as required by an Underwriting Lender. The initial endorsement requirements are those of Section 701.03, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993, which requires an inflation guard endorsement, if available; building ordinance or law endorsement; and steam boiler and machinery coverage endorsement, if applicable.

12.14.6. Liability Coverage. The amount of the Association's liability insurance should be at least that required by an Underwriting Lender. The initial endorsement requirements are those of Section 703, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993, which requires a minimum of \$1 million for bodily injury and property damage per single occurrence.

## ARTICLE 13 AMENDMENTS

13.1. CONSENTS REQUIRED. As permitted by the Act or by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by certain owners alone, or by the board alone. Otherwise, amendments to this Declaration must be approved by owners representing at least 67 percent of the votes in the Association.

13.2. METHOD OF AMENDMENT. This Declaration may be amended by any method selected by the board from time to time, pursuant to the bylaws, provided the method gives an owner of each unit the substance if not exact wording of the proposed amendment, a description in layman's terms of the effect of the proposed amendment,

|                   |                        |         |                 |              |   |
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| Post-it® Fax Note | 7671                   | Date    | 1/30            | # of pages ► | 5 |
| To                | <i>Chris Von Halle</i> | From    | <i>Tec Ding</i> |              |   |
| Co./Dept.         |                        | Co.     |                 |              |   |
| Phone #           | <i>214-752-7635</i>    | Phone # |                 |              |   |
| Fax #             | <i>214-752-7536</i>    | Fax #   |                 |              |   |

and an opportunity to vote for or requiring the consent of Eligible Mortgagee a detailed description, if

#### NOTICE

This Declaration and the other Documents are subject to change from time to time. By owning or occupying a unit, you agree to remain in compliance with the restrictions and rules as they change.

13.3. EFFECTIVE. To be effective, an amendment must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of owners and, if required, Eligible Mortgagees; and (3) recorded in the real property records of every county in which the Property is located.

13.4. DECLARANT PROVISIONS. No amendment may affect Declarant's rights under this Declaration or the Act without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. Because Appendix E of this Declaration is destined to become obsolete, beginning 5 years after the date this Declaration is first recorded, the board may restate, rerecord, or publish this Declaration without Appendix E, provided the other appendices are not relettered. The automatic expiration and subsequent deletion of Appendix E does not constitute an amendment of this Declaration. This Section may not be amended without Declarant's written and acknowledged consent.

#### ARTICLE 14 INSURANCE

14.1. GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article, with which the board will make every reasonable effort to comply, including the following:

14.1.1. Common Expense. The cost of insurance coverage's and bonds maintained by the Association is a common expense.

14.1.2. Insurer. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The property insurance policy must be written by a company that complies with the "Insurance Carrier" subsection of the Mortgagee Protection article of this Declaration.

14.1.3. Insured. The Association must be the named insured on all policies obtained by the Association. The loss payee clause should show the Association as trustee for each owner and Mortgagee.

14.1.4. Subrogation. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an owner.

14.1.5. Association as Trustee. Each owner irrevocably appoints the Association, acting through its board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

14.1.6. Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. To the extent required by the "Insurance Carrier" paragraph of the Mortgagee Protection article of this Declaration, the board will give to Eligible Mortgagees, and the insurer will give to Mortgagees, prior notices of cancellation, termination, expiration, or material modification.

14.1.7. Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible. The Association may require that the deductible be paid, in whole or in part, by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an owner or resident or their invitees, the Association may require the owner to reimburse the Association for the amount of the deductible that is attributable to the act or omission. The Association's property insurance policy must be written with deductibles that meet or exceed the requirements of the "Policy Deductible" paragraph of the Mortgagee Protection article of this Declaration.

14.1.8. Mortgage Clause. The Association's policies should contain the standard mortgage clause naming either the Mortgagee or its service followed by "its successors and assigns".

14.1.9. Prejudice. The insurance will not be prejudiced by the act or omission of any owner or resident who is not under the Association's control.

14.2. PROPERTY INSURANCE. The Association will obtain blanket all-risk insurance, if reasonably available, for all improvements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard.

14.2.1. Common Property Insured. The Association will insure (a) general common elements; (b) limited common elements; and (c) property

owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

14.2.2. Units Insured by Association. In addition to insuring the common elements against casualty loss, the Association will maintain property insurance on the units as originally constructed. The Association may insure betterments and improvements installed by current or previous owners. In insuring units, the Association may be guided by types of policies customarily available for similar types of properties.

14.2.3. Endorsements. To the extent reasonably available, the Association will obtain endorsements to its property insurance policy as required by the "Endorsements" paragraph of the Mortgagee Protection article of this Declaration.

14.3. LIABILITY INSURANCE. The Association will maintain a commercial general liability insurance policy over the common elements -- expressly excluding the liability of each owner and resident within his unit -- for bodily injury and property damage resulting from the operation, maintenance, or use of the common elements. The amount of coverage should be at least that required by the "Liability Insurance" paragraph of the Mortgagee Protection article of this Declaration. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an owner's claim because of negligent acts of the association or other owners.

14.4. WORKER'S COMPENSATION. The Association may maintain worker's compensation insurance if and to the extent necessary to meet the requirements of state law or if the board so chooses.

14.5. FIDELITY COVERAGE. To the extent reasonably available, the Association will maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of (a) the estimated maximum funds, including reserve funds, that will be in the Association's custody at any time the policy is in force; or (b) an amount equal to 3 months of Regular Assessments on all units. A management agent that handles Association funds should be covered by its own fidelity insurance policy with the same coverages.

14.6. DIRECTORS AND OFFICERS LIABILITY. The Association may maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

14.7. MORTGAGEE REQUIRED POLICIES. Unless coverage is not available or has been waived in writing, the Association will maintain any insurance policies and bonds required by an Underwriting Lender for condominium developments as long as an Underwriting Lender is a Mortgagee or an owner.

14.8. OTHER POLICIES. The Association may maintain any insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association.

14.9. OWNER'S RESPONSIBILITY FOR INSURANCE.

14.9.1. Insurance by Owners. Notwithstanding the foregoing, the board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by owners if the insurance is deemed necessary or desirable by the board to reduce potential risks to the Association or other owners. If an owner fails to maintain required insurance, the board may obtain it on behalf of the owner who will be obligated for the cost as an Individual Assessment.

14.9.2. Owners' Responsibilities. On request, an owner will give the board written notification of structural changes, additions, betterments, or improvements to his unit, and any other information the board may require to maintain adequate levels of insurance coverage. Each owner will comply with reasonable requests by the board for periodic inspection of the unit for purposes of insurance appraisal. Each owner, at his expense, will maintain any insurance coverages required of owners by the Association pursuant to this Article. Each owner, at his expense, is entitled to obtain additional insurance coverage of his real property, improvements, and betterments thereto, or personal property.

14.9.3. Association Does Not Insure. The Association does not insure an owner or resident's personal property. Each owner and resident is solely responsible for insuring his personal property in his unit and on the Property, including furnishings, vehicles, and stored items. The Association strongly recommends that each owner and resident purchase and maintain insurance on his personal belongings.

ARTICLE 15  
RECONSTRUCTION OR REPAIR AFTER LOSS

15.1. SUBJECT TO ACT. The Association's response to damage or destruction of the Property will be governed by Section 82.111(i) of the Act. The following provisions apply to the extent the Act is silent.

15.2. RESTORATION FUNDS. For purposes of this Article, Restoration Funds include insurance proceeds, condemnation awards, Deficiency Assessments, Individual Assessments, and other funds received on account of or arising out of injury or

damage to the Property. All funds paid to the Association for purposes of repair or restoration will be deposited in a financial institution in which accounts are insured by a federal agency. Withdrawal of Restoration Funds requires the signatures of at least 2 directors or that of an agent duly authorized by the board.

15.2.1. Sufficient Proceeds. If Restoration Funds obtained from insurance proceeds or condemnation awards are sufficient to repair or restore the damaged or destroyed Property, the Association, as trustee for the owners, will promptly apply the funds to the repair or restoration.

15.2.2. Insufficient Proceeds. If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the board, the board may levy a Deficiency Assessment against the owners to fund the difference.

15.2.3. Surplus Funds: If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows. If Deficiency Assessments were a source of Restoration Funds, the surplus will be paid to owners in proportion to their contributions resulting from the Deficiency Assessment levied against them; provided that no owner may receive a sum greater than that actually contributed by him, and further provided that any delinquent Assessments owed by he owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing paragraph will be common funds of the Association to be used as directed by the board.

### 15.3. COSTS AND PLANS.

15.3.1. Cost Estimates. Promptly after the loss, the board will obtain reliable and detailed estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the board deems necessary, to assist in estimating and supervising the repair.

15.3.2. Plans and Specifications. Common elements will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Units will be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and improvements made by owners, in which case the units will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either common elements or units must be approved by owners representing at least two-thirds of the votes in the Association and by certain mortgagees if so required by the Mortgagee Protection article of this Declaration.

**15.4. OWNER'S DUTY TO REPAIR.**

15.4.1. Uninsured Loss. Subject to 15.4.4 below, within 60 days after the date of damage, the owner will begin repair or reconstruction of any portion of his unit not covered by the Association's blanket insurance policy, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof.

15.4.2. Insured Loss. If the loss to a unit is covered by the Association's insurance policy, the owner will begin repair or restoration of damage on receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association to supervise, approve, or disapprove the repair or restoration during the course thereof.

15.4.3. Failure to Repair. If an owner fails to repair or restore damage as required by this Section, the Association may effect the necessary repairs and levy an Individual Assessment against the owner and unit for the cost thereof, after giving an owner of the unit reasonable notice of the Association's intent to do so.

15.4.4 Association's Notice of Completion. The Board shall give written notice to Owners of damaged units of the completion of restoration or repair of the Common Elements so that the Owner can commence redecoration and repair of the interior of the unit.

**15.5. OWNER'S LIABILITY FOR INSURANCE DEDUCTIBLE.** If repair or restoration of common elements or units is required as a result of an insured loss, the board may levy an Individual Assessment, in the amount of the insurance deductible, against the owner or owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

**ARTICLE 16  
TERMINATION AND CONDEMNATION**

16.1. ASSOCIATION AS TRUSTEE. Each owner hereby irrevocably appoints the Association, acting through its board, as trustee to deal with the Property in the event of damage, destruction, obsolescence, condemnation, or termination of all or any part of the Property. As trustee, the Association will have full and complete authority, right, and power to do all things reasonable and necessary to effect the provisions of this Declaration and the Act, including, without limitation, the right to receive, administer, and distribute funds, awards, and insurance proceeds; to effect the sale of the Property as permitted by this Declaration or by the Act; and to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an owner.

16.2. TERMINATION. Termination of the terms of this Declaration and the condominium status of the Property will be governed by Section 82.068 of the Act, subject to the following provisions:

16.2.1. Substantial Taking. In the event of substantially total damage, destruction, or condemnation of the Property, an amendment to terminate must be approved by owners representing at least 67 percent of the votes in the Association and by certain mortgagees pursuant to the Mortgagee Protection article of this Declaration.

16.2.2. Total Taking. In the event of condemnation of the entire Property, and amendment to terminate may be executed by the board without a vote of owners or mortgagees.

16.2.3. Other Circumstances. In all other circumstances, an amendment to terminate must be approved by owners representing at least 80 percent of the votes in the Association and by certain mortgagees pursuant to the Mortgagee Protection article of this Declaration.

16.3. CONDEMNATION The Association's response to condemnation of any part of the Property will be governed by Section 82.007 of the Act. On behalf of owners, but without their consent, the board may execute an amendment of this Declaration to reallocate allocated interests following condemnation and to describe the altered parameters of the Property. If the Association replaces or restores common elements taken by condemnation by obtaining other land or constructing additional improvements, the board may, to the extent permitted by law, execute an amendment without the prior consent of owners to describe the altered parameters of the Property and any corresponding change of facilities or improvements.

## ARTICLE 17 ASSOCIATION OPERATIONS

17.1. INDEMNIFICATION. The Association indemnifies every officer, director, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with any threatened or pending action, suit, or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. The right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a common expense, the Association may maintain adequate general liability and directors and officers liability insurance to fund this obligation.

17.2. ASSOCIATION'S RIGHT TO ENFORCE DOCUMENTS. The remedies provided in this Section for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents:

17.2.1. Nuisance. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

17.2.2. Fine. The Association may levy reasonable charges, as an Individual Assessment, against an owner and his unit if the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the owner's obligation under the Documents.

17.2.3. Suspension The Association may suspend the right of owners and residents to use common elements (except rights of ingress and egress) for any period during which the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Documents.

17.2.4. Self-Help. The Association has the right to enter a common element or unit to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the board is not trespassing and is not liable for damages related to the abatement. The board may levy its costs of abatement against the unit and owner as an Individual Assessment. Unless an emergency situation exists in the good faith opinion of the board, the board will give the violating owner 15 days' notice of its intent to exercise self-help.

17.2.5. No Waiver. The Association and every owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter.

17.3. NOTICE AND HEARING. Before levying a fine for violation of the Documents, or before levying an Individual Assessment for property damage, the Association will give the owner written notice of the levy and an opportunity to be heard, to the extent required by the Act. The Association's written notice must contain a description of the violation or property damage; the amount of the proposed fine or damage charge; a statement that not later than the 30th day after the date of the notice, the owner may request a hearing before the board to contest the fine or charge; and a stated date by which the owner may cure the violation to avoid the fine -- unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months. The Association may also give a copy of the notice to the resident. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The owner's request for a hearing suspends only the levy of a fine or damage charge. The owner may attend the hearing in

person, or may be represented by another person or written communication. The board may adopt additional or alternative procedures and requirements for notices and hearing, provided they are consistent with the Act's requirements.

## ARTICLE 18

### DISPUTE RESOLUTION

18.1. **INTRODUCTION & DEFINITIONS.** The Association, the owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

18.1.1. "Claim" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:

- a. Claims arising out of or relating to the interpretation, application, or enforcement of the Documents.
- b. Claims relating to the rights and/or duties of Declarant as Declarant under the Documents.
- c. Claims relating to the design, construction, or maintenance of the Property.

18.1.2. "Claimant" means any Party having a Claim against any other party.

18.1.3. "Declarant" means, individually and collectively, the Declarant as defined in Article 1; Declarant's architect, engineer, other design professionals, builder, general contractor, and broker; and their respective officers, directors, principals, employees, and agents.

18.1.4. "Exempt Claims" means the following claims or actions, which are exempt from this Article:

- a. The Association's claim for assessments, and any action by the Association to collect assessments.
- b. An action by any Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and

preserve the Party's ability to enforce the provisions of this Declaration.

- c. Enforcement of the easements, architectural control, and use restrictions of this Declaration, and rules promulgated by the Association.

18.1.5. "Respondent" means the Party against whom the Claimant has a Claim.

18.2. **MANDATORY PROCEDURES.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

18.3. **NOTICE.** Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim and (4) that the Notice is given pursuant to this Section.

18.4. **NEGOTIATION.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually acceptable place and time to discuss the Claim. At such meeting or at some other mutually agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

18.5. **MEDIATION.** If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and liability to Claimant on account of the Claim.

18.6. **BINDING ARBITRATION.** If the parties mediate but do not resolve the Claim through mediation, Respondent and Claimant will arbitrate the Claim. Claimant has 30 days following termination (as determined by the mediator) or mediation proceedings to submit the Claim to binding arbitration in accordance with the General Arbitration Act of the State of Texas. The arbitrator must have at least 5 years of

experience serving as an arbitrator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. The arbitration award is final and binding, and judgment may be entered on it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Texas. If Claimant does not submit the Claim to arbitration within the 30 day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

18.7. OTHER ADR. If a Claim is exempt from arbitration under Section 171.001 of the General Arbitration Act, Claimant has 120 days following termination (as determined by the mediator) of mediation proceedings to file a suit on the Claim, which must be accompanied by Claimant's motion to the court to order an alternative dispute resolution procedure, as permitted by Chapter 154 of the Texas Civil Practice and Remedies Code. If Claimant does not file the suit and motion to resolve the Claim by an ADR procedure, Claimant is deemed to have abandoned the Claim and Respondent is released and discharged from any and all liability to Claimant arising out of the Claim.

18.8. ALLOCATION OF COSTS. Except as otherwise provided in this Section, each party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, Arbitration, and Other ADR sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator, and the costs of conducting arbitration or other ADR proceeding. However, if the Claim is rejected in whole or in part by the arbitrator or the other ADR proceeding, Claimant will pay all costs incurred after termination of mediation, including but not limited to all costs of conducting the arbitration or the ADR proceeding and Respondent's attorneys fees.

18.9. ENFORCEMENT OF RESOLUTION. If the parties agree to resolve a Claim through negotiation or mediation and a party thereafter fails to abide by the terms of the agreement, or if a party fails to comply with the arbitration award following arbitration, or with the outcome of the other ADR proceeding, then the other party may file suit or initiate administrative proceedings to enforce the agreement, arbitration award, or other outcome without the need to again comply with the procedures set forth in this Article. In that event, the party taking action to enforce the agreement, award, or outcome is entitled to recover from the non-complying party all costs incurred in enforcing the agreement, award, or outcome, including, without limitation, attorneys fees and court costs.

18.10. GENERAL PROVISIONS. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim. A Party having an Exempt Claim may submit it to the procedures of this Article.

## ARTICLE 19

### GENERAL PROVISIONS

19.1. COMPLIANCE. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and all applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.

19.2. NOTICE. All demands or other notices required to be sent to an owner or resident by the terms of this Declaration will be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an owner fails to give the Association an address for mailing notices, all notices may be sent to the owner's unit, and the owner is deemed to have been given notice whether or not he actually receives it.

19.3. LIBERAL CONSTRUCTION. The terms and provision of each Document are to be liberally construed to give effect to the purposes and intent of the Document.

19.4. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

19.5. CAPTIONS. The captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer.

19.6. INTERPRETATION. Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

19.7. DURATION. Unless terminated or amended by owners as permitted herein, the provision of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

19.8. PREPARER. This Declaration was prepared by Charles W. Spencer, Attorney at Law, 8111 LBJ Freeway, Suite 1165, Dallas, Texas 75251.

19.9. APPENDICES. The following appendices are attached to this Declaration and are incorporated herein by reference:

- B - Schedule of Allocated Interests
- C - Maintenance Responsibility Chart
- D - Plats, Restrictions, Easements & Licenses
- E - Declarant Representations & Reservations
- F - Consent to Declaration
- G - Plats and Plans

*[End of Provisions]*

SIGNED AND ACKNOWLEDGED

SIGNED on this 15 day of May, 2000.

LIVINGSTON/STATE STREET, LTD., a Texas limited partnership

By: Orion GP, LLC, a Texas limited liability company, General Partner  
By:                           
Joseph W. Dingman, Member

THE STATE OF TEXAS

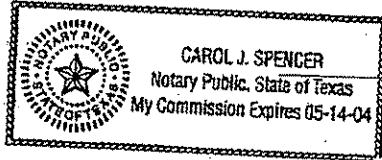
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COUNTY OF DALLAS

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This instrument was acknowledged before me on the 15 day of  
May, 2000 by Joseph W. Dingman, sole member of Orion GP, LLC, general  
partner of Livingston/State Street, Ltd., on behalf of said partnership.



*Carol J. Spencer*  
Notary Public, The State of Texas

APPENDIX A  
DESCRIPTION OF SUBJECT LAND

Being Lot 4A, in Block J/586 of Replat of Lots 4 thru 7, Block J/586, Simpson & Clarks Addition, as Addition to the City of Dallas, Dallas County, Texas according to the Map thereof recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas.

**APPENDIX B**  
**SCHEDULE OF ALLOCATED INTERESTS**

| <u>UNIT</u> | <u>BUILDING</u> | <u>SHARE OF<br/>COMMON ELEMENT<br/>OWNERSHIP</u> | <u>SHARE OF<br/>COMMON EXPENSES</u> | <u>VOTE</u> |
|-------------|-----------------|--|-------------------------------------|-------------|
| 1           | 1               | 1/24   | 1/24                                | 1           |
| 2           | 1               | 1/24   | 1/24                                | 1           |
| 3           | 1               | 1/24   | 1/24                                | 1           |
| 4           | 1               | 1/24   | 1/24                                | 1           |
| 5           | 1               | 1/24   | 1/24                                | 1           |
| 6           | 1               | 1/24   | 1/24                                | 1           |
| 7           | 1               | 1/24   | 1/24                                | 1           |
| 8           | 1               | 1/24   | 1/24                                | 1           |
| 9           | 2               | 1/24   | 1/24                                | 1           |
| 10          | 2               | 1/24   | 1/24                                | 1           |
| 11          | 2               | 1/24   | 1/24                                | 1           |
| 12          | 2               | 1/24   | 1/24                                | 1           |
| 13          | 2               | 1/24   | 1/24                                | 1           |
| 14          | 2               | 1/24   | 1/24                                | 1           |
| 15          | 2               | 1/24   | 1/24                                | 1           |
| 16          | 2               | 1/24   | 1/24                                | 1           |
| 17          | 3               | 1/24   | 1/24                                | 1           |
| 18          | 3               | 1/24   | 1/24                                | 1           |
| 19          | 3               | 1/24   | 1/24                                | 1           |
| 20          | 3               | 1/24   | 1/24                                | 1           |

|    |   |      |      |   |
|----|---|------|------|---|
| 21 | 3 | 1/24 | 1/24 | 1 |
| 22 | 3 | 1/24 | 1/24 | 1 |
| 23 | 3 | 1/24 | 1/24 | 1 |
| 24 | 3 | 1/24 | 1/24 | 1 |

**APPENDIX C**  
**MAINTENANCE RESPONSIBILITY CHART**

**CARRIAGE HOUSE CONDOMINIUMS**

"all aspects" includes maintenance, repair, and replacement, as needed  
 "LCE" = limited common elements

| COMPONENT OF PROPERTY   | ASSOCIATION RESPONSIBILITY                 | OWNER RESPONSIBILITY   |
|---|--|--|
| Garages.  | Roofs, exterior walls and foundation.      | All aspects, except those noted for Association. Includes, routine interior cleaning, interior wall and ceiling materials, garage door, pedestrian door, automatic garage door opener, remote controls, interior light fixture, interior electrical outlets. |
| Chimneys.   | Exterior material of chimney stack.        | All aspects of firebox, chimney cap, chimney flue, and damper, including periodic flue cleaning.   |
| Fences and gates around LCE yards appurtenant to units.   | All aspects, except those notes for owner. | Locks and latches on gates.  |
| Sheetrock inside and bordering unit, including perimeter  | None, regardless of the source of damage.  | All aspects, regardless of the source of the damage (even leaks in the common element wall).   |
| Driveways, uncovered parking spaces, sidewalks, dumpsters, mailboxes.   | All aspects.                               | None.  |
| Front porches of units.   | All aspects, except those noted for owner. | Routine cleaning of front porch.   |
| Foundations of buildings with dwellings.  | All aspects.                               | None   |
| Roofs, exterior vertical walls of buildings, other exterior features of buildings not specifically listed in chart. | All aspects.                               | None.  |
| Grounds -- outside the fenced yards.  | All aspects.                               | None.  |

|  |  |  |
|--|--|--|
| Exterior light fixtures.   | All aspects, except those noted for owner.   | All aspects of exterior light fixtures in fenced yard and on patio.  |
| Patios   | Wood, carpentry, and paint of vertical patio railings.   | All aspects, except those noted for Association.   |
| Improvements in private patio/yards.   | None.  | All aspects.   |
| Grounds -- inside the fenced yards.  | Mowing and maintenance of central sprinkler system, but only if access to yard is readily available, and only if determined by board to be in Association's best interest. | All aspects, except those noted for Association.   |
| Exterior doors of units.   | Exterior painting.   | All aspects, except those noted for Association. Includes door frame, door, glass panes, weatherstripping, threshold, hardware, locks, peepholes.  |
| Windows of units.  | Exterior caulking in connection with exterior painting.  | All aspects, except those noted for Association. Includes window frames, screens, window locks, glass panes, glazing, caulking.  |
| Plumbing and sewer lines.  | All aspects, except those noted for owner.   | All aspects of lines, pipes, fixtures, and appliances within a unit or its LCE and serving only that unit. Damage to the unit, another unit, or common elements from a cause initially within the unit.  |
| Electrical systems.  | All aspects, except those noted for owner.   | All aspects of fuse boxes, lines, fixtures, and appliances within a unit or its LCE and serving only that unit. All aspects of electrical components of HVAC, even if located outside unit. Damage to the unit, another unit, or common elements from a cause initially within the unit. |
| Heating and cooling systems (serving units).                                 | None.  | All aspects of equipment, systems, and lines serving the unit, even though located outside unit.   |
| Water heaters (serving units).   | None.  | All aspects.   |
| Intrusion alarms on door/windows, smoke/heat detectors, monitoring equipment | None.  | All aspects.   |

(serving units).

Antennas & satellite  
dishes (serving units).

Master antenna only, if any  
as long as maintained by  
Association.

All aspects, except those  
for Association.

**APPENDIX D**  
**RESTRICTIONS, EASEMENTS & LICENSES**

- a. Sidewalk and Utility Easement 5.5 foot wide granted to the City of Dallas in instrument dated May 29, 1990, recorded in Volume 90114, Page 3477 of the Deed Records of Dallas County, Texas and as shown on plat recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- b. Sidewalk and Utility Easement 5.5 foot wide granted to the City of Dallas in instrument dated May 29, 1990, filed June 12, 1990, recorded in Volume 90114, Page 3502 of the Deed Records and as shown on the plat recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- c. Sidewalk and Utility Easements of 5.5 foot wide and 7.5 foot wide granted to the City of Dallas in instrument dated May 29, 1990, filed June 12, 1990, recorded in Volume 90114, Page 3512 of the Deed Records, and as shown on the plat recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- d. Sidewalk and Utility Easement of 5.5 foot wide granted to the City of Dallas in instrument dated May 29, 1990, filed June 12, 1990, recorded in Volume 90114, Page 3527, of the Deed Records, and as shown on the plat recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- e. Ten (10) foot by Ten (10) foot easement for street purposes situated in the Northwest corner of the property as shown by the plat recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- f. Alley sight easement of fifteen (15) foot by fifteen (15) foot situated in the Southwest corner of property as shown by the plat recorded in Volume 94168, Page 1272 of the Map Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- g. Easement for right-of-way granted to Texas Utilities Electric Company, a Texas Corporation, by State Street Carriage House Co., a Texas general partnership, by instrument dated November 17, 1994, filed February 3, 1995, recorded in Volume

95024, Page 4028 of the Deed Records of Dallas County, Texas and as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.

- h. Terms, conditions and stipulations of that certain Cable Television Easement and Maintenance Agreement by and between TCI Cablevision of Dallas, Inc. and State Street Carriage House Company, dated September 22, 1994, filed April 13, 1995, recorded in Volume 95072, Page 4459 of the Deed Records of Dallas County, Texas and as noted on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- i. Encroachment or protrusion of a brick retaining wall near Southeast and Northeast lot lines, a fence near Northeast lot line, bricks near Southwest lot line and unidentified structures near Northwest lot line, into or outside of the boundary line(s) as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935.
- j. Fire lanes and transformers as shown on survey dated January 11, 2000 by Doug Connally, Registered Professional Land Surveyor No. 3935 and on Appendix G.

APPENDIX E  
DECLARANT REPRESENTATIONS & RESERVATIONS

E.1. GENERAL PROVISIONS.

E.1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling the Declarant-related provisions in this Appendix.

E.1.2. General Reservation & Construction. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Appendix and any other Document, this Appendix controls. This Appendix may not be amended without the prior written consent of Declarant. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

E.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of owners and mortgagees. Declarant may not use its control of the Association and the Property for an advantage over the owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with 90 days' notice. (Subject and except to the matters shown on Appendix D and specifically to item (h) thereof.)

E.2. DECLARANT CONTROL PERIOD RESERVATIONS & LIMITATIONS. For the benefit and protection of owners and mortgagees, and for the purpose of ensuring a complete and orderly buildout and sellout of the Property, Declarant will retain control of the Association, subject to the following:

E.2.1. Duration. The duration of the Declarant Control Period will be from the date this Declaration is recorded for a maximum period not to exceed the earlier of (a) 5 years after the date of recording this Declaration, (b) within 120 days after the conveyance of 75 percent of the units (eighteen units) that may be created to owners other than Declarant; or (c) when, in the sole opinion of Declarant, the Association is viable, self-supporting, and operational. Declarant intends to comply with Section 81.103 of the Act regarding transition of control from Declarant to owners by phased elections of directors. Section 82.103(d), as

currently written, reads as follows: "(d) Not later than the 120th day after conveyance of 50 percent of the units that may be created to unit owners other than a declarant, not less than one-third of the members of the board must be elected by unit owners other than the declarant." Section 82.103(e), as currently written, reads as follows: "(e) Not later than the termination of a period of declarant control, the unit owners shall elect a board of at least three members who need not be unit owners. The board shall elect the officers before the 31st day after the date declarant control terminates. The persons elected shall take office on election."

E.2.2. Officers & Directors. During the Declarant Control Period, Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be members or owners. The Declarant-appointed board may consist of 3 persons.

E.2.3. Obligation for Assessments. For each unit owned by Declarant, Declarant is liable for special assessments, individual assessments, and deficiency assessments in the same manner as any owner. Regarding regular Assessments, during the Declarant Control Period only, Declarant at Declarant's option may support the Association's budget by either of the following methods. Declarant will pay regular assessments on each Declarant owned unit in the same manner as any owner. Or, alternatively, Declarant will assume responsibility for the difference between the Association's common expenses and the regular assessments received from owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. On termination of the Declarant Control Period, Declarant must begin paying assessments on each Declarant owned unit according to the unit's allocated interest for assessments. As provided in Section 5.4.4. of the Declaration, the Declarant will pay any budget shortfall of the Association above \$175.00 per unit per month, the initial budget, for the period ending on the earlier of (i) the expiration of the Declarant Control Period, or (ii) twenty four months following the formation of the Association.

E.2.4. Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.

E.2.5. Budget Control. During the Declarant Control Period, the right of owners to veto assessment increases or special assessments is not effective and may not be exercised.

E.2.6. Organizational Meeting. Within 60 days after the end of the Declarant Control Period, or sooner at the Declarant's option, Declarant will call an organizational meeting of the members of the Association for the purpose of electing, by vote of the owners, directors to the board. Written notice of the organizational meeting must be given to an owner of each unit at least 10 days

before the meeting. For the organizational meeting, owners of 10 percent of the units constitute a quorum.

E.2.7. Management Contract. If Declarant enters into a professional management contract on behalf of the Association during the Declarant Control Period, the Association has the right to terminate the contract without cause or penalty at any time after a board elected by the owners takes office.

E.2.8. Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any common element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the common elements will be free of encumbrance except for the property taxes accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the owners.

E.3. DEVELOPMENT PERIOD RIGHTS, REPRESENTATIONS & RESERVATIONS. Declarant makes the following representations and reservations regarding Declarant's development of the Property:

E.3.1. Phasing. The Property described in the initial Appendix A is not subject to a right to expansion by phasing.

E.3.2. Withdrawal. The Property described in the initial Appendix A is not subject to a right of withdrawal of real property by Declarant.

E.3.3. Leasehold. No part of the Property is a leasehold condominium, as defined by the Act.

E.3.4. Conversion. The improvements on the land described in the initial Appendix A were constructed in the fall of 1994 and opened as an apartment complex in 1995, and constitute conversion buildings as defined by the Act.

E.3.5. Inclusionary Zoning. At time of drafting this Declaration, the area in which the Property is located is not subject to inclusionary zoning restrictions.

E.3.6. Flood Zone. At time of drafting this Declaration, the Property is not located in a flood zone.

E.3.7. Architectural Control. During the Development Period, Declarant has the absolute right to appoint the Architectural Control Committee, consisting of any number of persons who serve at the pleasure of Declarant, and who may be removed and replaced by Declarant.

E.3.8. Transfer Fees. During the Development Period, unit conveyances from Declarant are exempt from transfer and resale certificate fees.

E3.9. Statutory Development Rights. As permitted by the Act, Declarant reserves the following Development Rights: (1) to add real property to the Property; (2) to create units, common elements, and limited common elements within the Property; (3) to subdivide units or convert units into common elements; (4) to withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved", provided that no unit in the portion to be withdrawn has been conveyed to an owner other than Declarant.

E.3.10. Development Rights Reserved. Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved", if any, Declarant makes no assurances as to whether Declarant will exercise its Development rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

E.3.11. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other owners or any mortgagee, for the following limited purposes:

- a. To meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the units.
- b. To correct any defects in the execution of this Declaration.
- c. To add real property to the Property, in the exercise of statutory Development Rights.
- d. To create units, common elements, and limited common elements within the Property, in the exercise of statutory Development Rights.
- e. To subdivide, combine, or reconfigure units or convert units into common elements, in the exercise of statutory Development Rights.
- f. To withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved", in the exercise of statutory development Rights.
- g. To resolve conflicts, clarify ambiguities, and to correct inadvertent misstatements, errors, or omissions in the Documents.

**E.4. SPECIAL DECLARANT RIGHTS.** As permitted by the Act, Declarant reserves the below-described Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Property. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right may be exercised by Declarant so long as Declarant holds a Development Right to create additional units or common elements or Declarant owns a unit, whichever ceases last. Earlier termination of certain rights may occur by statute.

- a. The right to complete or make improvements indicated on the Plat and Plans.
- b. The right to exercise any Development Rights permitted by the Act and this Declaration.
- c. The right to make the Property part of a larger condominium or planned community.
- d. The right to use units owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property, for as long as Declarant owns a unit.
- e. For purposes of promoting, identifying, and marketing the Property, Declarant reserves an easement and right to place or install signs, banners, flags, display lighting, and seasonal landscaping on the Property. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property.
- f. Declarant has an easement and right of ingress and egress in and through the common elements and units owned or leased by Declarant for purposes of refurbishing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under the Act and this Declaration.
- g. The right to appoint or remove any officer or director of the Association during the Declarant Control Period consistent with the Act.

**E.5. ADDITIONAL EASEMENTS & RIGHTS.** Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, for the duration of the Development Period:

- a. An easement and right to erect, construct, and maintain on and in the common elements and units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the refurbishment, management, maintenance, and marketing of the Property.

- b. The right to sell or lease any unit owned by Declarant.
- c. The right of entry and access to all units to perform work, if any, for the benefit of the unit being entered, adjoining units, or common elements. Requests for entry must be made in advance for a time reasonably convenient for the owner who may not unreasonably withhold consent.
- d. An easement and right to make structural changes and alterations on common elements and units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered common elements and units to conform to the architectural standards of the Property. The restoration will be done within 120 days after termination of the Development Period.

E.6. ACTIONS REQUIRING FHA/VA APPROVAL. During the Development Period, the following actions require the prior written approval of the U.S. Department of Housing and Urban Development ("HUD/FHA") or the U.S. Department of Veterans Affairs ("VA") so long as HUD/FHA insures or VA guarantees a mortgage on a unit: (1) annexation of additional property to the Property, except for annexation by Declarant pursuant to a plan of development previously approved by HUD/FHA or VA; (2) merger or consolidation with another property owners association; (3) mortgaging of common elements; (4) dedication of common elements to a public entity; (5) amendment of a material nature to any Document; or (6) dissolution or amendment of the articles of incorporation. The approval of HUD/FHA or VA, as the case may be, is implied when it fails to respond within 30 days after receiving written request for approval of a proposed action, provided the request was delivered by certified or registered mail, return receipt requested.

E.7. WORKING CAPITAL FUND. Declarant may establish a working capital fund for the Association in an amount that is at least equal to 2 months of Regular Assessments for all units. If Declarant establishes this fund, each unit's contribution will be collected when the sale of the unit closes or on termination of Declarant Control Period, whichever occurs first. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Not later than termination of the Declarant Control Period, the fully funded working capital fund will be transferred to the Association for deposit to a segregated fund. Declarant may not use the fund to defray Declarant's expenses, reserve contributions, or refurbishment costs, or to cover the Association's budget deficits during the Declarant Control Period. If Declarant has unsold units on termination of the Declarant Control Period, Declarant may reimburse itself for a unit's pre-paid contributions from monies collected at the unit's closing.

E.8. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and

recorded in the real property records of Dallas County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

APPENDIX F

LIENHOLDER CONSENT TO DECLARATION  
BY BANK OF TEXAS, N.A.

Bank of Texas, N.A. is a Texas corporation whose address is 5956 Sherry Lane, ste 8c  
Dallas, Tx 75235 holds a promissory note signed by Livingston/State Street, Ltd. The promissory note is secured by a deed of trust lien against real property that includes the property described in Appendices A and G of this Declaration. The deed of trust was recorded in Vol. 20000, in Page 06052 Real Property Records, Dallas County, Texas.

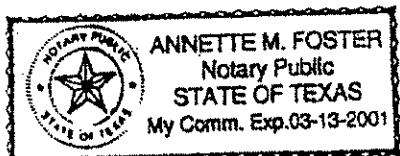
By signing this instrument, Bank of Texas consents to the recording of the Declaration for Carriage House Condominiums.

SIGNED on the 15<sup>th</sup> day of May, 2000.

Brenda Gribble  
By: \_\_\_\_\_  
Name: Brenda Gribble  
Its: Vice President

STATE OF TEXAS                    X  
COUNTY OF DALLAS                X

This instrument was acknowledged before me on the 15<sup>th</sup> day of  
May, 2000, by Brenda Gribble, the Vice President  
of \_\_\_\_\_ on behalf of the Bank of Texas, N.A.



Annette M. Foster  
Notary Public, The State of Texas

CITY OF DALLAS, DALLAS COUNTY, TEXAS

APPENDIX "G"

13

Post-it® Fax Note

7671

Date 3/12/02 # of pages 1

To ~~RECEIVED 2/26/02~~  
Co./Dept. City of Dallas  
Phone # 214-670-5444  
Fax # 214-638-2333

From 7671, mgm  
Co. 2902 S. Main St.  
Phone # 972-241-1202  
Fax # 1714

DATE 11-30

12

51 ALLEN STREET

50' R.O.W. PLAT = 200.00

5.5' SIDEWALK & UTILITY  
EASET. VOL. 9404 PG. 3524  
EASET. VOL. 9404 PG. 3524

STORM SEW. &  
MANHOLE

5.5' SIDEWALK & UTILITY  
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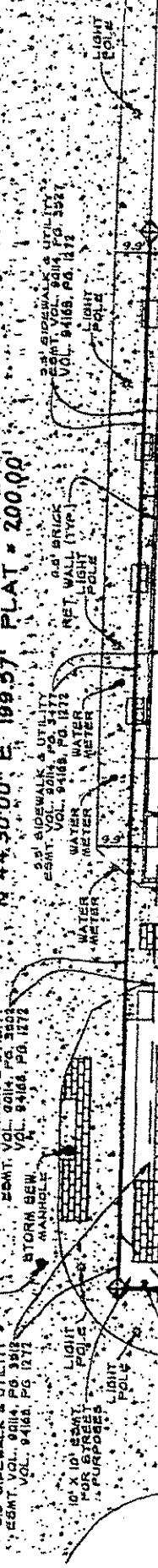
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CITY OF DALLAS, DALLAS COUNTY, TEXAS

APPENDIX "G"

13

Post-it® Fax Note

7671

Date 3/12/02 # of pages 1

To ~~RECEIVED 2/26/02~~  
Co./Dept. City of Dallas  
Phone # 214-670-5444  
Fax # 214-638-2333

From 7671, mgm  
Co. 2902 S. Main St.  
Phone # 972-241-1202  
Fax # 1714

DATE 11-30

12

10

9

8

15' ALLEY  
50' BRICK  
FIRE WALL (TYPE)  
TRANS. 8' 44' 30' 00' W 100' 97' PLAT = 200.00'

ALLEN STREET  
50' R.O.W.

CARRIAGE HOUSE CONDOMINIUMS  
CITY OF DALLAS, DALLAS COUNTY, TEXAS  
APPENDIX "G"

LEGAL DESCRIPTION

This is to certify that I have, this date, made a careful and accurate survey on the ground of property located  
at No. 2902 STATE STREET in the city of DALLAS Texas,  
Lot No. 4A Block No. J/586  
of REPLAT OF LOTS 4 THRU 7, BLOCK J/586 SIMPSON & CLARKS ADDITION on addition  
to the City of Dallas, according to the  
recorded in Volume 94168 Page 1272 of the MAP Records of DALLAS COUNTY, TEXAS

NOTE: PROPERTY SUBJECT TO CABLE TELEVISION  
EASEMENT AND MAINTENANCE AGREEMENT BY  
AND BETWEEN TCI CABLE TELEVISION OF  
DALLAS, INC. AND STATE STREET CARRIAGE  
HOUSE COMPANY, VOL. 95072, PG. 4459  
D. R. D. C. T.

SURVEYOR'S CERTIFICATION

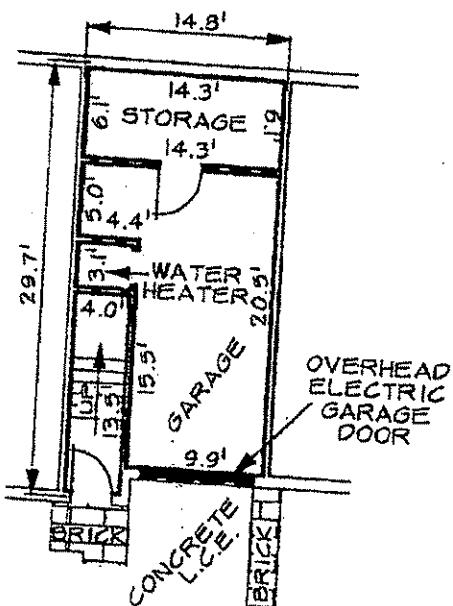
I hereby certify that as of March 23, 2000, this survey contains all the information required of plats and plans under section 82.059 of the Texas Uniform Condominium Act, Chapter 82, Texas Property Code.

I further certify that this survey correctly represents a survey made upon the ground of the property shown hereon, and that there are no encroachments of visible improvements, except as shown hereon, and that this property has access to a public roadway shown hereon.

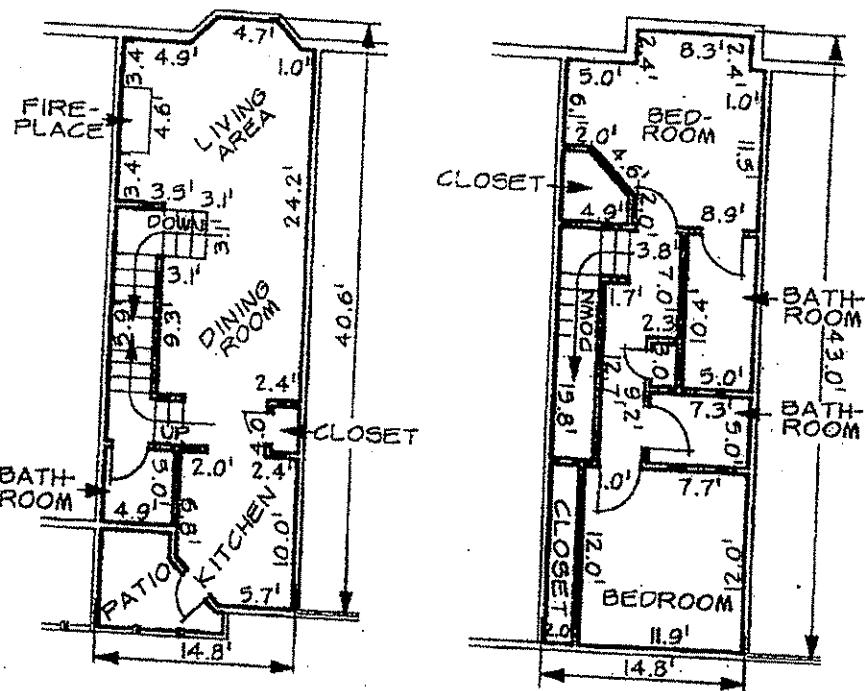
Doug Connally  
Registered Professional Land Surveyor No. 3935



CARRIAGE HOUSE CONDOMINIUMS  
UNIT 1



L.C.E. = LIMITED COMMON ELEMENT  
**1st Floor**  
420 SQUARE FEET



**2nd Floor**  
598 SQUARE FEET

**3rd Floor**  
623 SQUARE FEET

Drawn By: BOB

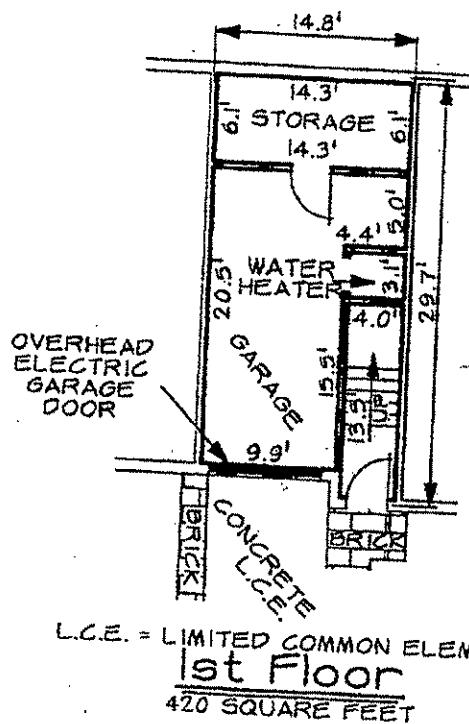
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Revised 05-12-2000  
Date 04-05-2000

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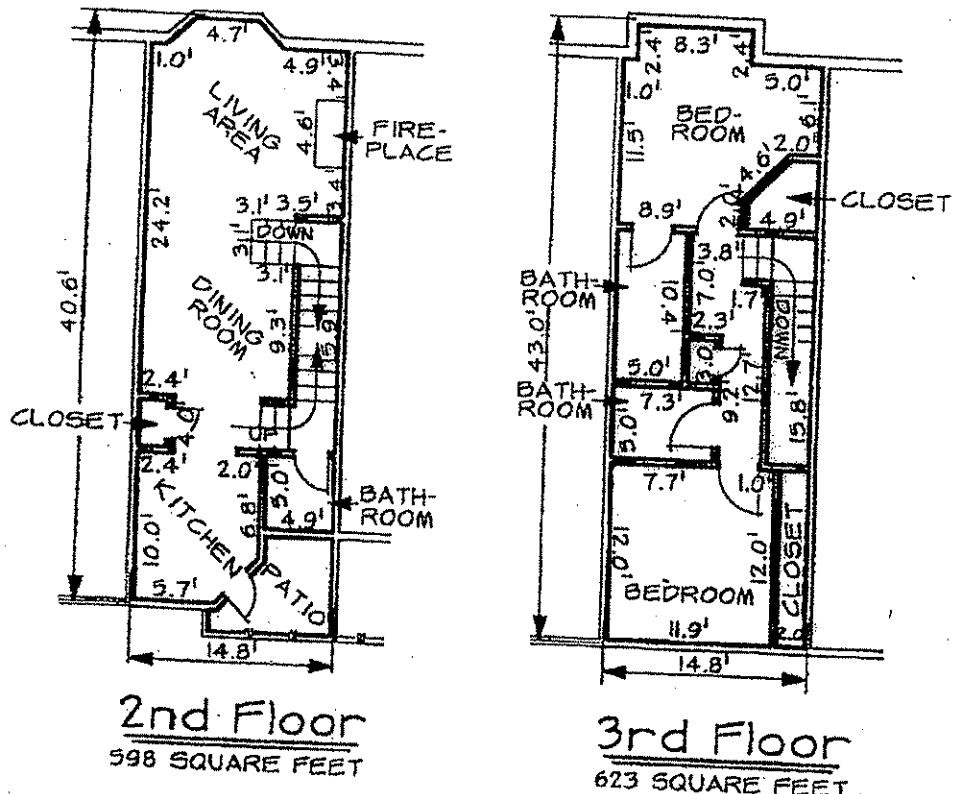
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

**CARRIAGE HOUSE CONDOMINIUMS**  
**UNIT 2**



L.C.E. = LIMITED COMMON ELEMENT  
**1st Floor**  
 420 SQUARE FEET



Drawn By: BOB

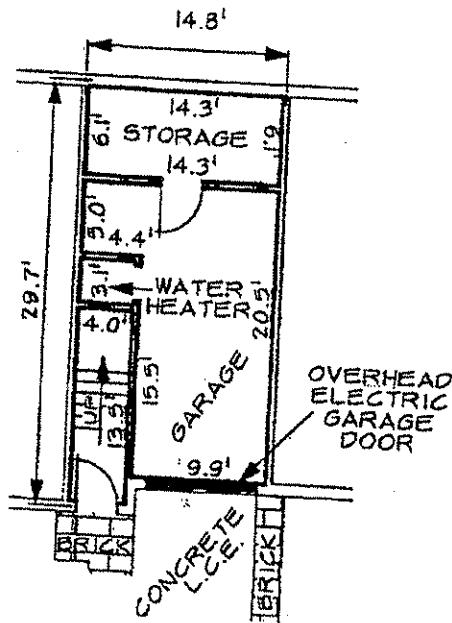
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 Revised 05-12-2000  
 Dated 04-05-2000

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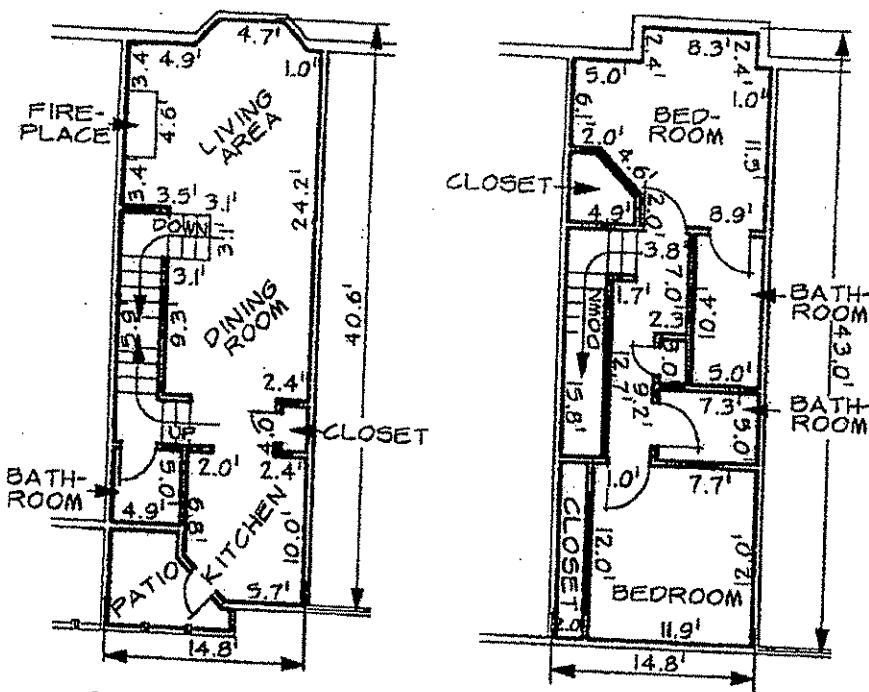
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
 9754 SKILLMAN STREET  
 DALLAS, TEXAS 75243  
 PHONE (214) 349-9485  
 FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

CARRIAGE HOUSE CONDOMINIUMS  
UNIT 3



L.C.E. = LIMITED COMMON ELEMENT  
**1st Floor**  
420 SQUARE FEET



**2nd Floor**  
598 SQUARE FEET

**3rd Floor**  
623 SQUARE FEET

Drawn By: BOB

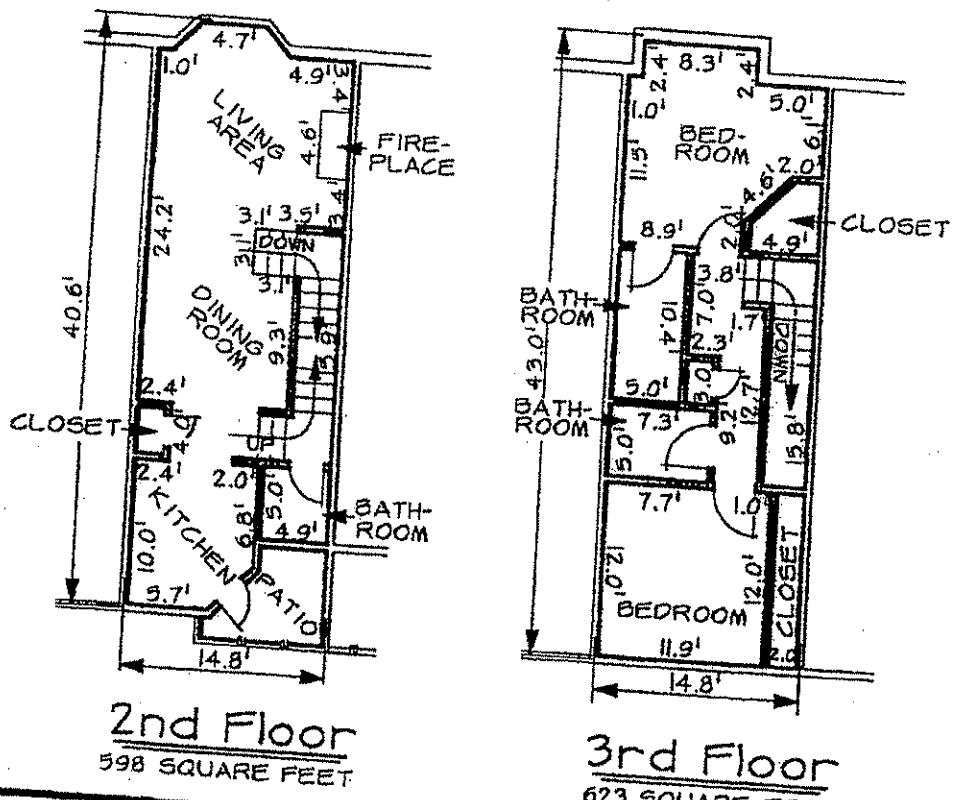
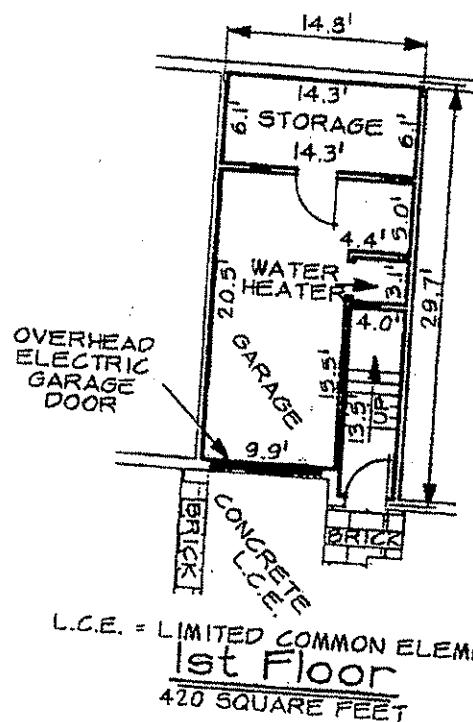
Scale: 1'-0"  
Revised 03-12-2000  
Date 04-05-2000

Borrower:

Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 4



Drawn By: BOB

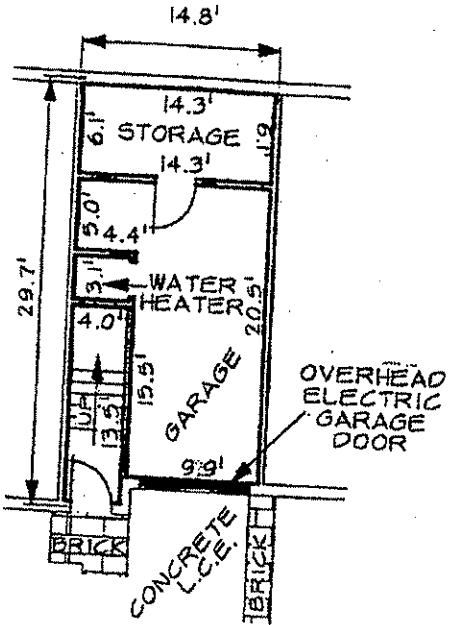
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Revised: 05-12-2000  
Date: 04-03-2000

Costowner:

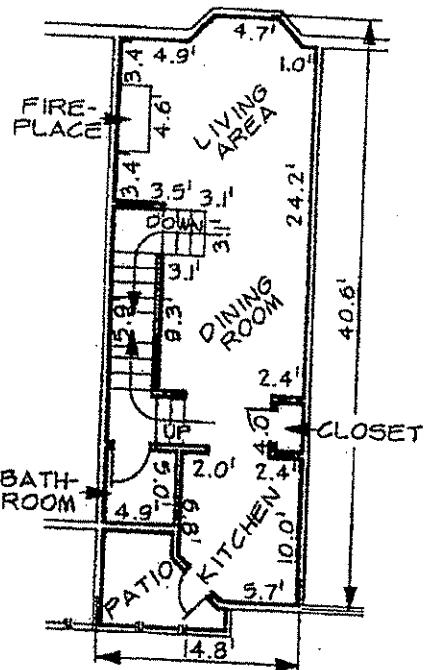
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9794 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE: (214) 349-9485  
FAX: (214) 349-2216  
[www.dcausurveying.com](http://www.dcausurveying.com)

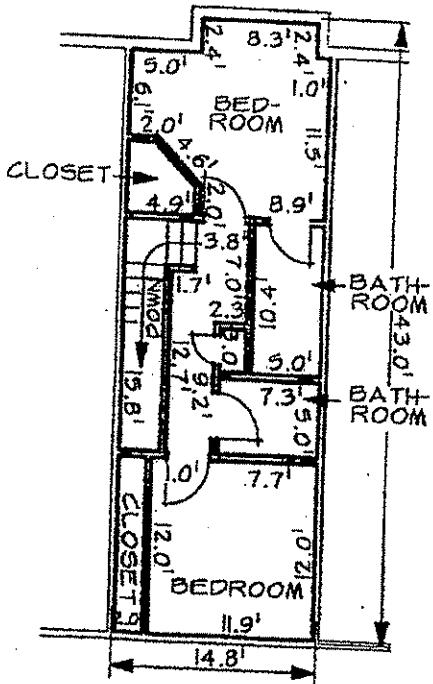
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 5



L.C.E. = LIMITED COMMON ELEMENT  
**1st Floor**  
420 SQUARE FEET



**2nd Floor**  
598 SQUARE FEET



**3rd Floor**  
623 SQUARE FEET

Drawn By: 308

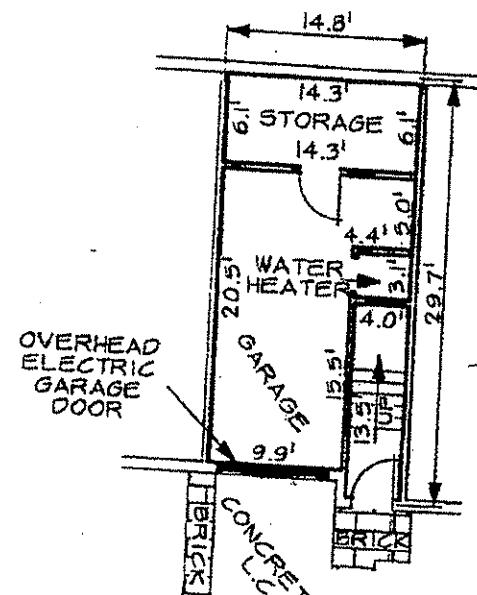
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Revised: 05-12-2000  
Date: 04-05-2000

Borrower:

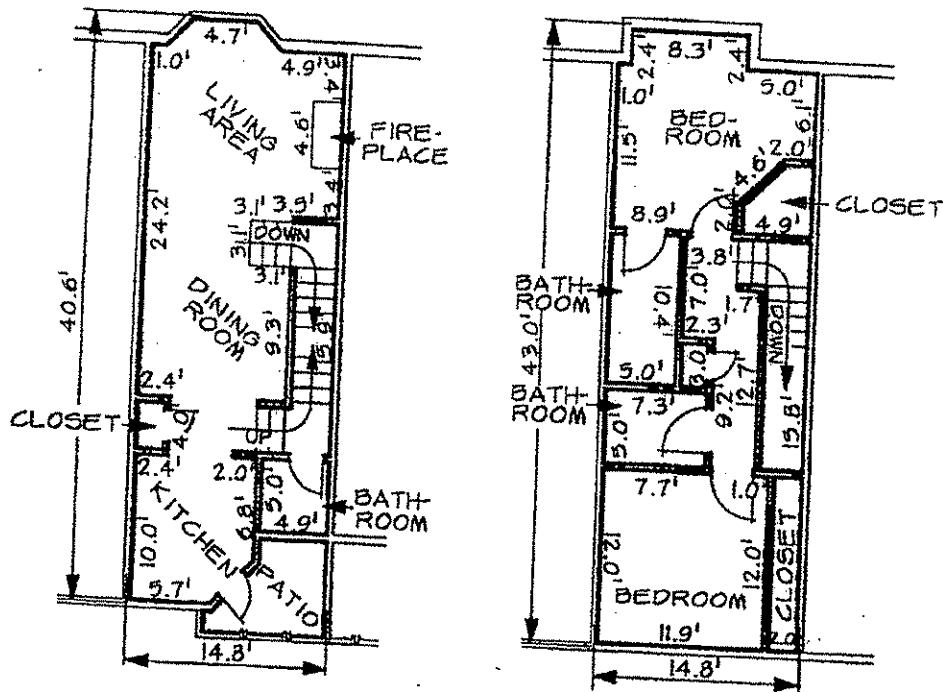
Job No. 000063-3

DOUG CONNALLY & ASSOC. INC.  
9734 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 6



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

Drawn By: BOB

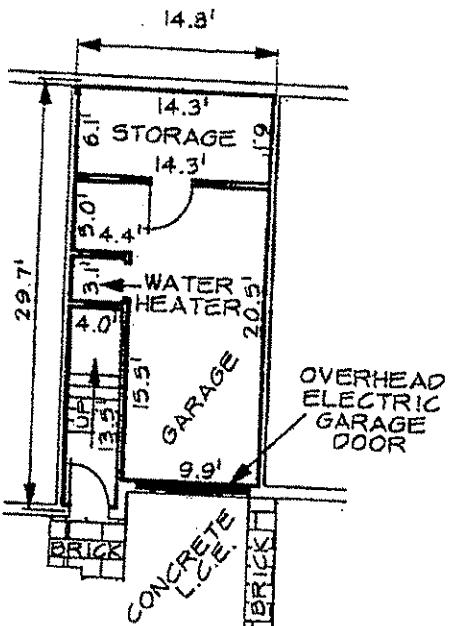
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Reviewed 05-12-2000  
Dated 04-05-2000

Borrower:

Job No. 000063-3

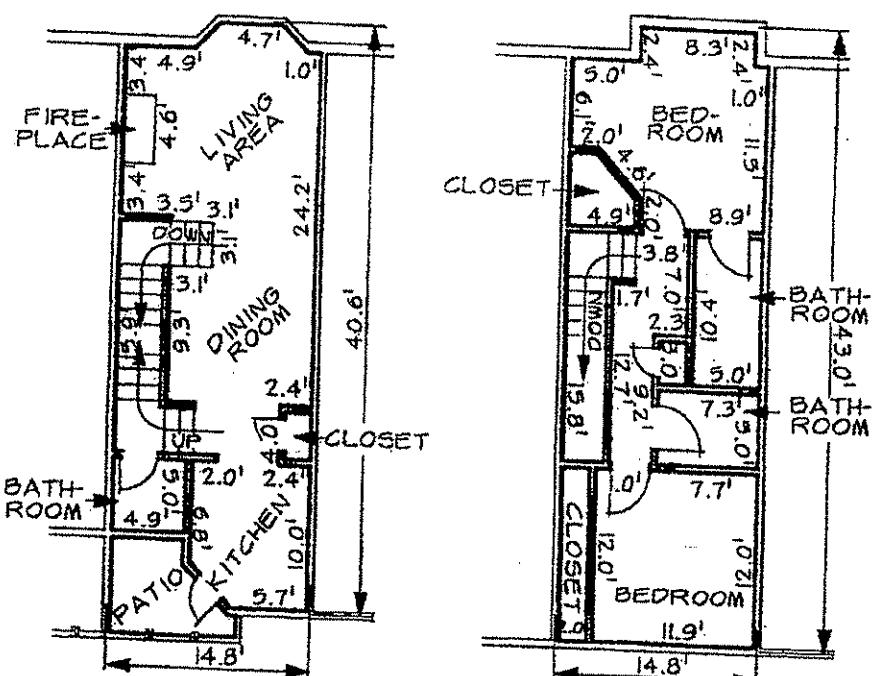
DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE: (214) 349-9485  
FAX: (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

CARRIAGE HOUSE CONDOMINIUMS  
UNIT 7



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor

420 SQUARE FEET



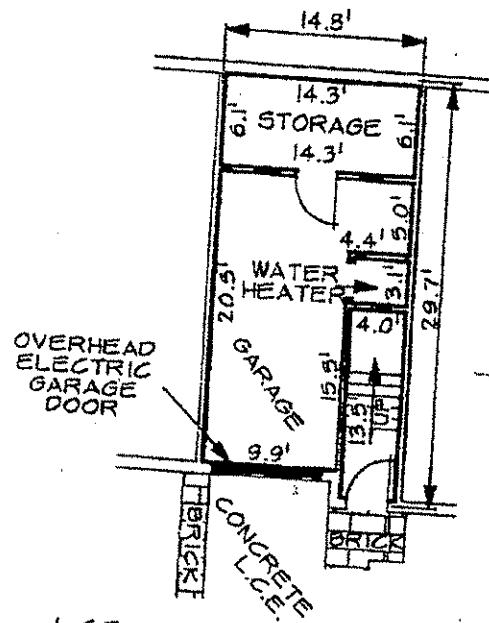
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Reviewed 05-12-2000  
Date: 04-05-2000

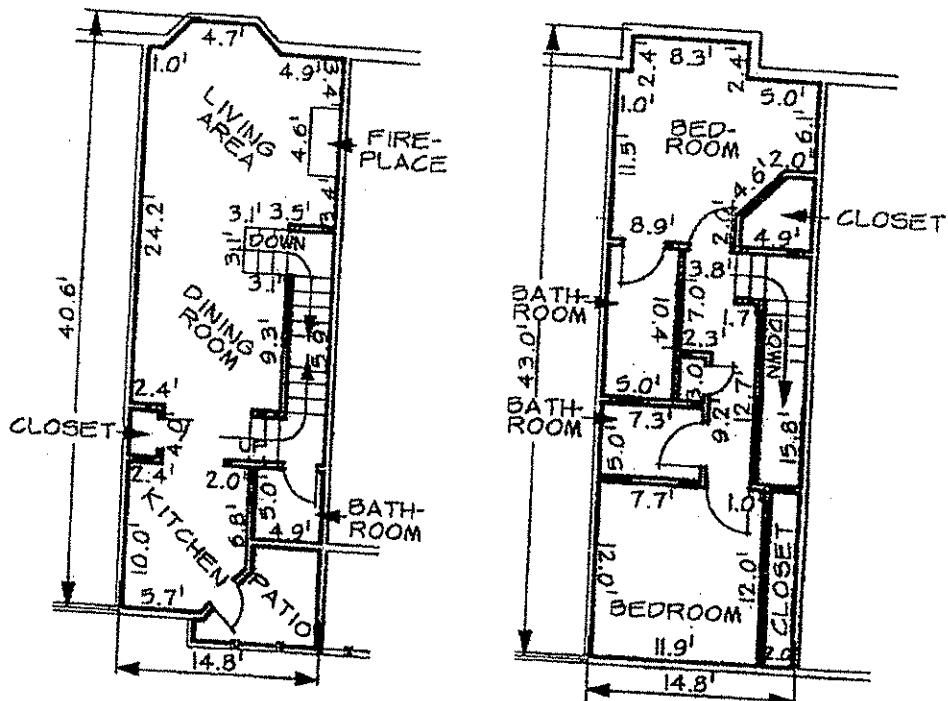
Borrower:

DOUG CONNALLY & ASSOC. INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE: (214) 349-9485  
FAX: (214) 349-2216  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 8



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

Drawn By: SOB

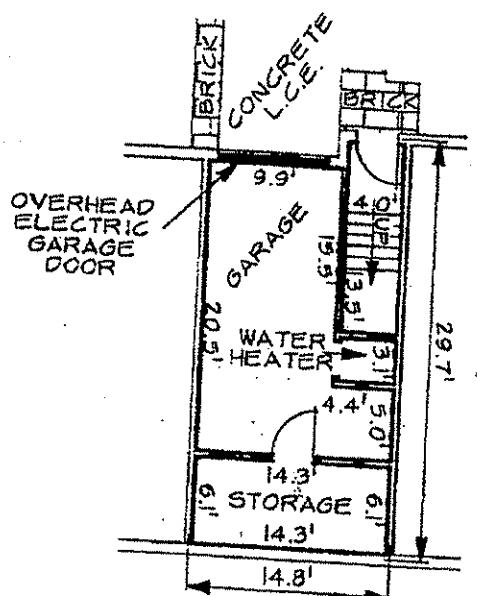
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Revised 05-12-2000  
Date: 04-05-2000

Borrower:

Job No. 000063-3

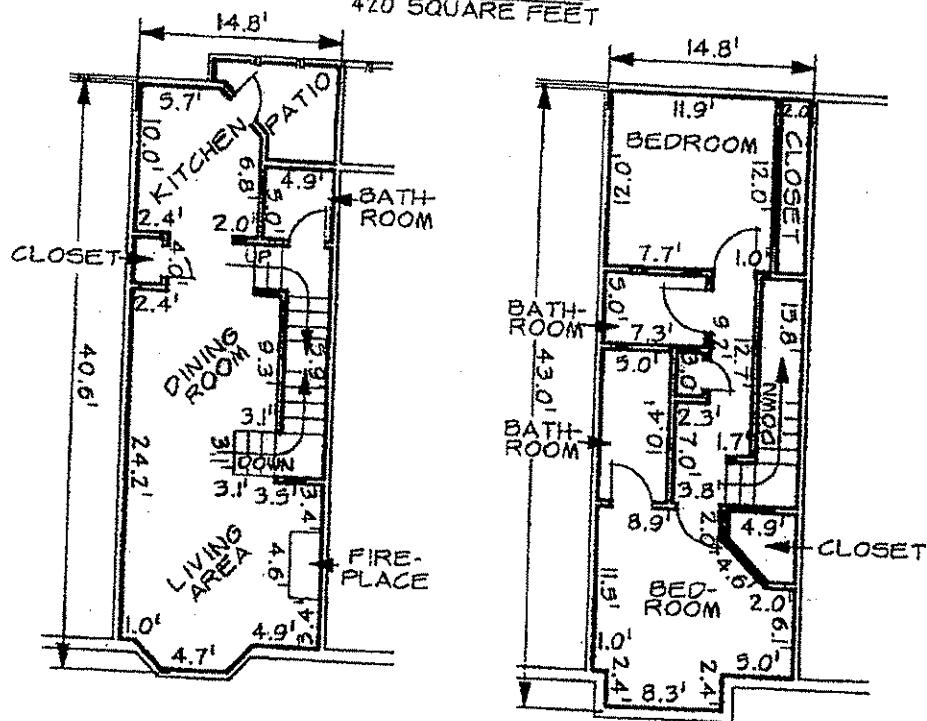
DOUG CONNALLY & ASSOC., INC.  
9734 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcaSurveying.com](http://www.dcaSurveying.com)

CARRIAGE HOUSE CONDOMINIUMS  
UNIT 9



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor

420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

Drawn By: S08

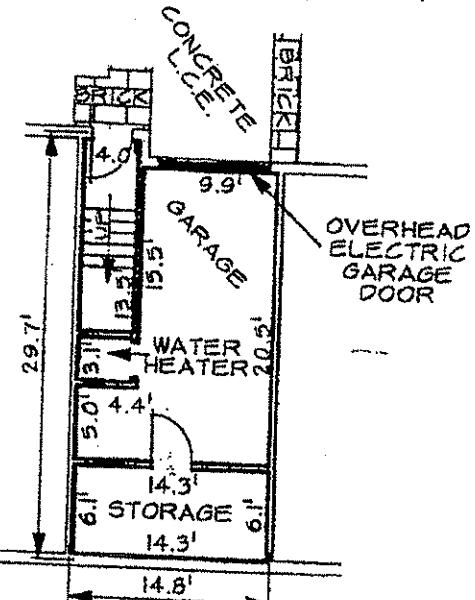
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Reviewed 05-12-2000  
Date: 04-05-2000

Borrower:

Job No. 0000043-2

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9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcausurveying.com](http://www.dcausurveying.com)

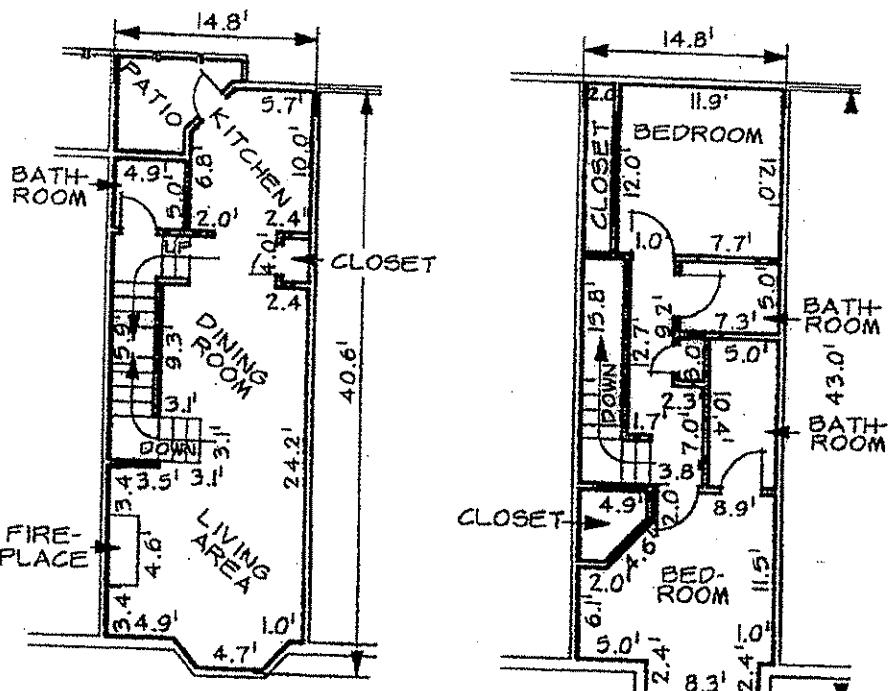
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 10



L.C.E. = LIMITED COMMON ELEMENT

1st Floor

420 SQUARE FEET



2nd Floor

598 SQUARE FEET

3rd Floor

623 SQUARE FEET

Drawn By: BOB

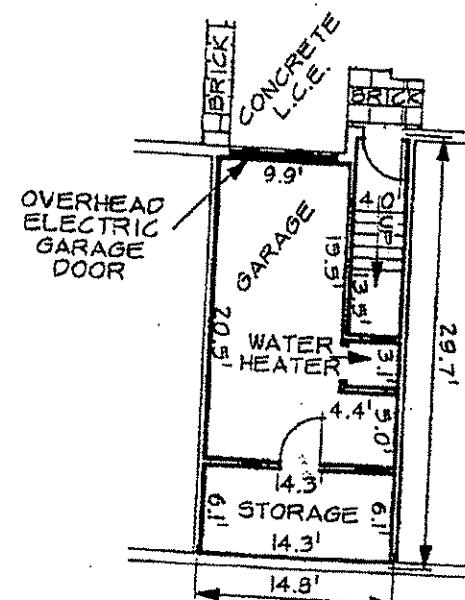
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Reviewed 05-12-2000  
Date: 04-05-2000

Borrower:

Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcaesurveying.com](http://www.dcaesurveying.com)

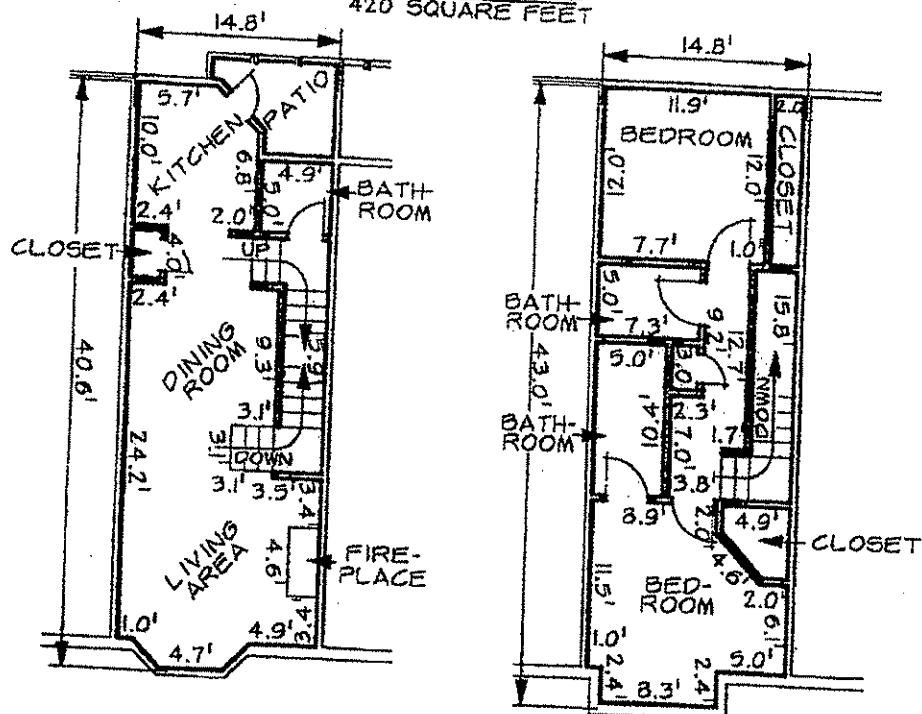
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 11



L.C.E. = LIMITED COMMON ELEMENT

1st Floor

420 SQUARE FEET



2nd Floor

398 SQUARE FEET

3rd Floor

623 SQUARE FEET

Drawn By: BOB

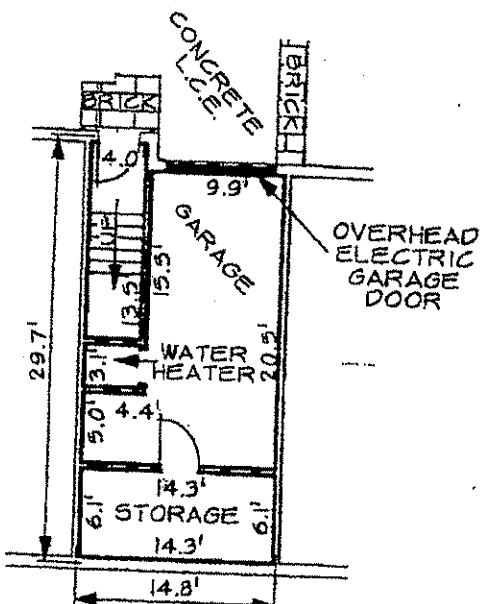
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Revised 03-12-2000  
Dated 04-05-2000

Borrower:

Line # 000042-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9489  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

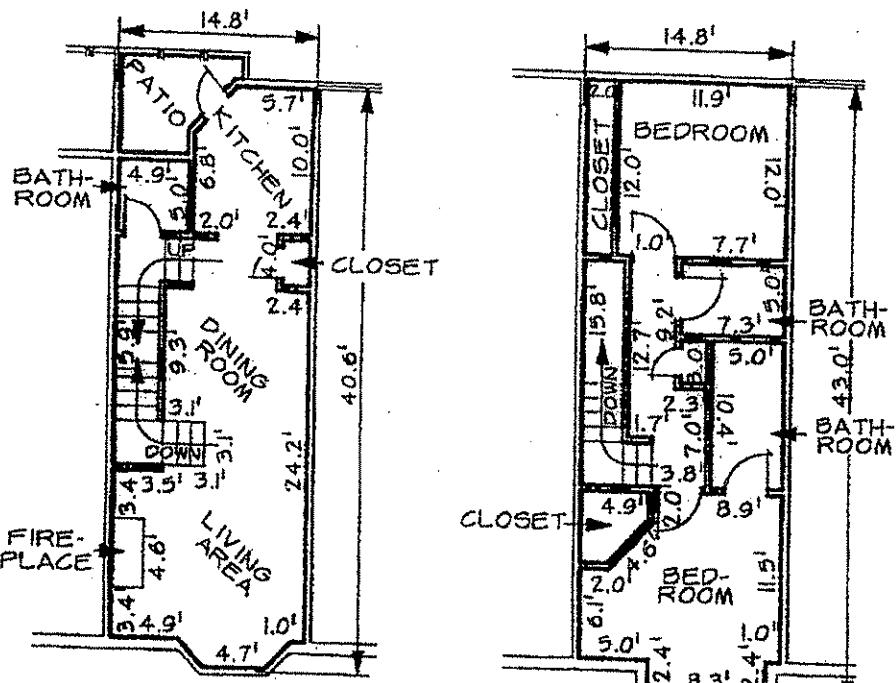
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 12



L.C.E. = LIMITED COMMON ELEMENT

1st Floor

420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

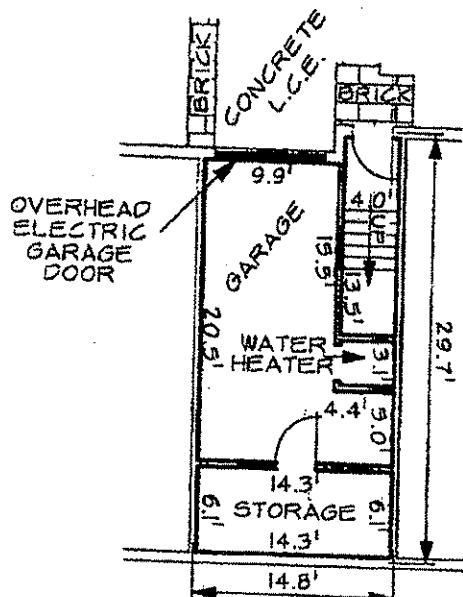
Drawn by: SAB

Scale: 1"=10'  
Revised 03-12-2000  
Date 04-05-2000

Borrower:

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcausurveying.com](http://www.dcausurveying.com)

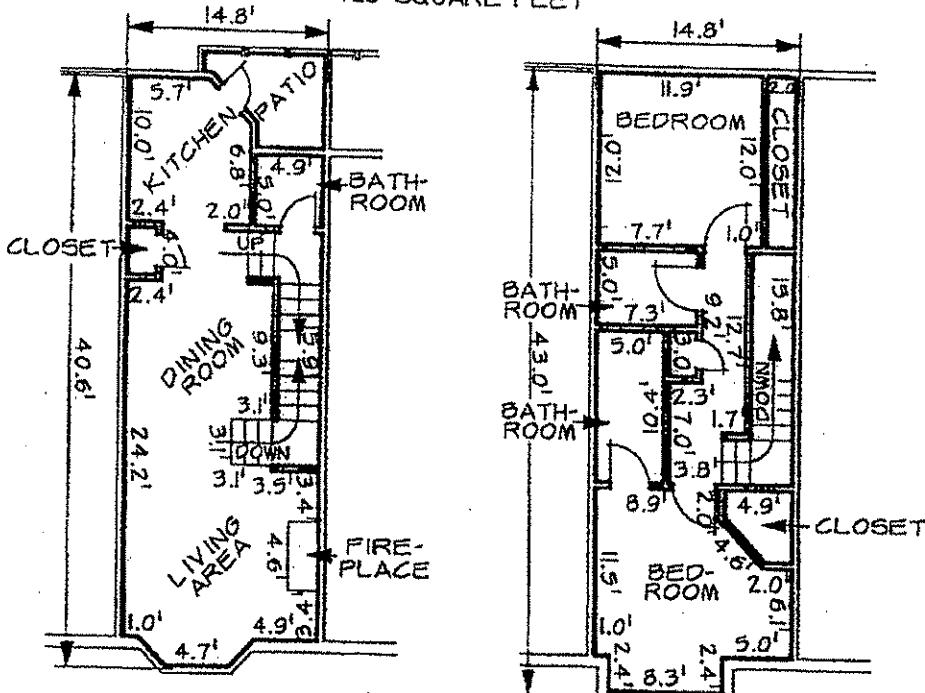
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 13



L.C.E. = LIMITED COMMON ELEMENT

**1st Floor**

420 SQUARE FEET



**2nd Floor**

598 SQUARE FEET

**3rd Floor**

623 SQUARE FEET

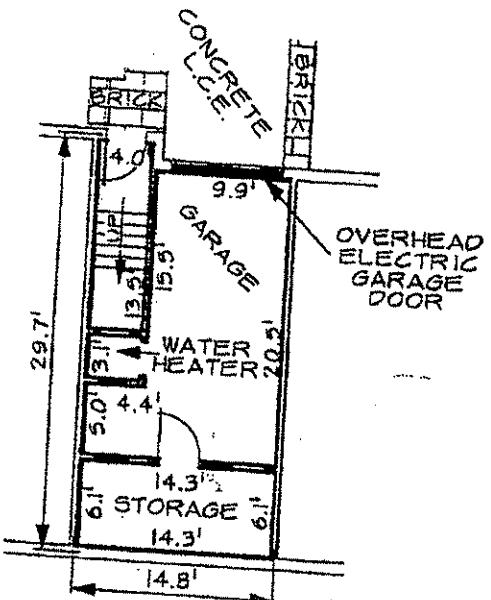
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Revised 09-12-2000  
Date: 04-05-2000

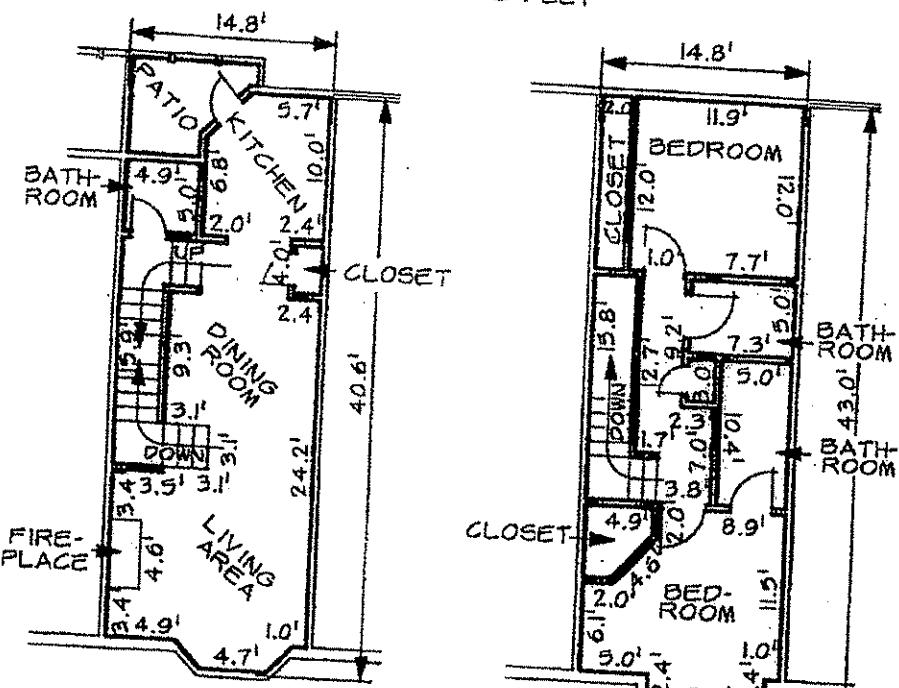
Borrower:

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

CARRIAGE HOUSE CONDOMINIUMS  
UNIT 14



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

Drawn by: BOB

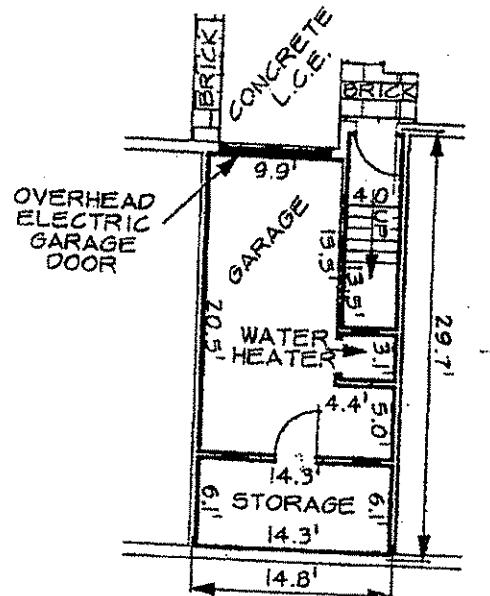
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Revised 09-12-2000  
Date: 04-05-2000

Borrower:

Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9482  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

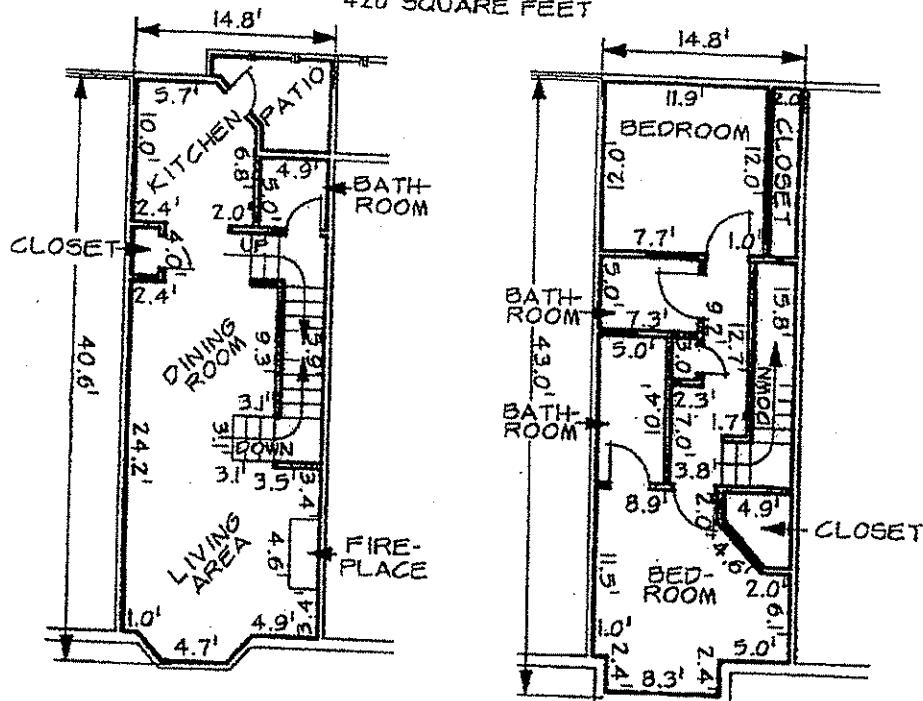
**CARRIAGE HOUSE CONDOMINIUMS**  
**UNIT 15**



L.C.E. = LIMITED COMMON ELEMENT

**1st Floor**

420 SQUARE FEET



**2nd Floor**

598 SQUARE FEET

**3rd Floor**

623 SQUARE FEET

Drawn By: BOB

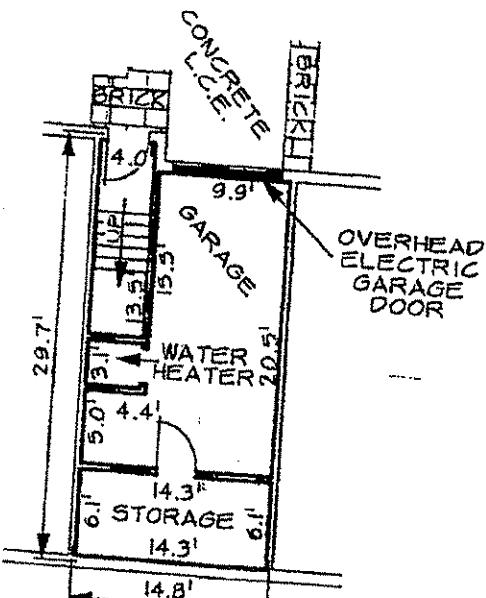
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Revised 09-12-2000  
Date: 04-05-2000

Borrower:

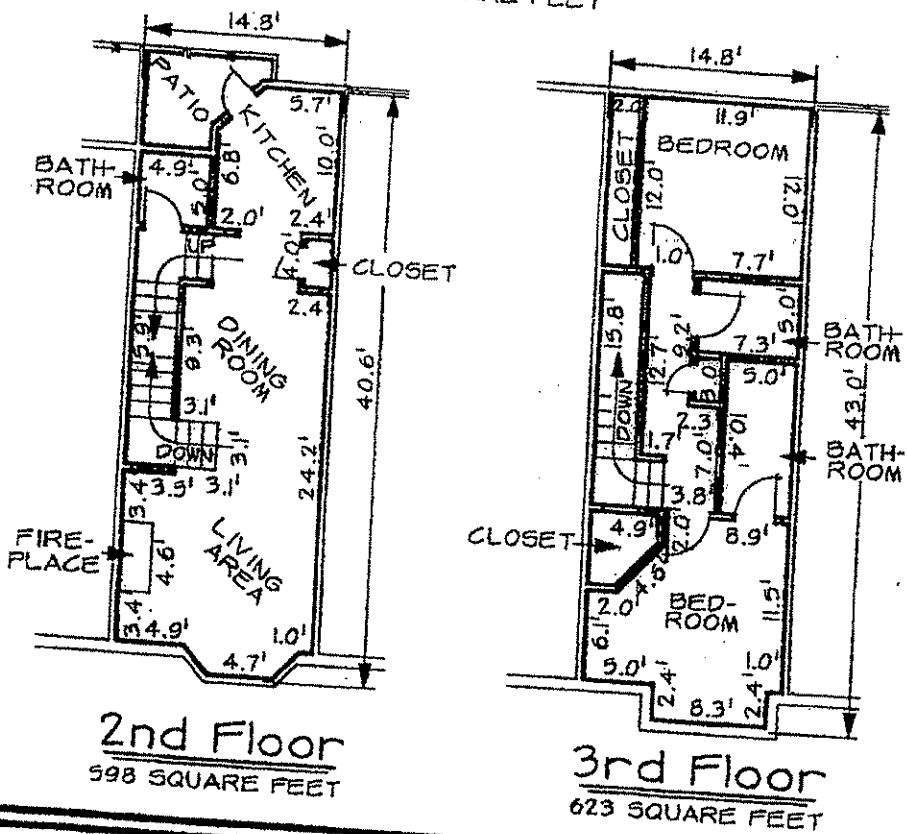
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

CARRIAGE HOUSE CONDOMINIUMS  
UNIT 16



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



Drawn By: BOB

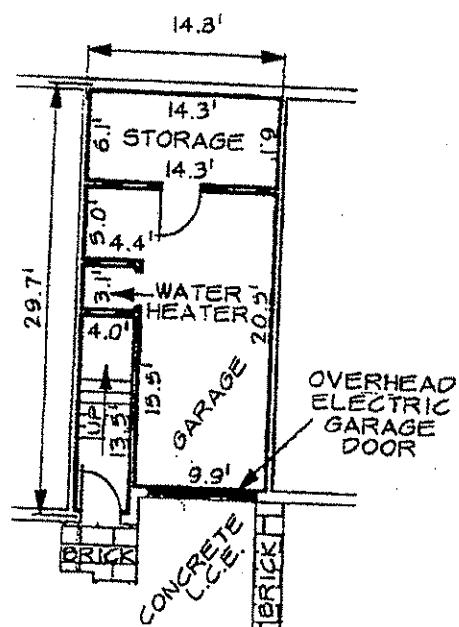
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Reviewed 03-12-2000  
Date 04-05-2000

Borrower:

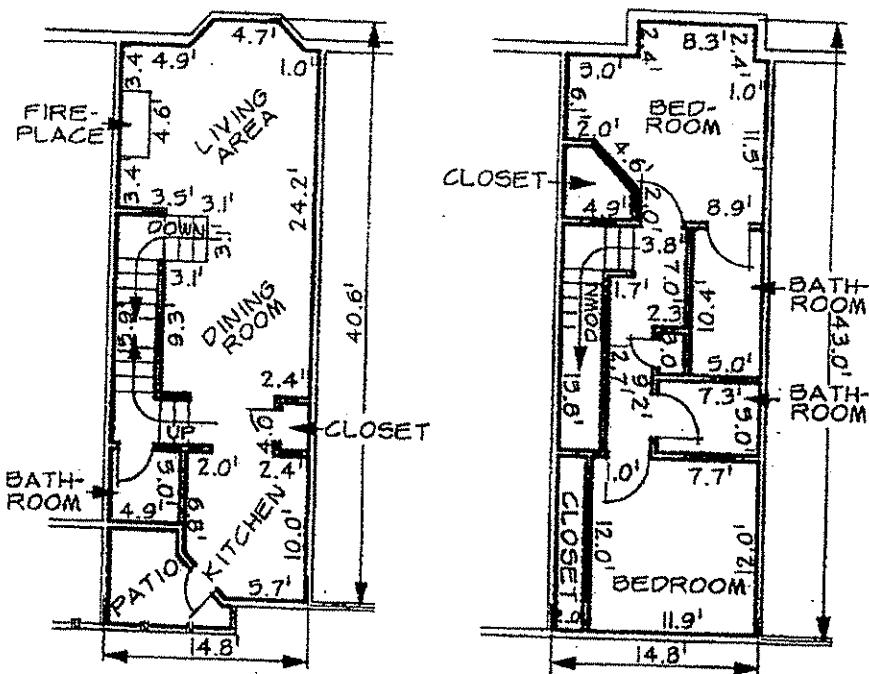
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 17



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

Drawn By: BOB

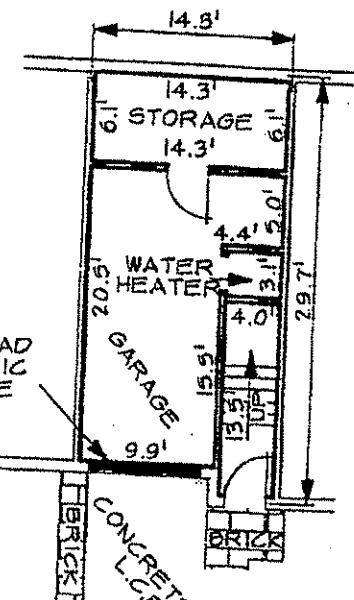
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Revised: 05-12-2000  
Date: 04-05-2000

Borrower:

Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9734 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

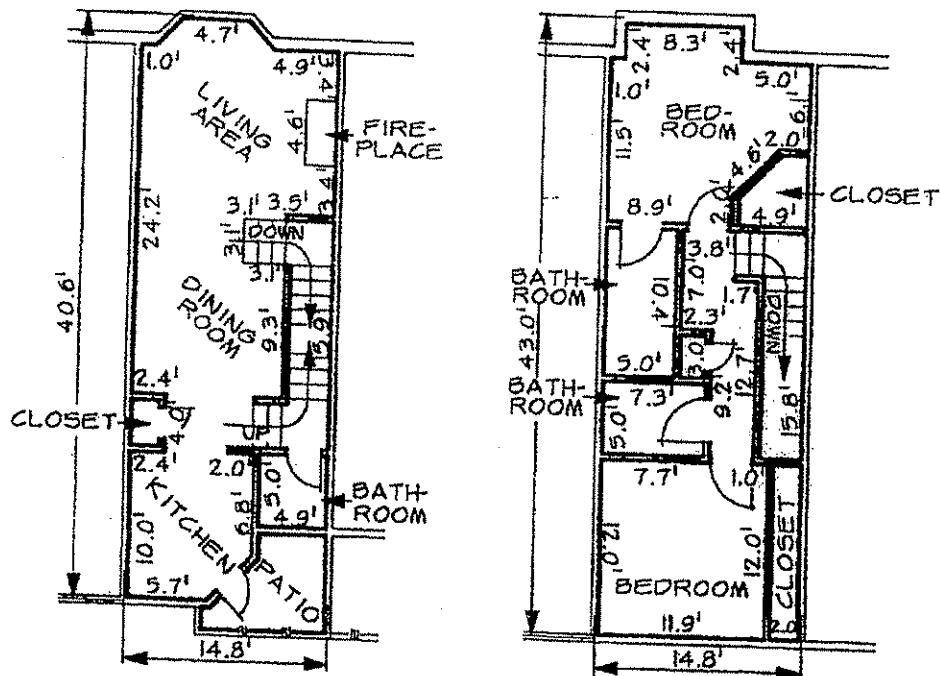
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 18



L.C.E. = LIMITED COMMON ELEMENT

1st Floor

420 SQUARE FEET



2nd Floor

598 SQUARE FEET

3rd Floor

623 SQUARE FEET

Drawn By: 308

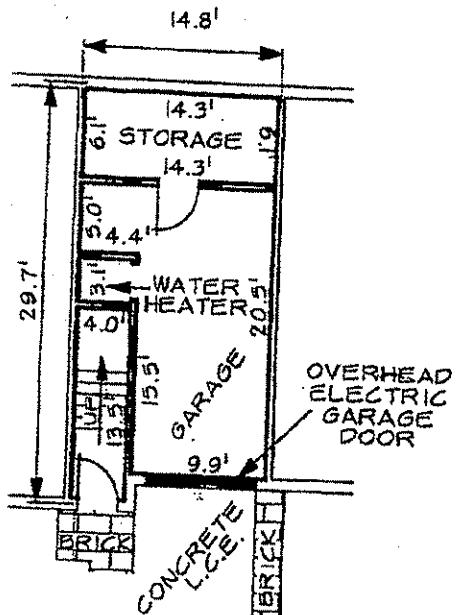
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Revised 05-12-2000  
Date: 04-05-2000

Borrower:

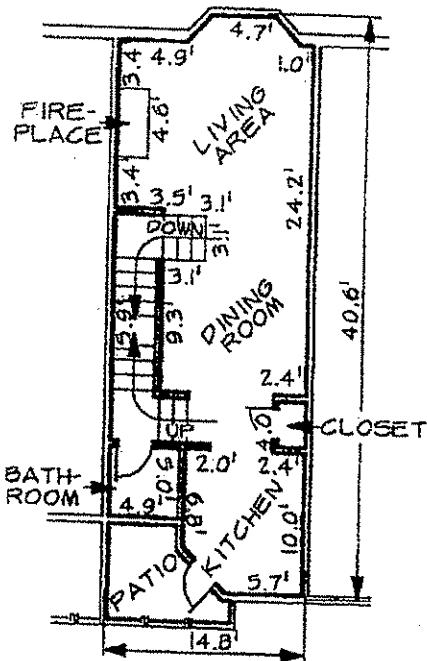
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9794 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcasurveying.com](http://www.dcasurveying.com)

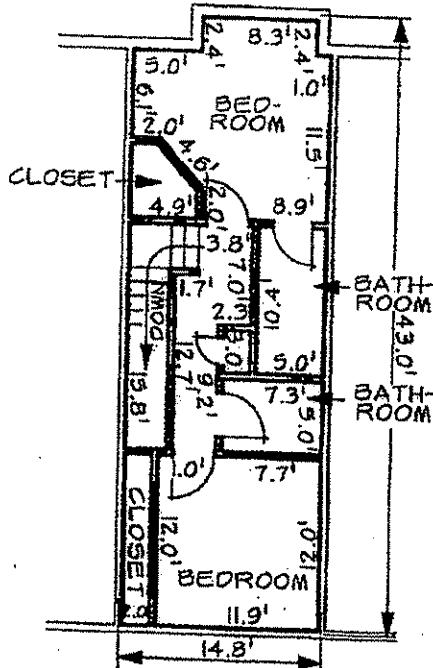
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 19



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET



3rd Floor  
623 SQUARE FEET

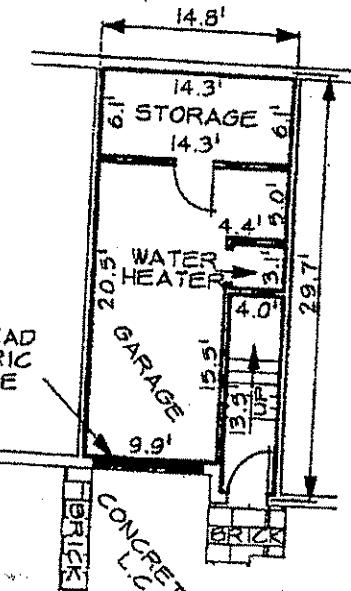
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Scale: 1"=10'  
Revised 05-12-2000  
Date: 04-05-2000

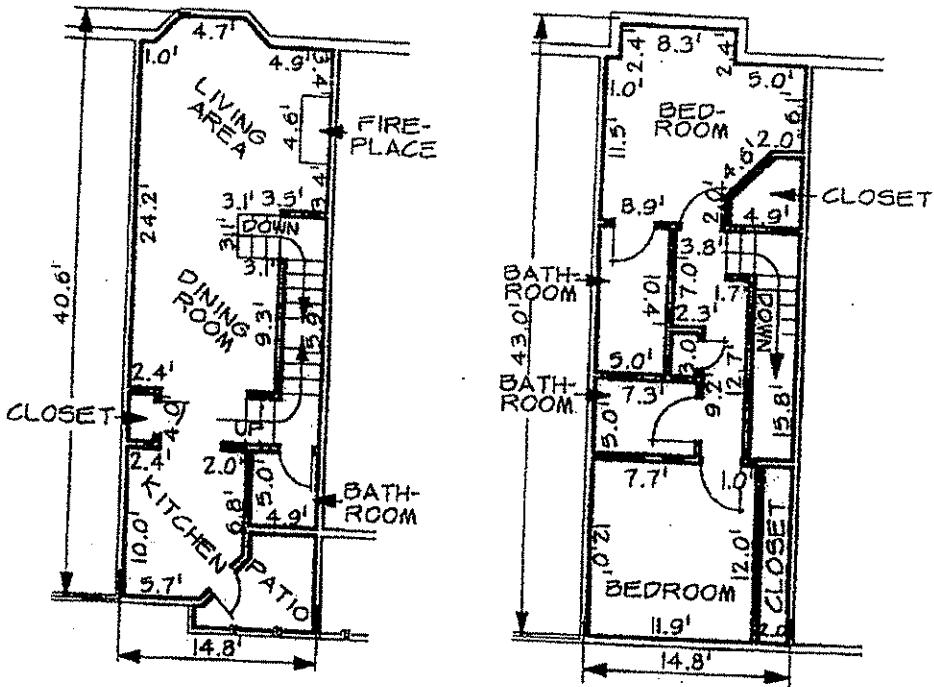
Borrower:

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DALLAS, TEXAS 75243  
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FAX (214) 349-2216  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 20



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



Drawn By: BOB

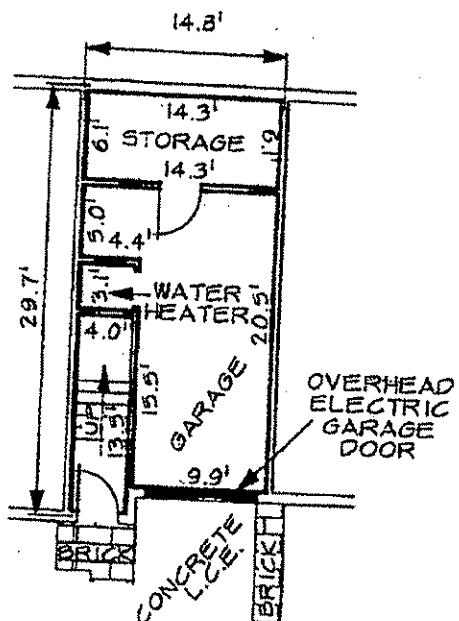
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Reviewed 05-12-2000  
Date: 04-05-2000

Borrower:

Job No. 0000A7-3

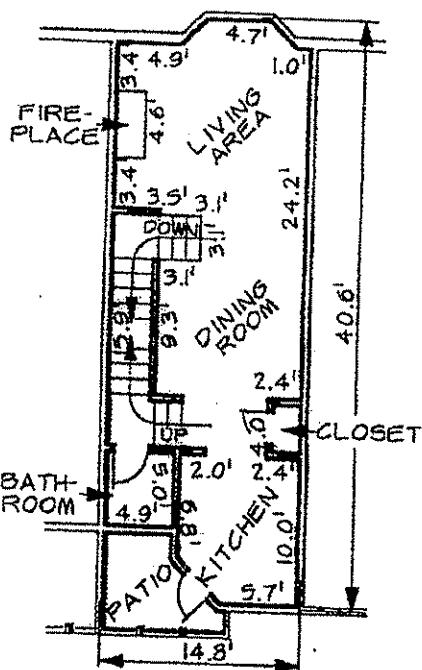
DOUG CONNALLY & ASSOC., INC.  
8754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
[www.dcaussurveying.com](http://www.dcaussurveying.com)

CARRIAGE HOUSE CONDOMINIUMS  
UNIT 21

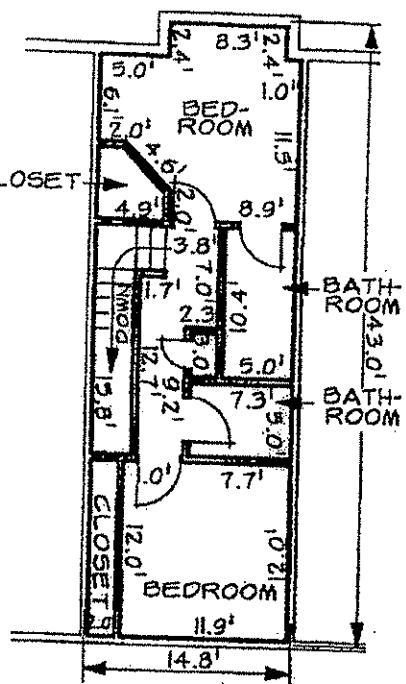


L.C.E. = LIMITED COMMON ELEMENT  
1st Floor

420 SQUARE FEET



2nd Floor  
598 SQUARE FEET



3rd Floor  
623 SQUARE FEET

Drawn By: SDB

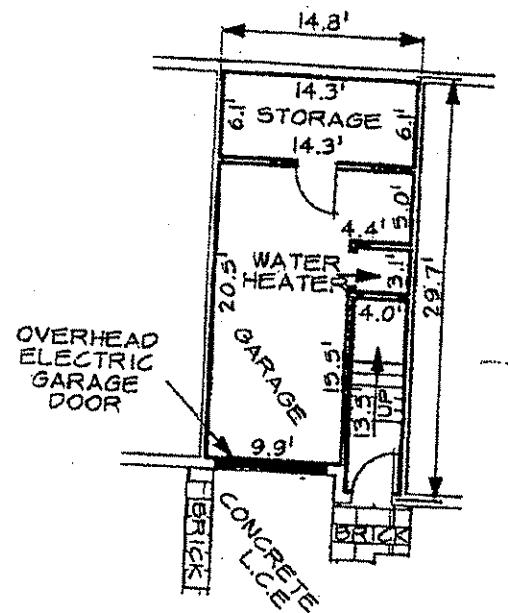
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Revised 05-12-2000  
Date 04-05-2000

Borrower:

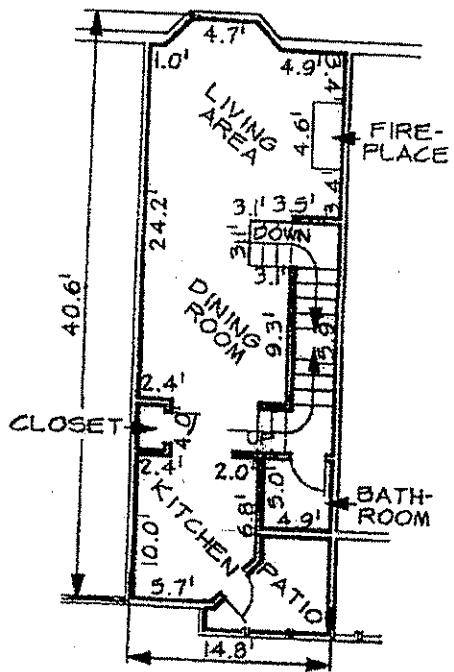
Job No. 000063-3

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9734 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
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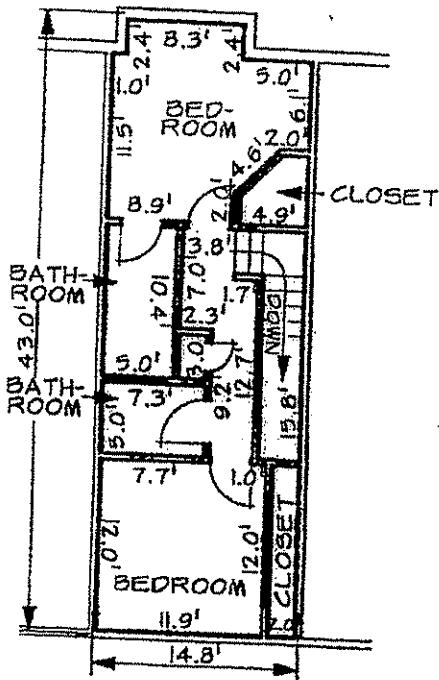
CARRIAGE HOUSE CONDOMINIUMS  
UNIT 22



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET



3rd Floor  
623 SQUARE FEET

Drawn By: BOB

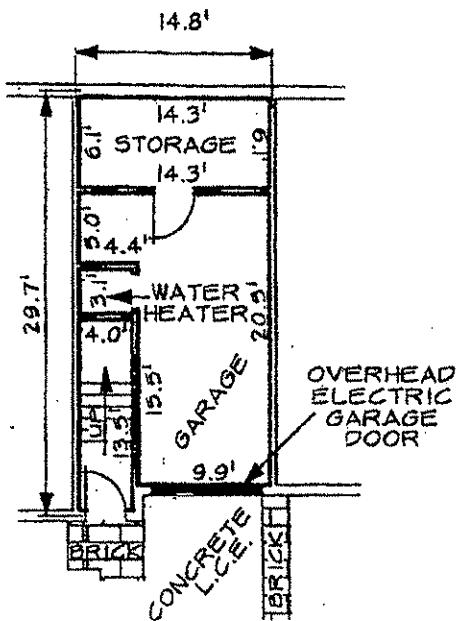
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Revised: 05-12-2000  
Date: 04-05-2000

Borrower:

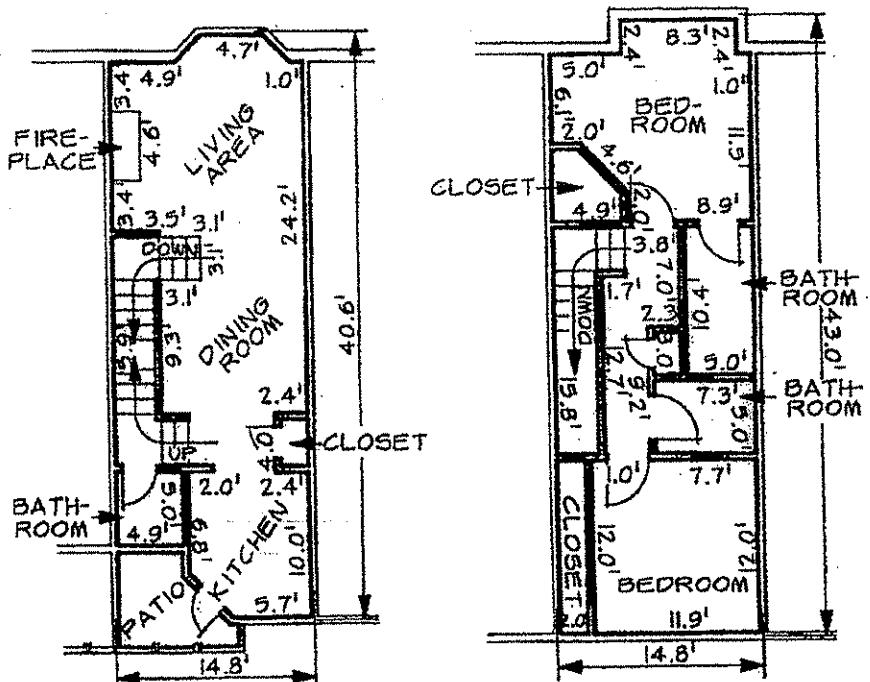
Job No. 000063-3

DOUG CONNALLY & ASSOC., INC.  
9754 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 23



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

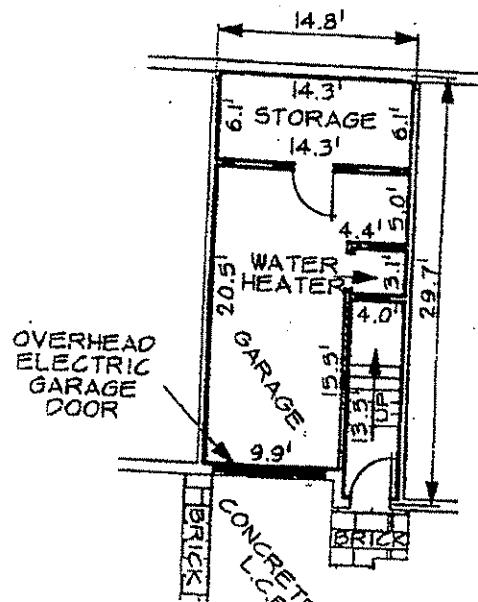
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Scale: 1"=10'  
Revised 05-12-2000  
Date: 04-05-2000

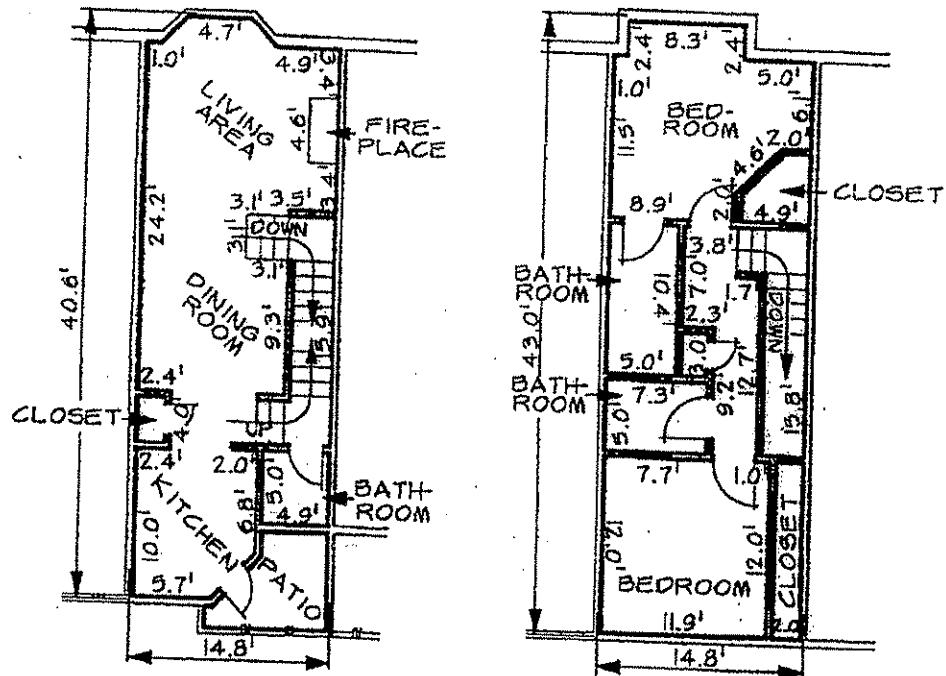
Borrower:

DOUG CONNALLY & ASSOC., INC.  
9734 SKILLMAN STREET  
DALLAS, TEXAS 75243  
PHONE (214) 349-9485  
FAX (214) 349-2216  
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CARRIAGE HOUSE CONDOMINIUMS  
UNIT 24



L.C.E. = LIMITED COMMON ELEMENT  
1st Floor  
420 SQUARE FEET



2nd Floor  
598 SQUARE FEET

3rd Floor  
623 SQUARE FEET

Drawn by: BOB

Scale: 1"=10'

Revised: 05-12-2000  
Date: 04-05-2000

Borrower:

Job No. 000063-3

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