

HOMEOWNERS ASSOCIATION OFFERING PLAN

THIS OFFERING RELATES SOLELY TO MEMBERSHIP IN THE ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC. AND THE DECLARATION OF COVENANTS AND RESTRICTIONS

APPLICABLE TO 14 HOMES SOLD AT ELLISON HEIGHTS TOWNHOMES. THE PURCHASE PRICE OF HOMES INCLUDES MEMBERSHIP IN THE HOMEOWNERS ASSOCIATION.

**ELLISON HEIGHTS
HOMEOWNERS ASSOCIATION, INC.
OLD PENFIELD ROAD
TOWN OF PENFIELD
COUNTY OF MONROE
STATE OF NEW YORK**

APPROXIMATE AMOUNT OF OFFERING (COMMON AREAS) \$1,000 (Nominal Value) (14 Units) (This amount is based upon the total value of the improved common property to be owned and maintained by the Homeowners Association).

NAME AND ADDRESS OF SPONSOR: Ellison Heights LLC
197 West Main Street
Victor, New York 14564

NAME AND ADDRESS OF SELLING AGENT: RSM Real Property, LLC
197 West Main Street
Victor, New York 14564

Date of Acceptance for Filing: September 13, 2006

This plan may not be used after September 12, 2007 unless extended by amendment.

THIS OFFERING PLAN IS THE ENTIRE OFFER TO SELL MEMBERSHIP INTERESTS IN THE HOMEOWNERS ASSOCIATION. NEW YORK LAW REQUIRES THE SPONSOR TO DISCLOSE ALL MATERIAL INFORMATION IN THIS PLAN AND TO FILE THIS PLAN WITH THE NEW YORK STATE DEPARTMENT OF LAW PRIOR TO SELLING OR OFFERING TO SELL ANY MEMBERSHIP INTERESTS. FILING WITH THE DEPARTMENT OF LAW DOES NOT MEAN THAT THE DEPARTMENT OR ANY OTHER GOVERNMENT AGENCY HAS APPROVED THIS OFFERING.

SEE PAGE 1 FOR SPECIAL RISKS TO PURCHASERS.

THIS OFFERING PLAN CONTAINS THE TERMS OF THE OFFER OF SALE AND THE OBLIGATIONS OF THE SPONSOR.

PLEASE READ IT CAREFULLY.

THE PROPERTY YOU ARE PURCHASING IS PART OF A PRIVATE SELF-GOVERNING SUBDIVISION WHICH MAY INITIALLY BE CONTROLLED BY THE SPONSOR

YOUR OBLIGATIONS AS A LOT OWNER ARE INCLUDED IN THIS PLAN. THIS PLAN IS PREPARED AND ISSUED BY THE SPONSOR OF THIS SUBDIVISION. IT HAS BEEN FILED WITH THE ATTORNEY GENERAL OF THE STATE OF NEW YORK, DEPARTMENT OF LAW, REAL ESTATE FINANCING BUREAU, 120 BROADWAY, NEW YORK, NEW YORK 10271.

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PART I

I. SPECIAL RISKS

1. There will be 14 townhomes in this development. The Sponsor will complete all improvements to Association property. The driveways and landscaped areas will be finished. There are no bonds or other security established to guarantee the completion by Sponsor of any of the improvements. Therefore, the completion of the project is dependent upon the continued financial ability of the Sponsor (see page 14).

2. The Sponsor will control the Homeowners Association for up to three (3) years after the sale of the first townhome in that the Sponsor retains the right to designate the directors until all lots are transferred or for three (3) years, whichever first occurs (see page 15).

3. The current management agreement is a contract between the Homeowners Association and RSM Development Co., LLC ("*RSM*"), as management agent. RSM is a company owned by some of the principals of Sponsor. The agreement may be terminated by the Board of Directors of the Association at the end of three years. (see Management Agreement, in Part II of this Plan).

4. The current maximum amount in any account which will be insured by the Federal Deposit Insurance Corporation (F.D.I.C.) is \$100,000. It is possible that deposits totaling more than \$100,000 could be placed in the Ellison Heights Townhomes Special Escrow Account at any given time. Any amount in excess of \$100,000 would not be covered by F.D.I.C. insurance (see page 9).

PART I

II. INTRODUCTION

This Offering is being made by Ellison Heights LLC (hereafter "*Sponsor*" or "*Declarant*"). The property which is the subject of this Offering is located on Old Penfield Road in the Town of Penfield, Monroe County, New York. The Sponsor acquired this property plus an additional 10.3 acres totaling 18.9 acres in February, 2005. The parcel being offered under this plan consists of 8.6 acres, including home sites. The common areas are 7.5 +/- acres.

All of the land within the development will be owned in fee by either the Ellison Heights Homeowners Association, Inc. (hereafter "*Association*" or "*Homeowners Association*" or "*HOA*") or by the individual townhome owners. Each townhome owner will own his home and garage and the lot on which the house and garage are located. The Homeowners Association will own and/or maintain 7.5 +/- acres being the landscaped areas, and private road. The Association will provide services such as road and driveway snow removal, trash removal for the townhomes and all landscaping in the subdivision. It will also insure the townhomes maintain the private road, and accumulate reserves.

The number of lots with membership in the Homeowners Association being offered under this plan (hereafter "*Plan*" or "*Offering Plan*"), will be fourteen (14) lots. All homes will be single family residences.

All owners of lots in Ellison Heights will automatically become members of the Ellison Heights Homeowners Association, Inc. The Association is a corporation formed under the Not-For-Profit Corporation Law of the State of New York for the purposes of owning and maintaining the common property. The function of this Association is to own and maintain the common property and to provide services for lot owners. Upon the sale of any lot and residence thereon, the membership of the former owner is automatically terminated and the new owner automatically becomes a member of the Association.

The price of the townhomes or lots includes the cost of membership in the Association and the prices are set by the Sponsor alone and are not subject to review or approval by the Department of Law or any other government agency. There are no fees or dues for membership in the Association, but monthly assessments will be collected.

The Town of Penfield will provide road maintenance and snow removal for Old Penfield Road, a dedicated road. Police protection will be provided by the Monroe County Sheriffs Department. Fire protection will be provided by the Town of Penfield Fire Department. The Association will provide road maintenance for and snow removal from the road owned by the Association as described in the projected budget. The Association will contract with a private disposal company for the collection and removal of refuse from the development.

Water and sewer will be supplied by the Monroe County Water Authority. Electricity and natural gas will be provided by Rochester Gas and Electric Corporation.

The 10.3 acre area adjacent on the east to the Homeowners Association is owned by Sponsor. It is in a MR (multiple residence) zone. It will be developed into 105 or 210 condominiums contained in 1 or 2 high rise towers, depending on market demand. The condominium project will be completely separate from the Homeowners Association and no amenities will be shared.

This Plan contains all of the detailed terms of the Homeowners Association transaction. Copies of the Plan and all Exhibits submitted to the Department of Law will be available for inspection without charge and for copying at a reasonable to prospective purchasers and their attorneys at the site whenever the on-site sales office, if any, is open and at the office of Sponsor/Selling Agent.

THE PURCHASE OF A LOT ASSOCIATED WITH MANDATORY MEMBERSHIP IN A HOMEOWNERS ASSOCIATION HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES. THE ATTORNEY GENERAL STRONGLY URGES YOU TO READ THIS OFFERING PLAN CAREFULLY AND TO CONSULT WITH AN ATTORNEY BEFORE SIGNING A PURCHASE AGREEMENT.

III. DESCRIPTION OF COMMON AREAS TO BE OWNED AND MAINTAINED BY THE HOA

The common areas to be owned by the HOA consist of 7.5+/- acres of vacant land. This land will be improved only by 12 common parking spaces, 2 retaining walls and one internal private road for access to the individual units. The road will meet the construction requirements of the town of Penfield for private roads. A more detailed description of the common areas is included as Exhibit C in Part II of this Plan.

The road to be constructed will be twenty feet (20') wide and will consist of a twelve inch (12") crushed stone base, a three inch (3") concrete and asphalt binder and a one and one-half inch (1- 1/2") concrete top coat. There is no intention to dedicate the private road. Therefore, it is not built to Town specifications for public roads.

Water, sanitary sewer and storm sewer service will be constructed by the Sponsor within the HOA property. Each of these systems will be dedicated to the Town of Penfield. The description of the water and sewer system is set forth in the Property Description included as Exhibit C-1, in Part II of this Plan. The Sponsor has posted a letter of credit with the Town to cover the cost of construction and a bond equal to 10% of the cost of construction will be posted with the Town for a one year period following dedication of the water and sewer systems to the Town. No certificate of occupancy will be issued until the water and sewer systems have been accepted for dedication.

All homes being sold under this Plan are being built by Sponsor or its affiliated companies and upon completion will be in compliance with all Town of Penfield building and zoning ordinances. It is contemplated that the first homes will be ready for occupancy by August 2006 with all homes completed by August 2007.

**SCHEDULE A
ELLISON HEIGHTS
BUDGET FOR FIRST YEAR OF HOA OPERATION'
BEGINNING SEPTEMBER 1, 2006**

Projected Income	
Maintenance Charges (\$263.00 per month x 14 Townhomes)	\$ 44,204.00
Other Income	<u>-0-</u>
 TOTAL	 \$ 44,204.00

Projected Expenses	
Electricity	\$ -0-
Supplies	-0-
Landscaping (mowing and trimming).....	14,660.00
Snow removal	7,875.00
Refuse Removal	2,184.00
Insurance	10,154.00
Management Fee	4,800.00
Legal Fees	250.00
Accounting Fees.....	2,000.00
Taxes:	
Real Property taxes	281.00
Franchise and Corporate Taxes.....	-0-
Reserves:	
Sealing, Roofs and Minor Exterior Repairs	<u>2,000.00</u>
 TOTAL	 \$ 44,204.00

FOOTNOTES TO SCHEDULE A

1. If the actual commencement date of HOA operation is delayed by more than six months from this projected budget year, this Plan will be amended to include a revised budget disclosing then current projections. If the amended projections exceed the original projections by twenty-five (25%) percent or more, the Sponsor will offer all purchasers the right to rescind to be exercised within fifteen (15) days after presentation to purchaser of the revised projections. If a purchaser rescinds as provided in this footnote, any deposit made by that purchaser will be refunded within fifteen (15) calendar days of receipt by Sponsor of written notice of rescission.

2. **Allocation of Maintenance Charges**

The maintenance charges will be allocated equally to each unit and shall be paid to the Association monthly. The estimated annual maintenance charge for each unit is \$3,156.00 which will be paid monthly in the amount of \$263.00.

3. **Electricity**

This item is shown as zero because there will be no electricity used on the HOA Property or billed to the HOA. Each residential unit is separately metered.

4. **Maintenance and Supplies**

The Sponsor estimates that there will be no supply charges incurred by the HOA. All common area expenses are included in estimates from those contractors or vendors providing landscaping, ground maintenance, snowplowing, insurance and trash collection. Any postage and stationery costs associated with billing and notices to homeowners will be borne by RSM Development Co., LLC under its management contract.

5. **Landscaping**

Lawn care and landscape services which will include lawn care, spring clean up, grass pick-up and trimming, mulching as needed, fall leaf raking and care of all landscaped areas in the subdivision will be provided by Pittsford Tree and Landscape, Inc., 3830 Rush Mendon Road, Mendon, NY 14606, as set forth in its proposal dated January 25, 2006.

6. **Snow Removal**

Snow removal services consisting of plowing snow from the private road, individual driveways, as well as walk shoveling will be provided by Pittsford Tree and Landscape, Inc. at an annual cost of \$7,875.00 as stated in its proposal dated January 25, 2006.

7. Refuse Removal

Waste Management, Inc., 1661 Mt. Read Boulevard, Rochester, NY 14606, will provide refuse removal and disposal and re-cycling services on a weekly basis as set forth in its quote dated February 28, 2006. The budgeted figure is based on weekly pick up of the Heberle owned 64 gallon toter from each unit.

8. Insurance

The insurance cost of \$12,318.00 is based on the quote from LRMP, Inc. dated January 25, 2006. Blanket property insurance on all buildings ("bare walls coverage") will be carried at full replacement value in the total amount of \$2,400,000. This amount is based on the review of the project by LRMP, Inc. With full replacement value coverage the insured will not be a co-insurer in the event of a partial loss. The policy shall provide that each homeowner is an additional insured party and there will be no cancellation without notice to the Board of Directors and that there shall be a waiver of subrogation, a waiver of invalidity because of the acts of the insured homeowners and a waiver of pro-rata reduction if homeowners obtain additional coverage.

In addition, there is general liability coverage for the Association in the amount of \$2,000,000. The unit owners shall carry insurance to cover interior improvements, personal property and general personal liability coverage.

9. Management Fee

RSM Development Co., LLC, a company controlled by Sponsor, will provide management services, including formulation of the budget, dealing with all service providers, billing and collecting all maintenance charges and general administrative services for a total annual charge of \$4,800 as set forth in the quote provided by RSM Development Co., LLC dated January 31, 2006.

10. Legal Fees

An estimate of \$250 for legal fees dated March 13, 2006 has been provided by Fix Spindelman Brovitz & Goldman, PC for general consultation which is expected to be minimal during the first year.

11. Accounting Fees

Davie, Caplan, Chapman, Braverman, Certified Public Accountants, 1000 First Federal Plaza, Rochester, NY 14614, has provided an estimate for accounting service dated February 1, 2006 in the amount of \$2,000 for the first year of operation. These services will include providing an annual audit of the Association activities.

12. Taxes

The Town of Penfield Assessor has stated by letter dated March 2, 2006 that the common area of Ellison Heights will be assessed at approximately \$1,000.00 per acre and that the current tax rate is \$35.49 per \$1,000 of assessment. There is a total of 7.5 acres which will be owned by the Association resulting in a total estimated assessment of \$7,500.00 and a tax of approximately \$281.00. It is estimated by Fix Spindelman Brovitz & Goldman, PC, attorney for Sponsor, that the Association will incur no liability for corporate taxes or franchise taxes based on projected budget for the first year (see opinion letter dated March 31, 2006).

13. Reserves

A reserve of \$2,000.00 per year is being established for resealing the private road and driveways, minor exterior painting (trim only) and future roof repairs and replacements. The private road consist of a 12 inch compacted crushed stone base and a 3 inch concrete and asphalt binder topped with a 1-1/2 inch concrete topcoat. It is estimated that the paved areas should be sealed every three (3) years. This estimate is based on the recommendation submitted by Floyd Frey, Inc., 710 Quaker Road, Macedon, NY 14502, dated February 20, 2005.

No reserve has been established for replacement of the private road. The Sponsor has been advised by Floyd Frey, Inc., that if the road is properly maintained, it should last indefinitely.

The balance of the reserve figure has been set aside for trim painting and eventual roof repairs and replacement. The new roofs have a useful life of approximately 20 – 25 years. The reserve fund will also be used for minor exterior repairs to the Units. The Units are maintenance free siding.

V. PROCEDURE TO PURCHASE

A prospective purchaser ("*Purchaser*" or "*Purchasers*") shall execute and deliver the Purchase and Sale Contract on the form set forth in Part II of this Offering Plan. Once executed by Purchaser and Sponsor, the agreement becomes a binding obligation on both parties subject only to those contingencies set forth in the contract. As set forth in the contract, all deposits shall be made payable to Fix Spindelman Brovitz & Goldman, P.C., as Escrow Agent to be held in escrow as set forth below.

The Sponsor will comply with the escrow and trust fund requirements of General Business Law Section 352-e(2-b) and 352-h and the Attorney General's regulations promulgated pursuant thereto.

Any provision of any contract or agreement, whether oral or in writing, by which a purchaser or subscriber purports to waive or indemnify any obligation of the escrow agent holding trust funds is absolutely void. The provisions of the Attorney General's regulations concerning escrow/trust funds shall prevail over any conflicting or inconsistent provision in this Offering Plan or in a purchase agreement. Purchasers shall not be obligated to pay any legal or other expense of the Sponsor in connection with the establishment, maintenance or defense of obligations arising from the handling or disposition of trust funds.

All deposits, down payments, or advances made by Purchasers prior to closing of each individual transaction, whether received before or after the date of consummation of the plan, will be placed, within five business days after the agreement is signed by all necessary parties, in a segregated special escrow account of Fix Spindelman Brovitz & Goldman, P.C., the Escrow Agent, whose address is 295 Woodcliff Drive, Fairport, New York 14450 and whose telephone number is (585) 641-8000.

The signatories on this account authorized to withdraw funds are: Paula A. Lapin, and Richard Brovitz all of whom are attorneys at Fix Spindelman Brovitz & Goldman, P.C., with offices set forth above.

The name of the account is "Ellison Heights Special Escrow Account" located in M&T Bank at 255 East Avenue, Rochester, New York 14604. This bank is covered by the federal deposit insurance corporation (FDIC) to a maximum at any given time of \$100,000 per individual Account. (If total deposits in the account exceed \$100,000 at any given time, it is a special risk of this offer that such deposits will not be federally insured in excess of \$100,000.)

The escrow account will be an Interest On Lawyer's Account (IOLA) pursuant to Judiciary Law Section 497 and no interest shall be earned by Purchaser or Sponsor.

All instruments shall be made payable to or endorsed to the order of Fix Spindelman Brovitz & Goldman, P.C., as escrow agent.

Within ten business days after tender of the deposit submitted with the purchase agreement, the escrow agent will notify the Purchaser that such funds have been deposited into

the escrow account and will provide the account number. If the Purchaser does not receive notice of such deposit within fifteen business days after tender of the deposit, the Purchaser may cancel the purchase and rescind so long as the right to rescind is exercised within ninety days after tender of the deposit or Purchaser may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited and requisite notice was timely mailed to the Purchaser in conformity with the Attorney General's regulations.

Since all contracts are contingent upon the plan's becoming effective, under no circumstances shall Sponsor apply for release of the escrowed funds of a defaulting purchaser until after consummation of the plan.

The escrow agent will hold funds in escrow until otherwise directed in

- (a) a writing signed by both Sponsor and purchaser; or
- (b) a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or
- (c) a judgment or order of a court of competent jurisdiction.

If there is no written agreement between the parties to release the escrowed funds, the escrow agent will not pay the funds to the Sponsor until the escrow agent has given the purchaser written notice of not fewer than ten business days. Thereafter, the funds may be paid to the Sponsor unless the purchaser has already made application to the Department Law pursuant to the dispute resolution provisions of the Attorney General regulations and has so notified the escrow agent in accordance with such provisions.

The Sponsor will not object to the release of the escrowed funds to

- (i) a purchaser who timely rescinds in accordance with an offer of rescission contained in the plan or an amendment to the plan;
- (ii) all purchasers after an amendment abandoning the plan is accepted for filing by the Department of Law.

Purchasers, and the escrow agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the down payment and any interest thereon. The Sponsor must avail itself of this procedure if there is a dispute which needs to be resolved. A form for this purpose is attached to the Escrow Agreement contained in Part II of this Plan. The party applying for determination must send all other parties a copy of the application.

Pending the determination of the Attorney General to grant or deny the application, the Sponsor, the purchaser, and the escrow agent shall abide by any interim directive issued by the Attorney General.

If the Application requesting release of funds is granted, the deposit shall be disposed of in accordance with the determination of the Attorney General subject to any court action in which preliminary relief is granted. The Attorney General is expected to act upon the Application within thirty (30) days after its submission to the Department of Law by either making a determination or notifying the parties that an extension of time in which to do so is necessary for stated reasons.

If the application seeking release of funds is denied, the escrow agent shall continue to hold the deposit until: (1) both the Sponsor and Purchaser direct payment to a specified party in accordance with a written direction signed by both the Sponsor and Purchaser; (2) a judgment or order of a court of competent jurisdiction is served on the escrow agent; or (3) the escrow agent deposits the disputed amount into court.

In no event shall the escrow agent release funds in dispute other than a payment of such funds into court until such dispute is finally resolved, either by determination of the Attorney General, by order or judgment of a court of competent jurisdiction or by written agreement from the Sponsor and the Purchaser.

The escrow agent will maintain all records concerning the escrow account for seven years after the release of funds.

It is expected that the first closing of a unit will occur approximately June 2006. If the first closing is delayed for any reason whatsoever beyond June 2007, a purchaser will be offered the right to rescind any purchase contract.

There shall be no forfeiture of any deposit unless all contingencies have been satisfied, the closing date set forth in the contract has passed and Sponsor has made a written demand that closing take place and the balance owed paid no sooner than thirty (30) days after the date of the written demand.

At Sponsor's option, Purchasers who have received the plan and all filed amendments will be afforded:

1. not fewer than seven (7) days after delivery of an executed purchase agreement together with the required deposit to rescind the purchase agreement, and have the full deposit refunded promptly. The Purchaser must either personally deliver a written notice of rescission to the Sponsor within the seven (7) day period or mail the notice of rescission to the Sponsor and have the mailing post-marked within the seven (7) day period; or
2. not fewer than three (3) business days to review the offering plan and all filed amendments prior to executing the purchase agreement.

The risk of loss from fire or other casualty remains with Sponsor unless and until a

Purchaser takes actual possession of the unit pursuant to an interim lease (or written agreement with the Sponsor) or legal title to the home has been conveyed to the Purchaser.

The purchase contract provides that it may be submitted subject to the Purchaser obtaining mortgage financing. If the Purchaser fails to obtain the required financing within the time period stated, either Purchaser or Sponsor may terminate the contract, all deposits will be returned and neither party will have any further liability under the contract. The time period within which the Purchaser must obtain financing will be negotiated between Purchaser and Sponsor on an individual basis. All financing will be negotiated directly by Purchasers independent of the Sponsor and the terms and conditions of any financing are the responsibility of the Purchaser. If the Purchaser elects not to make the contract contingent on financing, or if the Purchaser's financing commitment contains conditions which Purchaser has accepted but is unable to meet, the Purchaser may be in default under the purchase contract and may forfeit the deposit if it is unable to complete the closing.

If a Purchaser's obligations are contingent on obtaining a financing commitment and the financing commitment lapses or expires prior to closing, and the Purchaser has made a good faith effort to extend the commitment, Sponsor will grant to such Purchaser a right of rescission and a reasonable period of time to exercise that right.

The purchase agreement and Plan do not contain and may not be modified to contain any provision waiving purchaser's rights or abrogating Sponsor's obligations under Article 23-A of the General Business Law.

The purchase contract provides that it is personal to the parties and may not be assigned by Sponsor or Purchaser without the consent of the other party.

Any conflict between this Offering Plan and the contract of sale will be resolved according to the terms of this Plan.

The Sponsor must either accept the contract and return a fully-executed counterpart to the Purchaser or reject the contract and refund the full deposit previously tendered within five (5) business days after a Purchaser delivers an executed contract of sale, together with the required deposit to the Sponsor. Failure by the Sponsor to respond to an executed purchase contract within such time period will be considered rejection of the offer and any deposits tendered shall be returned immediately.

VI. TERMS OF SALE

All property to be conveyed to the Homeowners Association will be conveyed by a full warranty deed. A copy of the proposed deed is included in Part II of this plan. The Sponsor is obligated to repair any damage to the property to be conveyed to the HOA from a casualty or any other cause which occurs prior to the transfer of the property to the HOA. Title to the HOA property will be conveyed to the HOA free and clear of all liens and encumbrances and title exceptions other than those described in this Offering Plan and the proposed HOA deed. Title exceptions will include such state of facts shown on the site plan included in Part II, including

those easements set forth on the site plan. In addition, the Declaration of Covenants, Conditions and Restrictions set forth in Part II of this Plan shall be recorded prior to the first conveyance of title to a home in accordance with the disclosure set forth in this Offering Plan. That declaration shall be recorded in the Monroe County Clerk's Office.

The transfer of title of individual units shall take place only after or concurrently with the issuance of the certificate of occupancy for the unit being conveyed.

The Sponsor will provide the Limited Warranty and complete all improvements in accordance with the Limited Warranty and Residential Construction Performance Guidelines prepared by the Rochester Home Builders' Association, Inc. A copy of the Warranty is included as Exhibit VI in Part II of this Plan. This Warranty sets forth the scope and limitations of the Sponsor's warranties which apply to each townhouse unit.

VII. RIGHTS AND OBLIGATIONS OF THE SPONSOR

1. The Sponsor will defend any suits or proceedings arising out of Sponsor's acts or omissions and indemnify the Board of Directors in any of said suits or proceedings.

2. All obligations pursuant to the General Business Law and such additional obligations under the Offering Plan which are to be performed subsequent to the closing date will survive delivery of the deed.

3. This Offering Plan is for the sale of fourteen (14) lots. The Sponsor will complete the road and parking areas and landscape the Common Properties. The Sponsor estimates that the homes and common areas will all be built by September, 2008.

4. The Sponsor has obtained construction mortgage financing for completion of the development through HSBC.

5. The Sponsor will complete all Association property in accordance with the specifications identified in this Plan. Sponsor reserves the right to substitute materials and make modifications in design provided it does not substitute materials of lesser quality or design.

6. Sponsor will pay for all improvements in the development and for the installation of all Association property that Sponsor is obligated to complete under the Plan and will cause all mechanic's liens with respect to such construction to be promptly discharged or bonded.

7. The Sponsor will file the Declaration and will convey the Association property to the Association prior to closing title to the first lot. The Sponsor will complete the construction of all roads serving the lots, excepting the finished surface, and any other facilities that are vital to the health and safety of the owners prior to closing title of the first lot. Some final Association landscaping and completion of the finished surface of the road may not be completed at the time of transfer of title to the lots. The HOA property will be released from the provisions of Sponsor's construction loan mortgage prior to closing title to the first home and conveyance of the HOA property to the HOA.

8. Upon completion of the development the Sponsor will deliver a set of "as built" plans of common property improvements to the Board of Directors including specifications of roads, and a representation that the plans and specifications are in substantial compliance with the terms of the Offering Plan. If the plans or specifications, as built, are not in substantial compliance with the terms of the Offering Plan, the plan will be amended and rescission will be offered to all purchasers and members.

9. The Sponsor does not intend to furnish any bond or other security to secure its obligation to complete the Association property except for those bonds required by the Town of Penfield in connection with dedication of the water and sewer systems.

10. While Sponsor is in control of the Board, the Sponsor shall procure fire and casualty insurance for the Homeowners Association property pursuant to an agreed amount replacement cost policy or in an amount sufficient to avoid co-insurance, as reflected in Schedule A.

11. In the event of the dissolution or liquidation of the Sponsor or the transfer of 3 or more homes to a purchaser who is not purchasing for occupancy by the purchaser or his/her family, the principals of the Sponsor will provide financially responsible entities who at the time of the engaging in sales actively will assume the status and all of the obligations of Sponsor for the transferred homes under this plan, and applicable laws or regulations. If the Sponsor dissolves, the principals will guarantee the obligations of the new Sponsor.

12. Sponsor retains a right of access to the Homeowners Association property to complete the townhome development and Homeowners Association improvements. Sponsor shall repair any damages done to the Homeowners Association property by exercise of such access right and will exercise such right to minimize any interference with homeowners.

13. Homeowners Association property will be insured at closing by a title company that is authorized to do business in New York State. The amount of coverage will be \$35,000.00.

14. Sponsor will be responsible for the difference between the actual Association expenses (including reserves) applicable to completed improvements as provided in the Homeowner's Association budget, and the Homeowners Association charges levied on owners who have closed on their homes as projected in Schedule A of the Offering Plan which shall be paid to the Homeowners Association on a monthly basis.

15. Sponsor has the financial resources to meet its obligations with respect to unsold homes and it will fund them primarily from income from projected sales. Should such sales not be made Sponsor can make its other assets available to cover such obligations.

VIII. CONTROL BY SPONSOR

The Sponsor will retain control of the Board of Directors for a period of up to three (3) years after the transfer of the first lot. This control is retained through the power to designate the Directors of the Association. At such time as all lots have been transferred or three (3) years after the closing of the first lot all lot owners shall have an equal vote, in the election of the Directors and all other matters as defined by the By-Laws. The Sponsor may not exercise his control of the Board to reduce the level of services described in the Offering Plan, prevent expenditures required to comply with applicable laws and regulations, fail to remedy any notice of violation or fail to remedy any work order by an insurer.

During the period that the Sponsor is empowered to elect the Directors, no mortgage liens will be placed on the Association property without the consent of at least fifty-one percent (51%) of the lot owners excluding the Sponsor or Sponsor's nominees. Certified financial statements for Association activities will be provided to members each year for so long as the Sponsor remains in control of the Board of Directors.

As long as Sponsor has unsold lots which are offered for sale pursuant to this Plan the Sponsor shall amend the Plan whenever there is a change in the budget or when one (1) year has passed since the last budget was updated. The amendment shall include the prior year's certified financial statements.

IX. THE HOMEOWNERS ASSOCIATION

Prior to the conveyance of the first lot in this Subdivision the Sponsor will record the Declaration of Covenants, Conditions and Restrictions ("*Declaration*") which will affect all the land in this Subdivision. Each lot in the subdivision will be conveyed subject to the Declaration and each purchaser will become a member of the Homeowners Association. The Association is formed for the purpose of owning all HOA property, governing its use and maintenance and carrying out those responsibilities assigned to it under this Plan, the Declaration and By-laws. By its terms ownership of a lot mandates membership in the Association. Only the members of the Association will be lot owners and all lot owners will automatically become members.

All lots are subjected to the Declaration to provide lot owners with assurance that certain services and amenities are provided for all owners in the project. There will be 14 lots whose owners are members of the Homeowners Association. Although the Sponsor contemplates completion of the development within three (3) years after commencement of construction there is no time limit placed on the Sponsor for completion. The Declaration does not allow the Sponsor to annex other real estate.

The Declaration shall run with the land and be effective for a thirty (30) year period following the recording of the Declaration. The Declaration will automatically be extended for additional successive ten (10) year periods unless the owners of at least seventy-five percent (75%) of the lots elect to terminate the covenants.

There are no restrictions on who may purchase a lot and become a member of the Homeowners' Association except that occupancy is limited to single family residential use. No alterations may be made to the exterior of the dwelling or to the fences, mailboxes or walls, without prior consent of the Board of the Association. No large motor vehicles, trailers, boats or campers, may be stored at the premises except within the garages. Small private passenger vehicles shall be stored and parked only in the garage or on the driveways. No motorized vehicle of any kind shall be allowed on any pedestrian path, except for maintenance vehicles, and motorized assistance given to disabled people.

Each lot shall be conveyed subject to certain easements as more particularly set forth in the Declaration. An easement is reserved to all public authorities and utility companies over any part of the property provided it does not interfere with any improvements. A blanket easement is established over all the property subject to the Declaration for the installation, maintenance, and repair of all utilities and for the entry by the Association or its agent to provide the services as needed.

Any land or construction loan mortgage on any part of the planned development will be subordinate to the Declaration.

The Association will obtain and maintain fire insurance on all dwellings ("bare walls coverage"). Members are responsible for the purchase and maintenance of all other insurance on their units. Liability insurance will be maintained by the Association for Association properties, and the cost of all insurance obtained by the Association will be included in the common charges.

Any purchaser of property in the development will take title subject to the Declaration. However, any mortgagee who acquires title through foreclosure or by Deed in Lieu of Foreclosure will take title free and clear of the lien for delinquent common charges. It will be liable, however, for common charges which accrue after it takes title.

The Association will be incorporated under the New York State Not-for-Profit Corporation Law prior to the conveyance of the first Lot. The Association is governed by the Declaration and by the By-Laws which set forth the rules for the operation of the Association.

The Association will be run by a Board of Directors consisting of at least three (3) but not more than five (5) members. Initially these directors need not be members of the Association. The initial directors will be selected by the Sponsor who will have the power to elect the directors until all lots are transferred or three (3) years after the first unit is transferred, whichever first occurs, at which time the Sponsor will only have one vote for as long as it owns at least one lot which vote will be similar to the vote of any other member. After the Sponsor's right to select the directors has terminated, directors will be members of the Association in good standing, and will serve for a three (3) year term. Board members may be removed with or without cause by a majority vote of the members of the Association. The Board of Directors shall declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings. The directors' regular

meeting time and place shall be determined by them. The first meeting of the Board of Directors will be held within ninety (90) days after the transfer of title to the first lot.

The officers of the Association shall be a President, Secretary and Treasurer. The term for an officer shall be one (1) year. Officers may be removed and replaced by vote of the directors at any meeting.

Each member of the Association shall be entitled to one vote in the operation of the Association. A member is the owner of any lot or lots. If more than one person owns a lot jointly, they shall jointly be considered a member and they shall share one vote. Prior to the transfer of all lots or three (3) years after the sale of the first lot, whichever first occurs, the Sponsor shall have one vote and it alone shall designate the directors. After all of the lots are transferred or three (3) years after the first unit is transferred, the Sponsor shall have only one vote if the Sponsor owns a lot, which will be on a par with the vote of all other lot owners.

The activities of the Association shall be governed by a majority vote of the members. However, special assessments over \$500 per lot may be made only with the concurrence of two-thirds of the votes of the members. The Declaration may be amended only by favorable vote of not less than eighty percent (80%) of the members until thirty (30) years after the recording of this Declaration and seventy-five percent (75%) of the members thereafter. The initial Board of Directors shall consist of:

Steven P. Mancini, Director and President
197 W. Main Street
Victor, New York 14564

Robert S. Mancini, Director and Vice President
P.O. Box 901
Bedford, New York 10506

Carol Mancini, Director and Secretary
197 W. Main Street
Victor, New York 14564

Steven Mancini and Robert Mancini are two of the principals of the Sponsor of this offering. Carol Mancini is the wife of Steven Mancini.

Each lot will be subject to an annual assessment for common area maintenance, insurance, and related expenses. Special assessments will be charged as needed.

The assessments will be levied on an annual basis as set by the Association's Board of Directors. The assessments will be calculated by the Board no later than December 1st of each year for the succeeding year. The annual assessment shall be paid by each owner on the first day of each month or as determined by the Board of Directors. Assessments will be pro-rated for each purchaser based on the date of closing.

Special assessments may be imposed by the Board, but if they exceed \$500 per lot, they will require the assent of at least two-thirds of the Association members.

The annual assessments, and any special assessments shall be paid equally by all lot owners.

All common assessments and special assessments are the personal obligation of the lot owner and, in addition, are liens against a lot owner's lot. If the assessment is not paid when due the lot owner is in default and the assessment will bear interest at a rate equal to the prime rate charged by M&T Bank plus 3 percentage points after thirty (30) days following the due date. In addition, the lot owner will be liable for any cost and expense including attorney's fees, incurred by the Association in collecting delinquent assessments. The Association may enforce the lien for assessments through a foreclosure action similar to a mortgage foreclosure which may result in the eventual sale of the property to pay for delinquent charges, interest and expenses.

The obligation to pay assessments is personal to the lot owner and will not pass to subsequent owners unless specifically assumed. The lien for the assessments will, however, continue even after transfer of title except in the event of foreclosure of a first mortgage lien or transfer of title to a first mortgagee by deed in lieu of foreclosure.

Owners who are delinquent in charges may be prohibited by the Association from using any common facilities other than the access road while they are delinquent. A lot owner's voting rights will not be suspended even though he is delinquent in payment of assessments.

The Board of Directors may levy fines for the violation of the Restrictions as stated in the Declaration, for violations of the By-Laws, and for violations of the rules and regulations promulgated by the Homeowners' Association. Unpaid fines will become unpaid assessments and will become a lien upon the property. A fine is not to exceed 10% of the annual assessment.

Sponsor agrees that after the first closing has occurred its obligation for Association charges for unsold lots shall not be less than an amount equal to the difference between the actual Association expenses, including reserves applicable to completed improvements as provided for in the projected Association budget, and the Association charges levied on lot owners who have closed title to their lots as projected in Schedule A of the Offering Plan which obligations shall be paid to the Association on a monthly basis.

X. OPINION OF COUNSEL

The opinion of counsel to the Sponsor is on the following pages.

Fix Spindelman Brovitz & Goldman

A PROFESSIONAL CORPORATION • ATTORNEYS AT LAW

Please Reply to
Rochester Office:
Paula A. Lapin, Esq.
295 Woodcliff Drive
Suite 200
Fairport, New York 14450
Telephone: (585) 641-8000
Fax: (585) 641-8080
E-mail: plapin@fixspin.com

Syracuse Office
5789 Widewaters Parkway
Syracuse, New York 13214
Telephone: (315) 701-0706
Fax: (315) 701-0711

Web Address: www.fixspin.com

March 31, 2006

Steven P. Mancini
Managing Member
Ellison Heights LLC
197 W. Main Street
Victor, New York 14564

Re: Ellison Heights Homeowners Association, Inc.

Dear Mr. Mancini:

You have asked us to render an opinion as to the various legal matters described below for inclusion in an Offering Plan for Ellison Heights Homeowners Association, Inc. (the "Association") which will be filed with the New York Attorney General pursuant to Part 22 of Volume 13 of the New York Codes, Rules and Regulations.

As the basis for our opinion, we have examined the Offering Plan for the Association dated March 31, 2006 (and the Exhibits referred to therein and attached thereto, including the Association's Certificate of Incorporation and By-Laws and the Declaration of Covenants, Restrictions, Easements and Liens governing the Association's property. We have also examined the applicable Federal and New York State tax laws, regulations, rulings and judicial decisions relevant to our opinion.

Under present law, regulations, rulings and judicial decisions and based on the terms of the Offering Plan, it is our opinion that:

1. The Declaration of Covenants, Restrictions, Easements and Liens, when recorded in the office of the Clerk of Monroe County, will be legal and valid.

2. The members of the Association will not be entitled to deduct any portion of Association membership dues, fees or assessments for Federal or New York State income tax purposes.

3. Assuming that the Association duly elects such status by annually filing a Form 1120-H U.S. Income Tax Return with the appropriate office of the Internal Revenue Service on or before the fifteenth day of the third month after the end of its taxable year and further assuming that, in accordance with the projected schedules of receipts and expenses appearing in the Offering Plan, 60% or more of the gross income of the Association for each taxable year will consist solely of amounts received as membership dues, fees or assessments and 90% or more of its expenditures each taxable year will be for the acquisition, construction, management, maintenance, and care of Association property, the Association will qualify as a tax-exempt homeowners organization described in section 528 of the Internal Revenue Code of 1986, as amended. However, such an organization is exempt only to the extent of its exempt function income, defined by section 528(d)(3) to mean any amounts received as membership dues, fees, or assessments from owners of real property within the Association. Net income of other types as described in section 528(d)(1) and subject to the modifications set forth in section 528(d)(2), will be taxable at a flat rate of 30% pursuant to section 528(b).

4. Section 277 of the Internal Revenue Code applies only to organizations which are not exempt from taxation and will not apply to the Association if it qualifies under section 528, as described above.

5. All Association property and the homes sold in conjunction with the Association Membership if built in accordance with the plans and specifications, will conform to applicable zoning ordinances and statutes.

6. Even if it qualifies under section 528 of the Internal Revenue Code as described above, the Association will not be exempt from New York State and local sales taxes.

7. Even if it qualifies under section 528 of the Internal Revenue Code as described above, the Association will not be exempt from New York State corporate franchise taxes. The Association's franchise tax liability will be determined by making several alternative calculations, with the one producing the highest tax controlling. However, federal taxable income as determined under section 528(d) of the Internal Revenue Code will be used in making the alternative franchise tax calculations based on the net income or taxable income of the Association. Thus, those computations will exclude from franchise taxes the exempt function income the Association derives from membership dues, fees and assessments. Moreover, if, in a particular taxable year, the Association has no taxable income as determined under Section 528(d) of the Internal Revenue Code, the Association will not be subject to the fixed dollar minimum corporate franchise tax that would otherwise apply.

We express no opinion with respect to any matters not expressly set forth herein, and our opinion is based solely on the facts and documents referred to above. Although we have assisted in the preparation of the Offering Plan and the Exhibits referred to therein and attached thereto, we have not independently verified the accuracy, completeness and fairness of the factual information contained therein, and, accordingly, we express no opinion as to whether the Association has made any untrue statement of a material fact or omitted to state any material fact

necessary in order to make any statements made, in light of the circumstances under which they are made, not misleading.

No warranties are made that the laws, regulations, rulings or judicial decisions upon which we have based our opinion will not change. In no event will the sponsor, the sponsor's counsel, the Association, the Associations counsel, the selling agent or any other person be liable if, by reason of future changes in fact or applicable law, regulations, rulings or judicial decisions, the tax status should differ from that contained in this opinion.

Very truly yours,

Fix Spindelman Brovitz & Goldman, P.C.

A handwritten signature in cursive script that reads "Fix Spindelman Brovitz & Goldman". The signature is written in black ink and is positioned below the typed name of the law firm.

XI. LOCAL GOVERNMENT APPROVAL

On June 9, 2005 the Town of Penfield Planning Board granted authorization to allow the development of this parcel. The fourteen (14) lots and the final Subdivision Plan were approved by the Penfield Planning Board on December 14, 2005. A copy of the Subdivision Plan will be filed in the Monroe County Clerk's Office prior to conveyance of the first townhouse and a copy will be provided to the HOA.

XII. RESERVE FUND

The Board of Directors shall establish a Reserve Fund primarily for road and driveway maintenance and roof replacement. As shown on the proposed budget the General Reserve Fund will be \$2,000.00 per lot per year. There will be no initial contribution from the Sponsor, although the Sponsor will contribute on an ongoing basis for unsold completed Townhouse units. It is estimated that sufficient funds will be available for road maintenance and roof replacement. If additional funds are needed the Association's Board of Directors is empowered to levy special assessments subject to a two thirds (2/3) vote of approval by the membership if it exceeds \$500 per unit. While the Sponsor is in control of the Board of Directors, the Reserve Fund shall not be used to reduce projected maintenance charges or to fulfill Sponsor's obligation to pay a deficit. Neither the Department of Law nor any other government agency has passed on the adequacy of the General Reserve fund.

XIII. WORKING CAPITAL FUND

There will be no Working Capital Fund. The HOA Board of Directors may, in its discretion, establish such a fund at some future time.

XIV. MANAGEMENT AGREEMENT, CONTRACTS AND LEASES

RSM Development Co., LLC ("*RSM*"), 197 West Main Street, Victor, New York 14564, a company owned by two of the principals of the Sponsor, will provide for the management of the Association. This will be under a three year agreement with an annual fee of Four Thousand Eight Hundred Dollars (\$4,800.00). The major duties will be the collection of Association assessments, payment of bills for services rendered, purchase supplies, bookkeeping, provide budgets and operating statements and employ contractors for common area maintenance services, trash removal, and driveway plowing.

The Association will be liable for reimbursement of any expenses incurred by RSM under the agreement and will indemnify RSM against liability for any acts properly performed by it under the agreement.

The management agreement is not assignable by RSM to any other party. The Board of Directors may terminate the management agreement at the end of the initial three (3) year term and at any time for cause. RSM has not reserved the right to cancel the management agreement.

There are no other contracts or leases which bind the HOA.

XV. IDENTITY OF PARTIES

The Sponsor, Ellison Heights LLC, is a New York limited liability corporation formed in 2005 specifically to develop Ellison Heights Townhomes. The principal offices of the company are at 197 West Main Street, Victor, New York 14564. Steven P. Mancini, one of the principals of Sponsor has served as superintendent of development for various residential, commercial and industrial developments companies over the past twenty (20) years. Robert S. Mancini, another principal, has been involved with the construction of luxury residences in Westchester County and Ontario County, NY, for approximately five (5) years. Ron Beller is a private financier. None have any felony convictions or bankruptcies. Two members of the Sponsor, Robert Mancini and Steven Mancini, have been involved in prior public offerings including Drumlins Townhomes in Victor, New York (File #H030007) and Dorchester Park in Victor, New York (File #HO-05-0012). Steven Mancini and Robert Mancini are current in all their financial obligations regarding these projects.

1. This Offering Plan has been prepared by Paula A. Lapin, of counsel in the law firm of Fix Spindelman Brovitz & Goldman, P.C., 295 Woodcliff Drive, Fairport, New York 14450.

2. Initially, Sponsor, will retain RSM Development Co., LLC ("*RSM*") as managing agent for the property. RSM has had prior experience managing similar properties, including the Drumlins II Townhouses project in Victor, New York. Its office is at 197 West Main Street, Victor, New York 14564. Its principals are Robert Mancini and Steven Mancini. RSM manages other projects including Drumlins II and Dorchester Park, which are owned by the same principals. Their background experience are detailed above.

3. RSM Real Property, LLC ("*RSMP*") will act as selling agent for these townhouses. The principals are Robert Mancini and Steven Mancini, whose experience and background are detailed at the beginning of this Section XV.

4. The Sponsor has retained BME Associates, 10 Lift Bridge Lane East, Fairport, New York 14450 to advise it with respect to all engineering, municipal approval and architectural matters.

XVI. REPORTS TO MEMBERS

The Homeowners Association through its Board of Directors will deliver a financial statement prepared by a certified public accountant or a public accountant to all members on an annual basis no later than sixty (60) days after the end of the Association's fiscal year. Such statement shall be a certified statement for so long as Sponsor is in control of the Board of Directors. In addition, all members will have notice at least seven (7) days prior to the annual members meeting. A copy of the proposed annual budget of the HOA will be delivered to all unit owners at least five (5) days prior to date set for adoption of that budget by the Board of Directors.

XVII. DOCUMENTS ON FILE

The Sponsor shall retain copies of the Offering Plan and the Exhibits and documents referred to in the plan on file at 197 West Main Street, Victor, New York 14564 for at least six (6) years after the closing of the first lot. These documents will be available for inspection and copying at a minimal charge during normal business hours. Sponsor shall deliver to the Board of Directors of the HOA a copy of all documents filed with the Monroe County Clerk at the time of closing for the first townhome unit.

XVIII. GENERAL

There are no lawsuits, administrative proceedings or other proceedings the outcome of which may materially affect the offering, the property, Sponsor's capacity to perform all of its obligations under the Plan or operation of the Homeowners Association.

The property offered under this Plan is not the subject of any prior offering and no preliminary nonbinding agreements have been entered into, nor money collected from prospective purchasers as of the date of this Plan.

The Sponsor and its agents will not discriminate against any person based on race, creed, color, sex, national origin or any other basis prohibited by state or federal civil rights laws.

If Sponsor files a material amendment to this Offering Plan which adversely affects the Purchasers, Sponsor will grant Purchasers a right of rescission to be exercised by Purchaser within fifteen (15) days of the date of delivery to Purchaser of the copy of the amendment with the explanation of the right to exercise the right to rescind. If a contract is rescinded pursuant to this paragraph, the Sponsor will return any deposit or down payment to the Purchaser who rescinds.

XIX. SPONSOR'S STATEMENT OF SPECIFICATIONS


Sponsor has reviewed the Description of HOA Property and Specifications set forth in Part II of the Plan and represents that it accurately discloses the HOA property. Sponsor has no knowledge of any material defects or need for major repairs to the HOA property except as set forth in the Description of HOA Property and Specifications. The number of homes offered under this Plan is identical to the number of homes shown on the approved Site Plan.

Dated: March 31 ,2006

SPONSOR

Ellison Heights LLC

By:



Steven P. Mancini
Managing Member

**PURCHASE AND SALE CONTRACT
FOR
ELLISON HEIGHTS TOWNHOMES**

TO: ELLISON HEIGHTS LLC, 197 West Main Street, Victor, New York 14564, "Seller"

FROM: _____, "Buyer"

RE: Lot____, Ellison Heights Townhomes, Penfield, New York
_____, Penfield, New York
(Street Address)

OFFER TO PURCHASE

Buyer offers to purchase the property described below from Seller on the following Terms:

1. PROPERTY DESCRIPTION

A. Property known as Lot _____ Ellison Heights Townhomes Subdivision, in the Town of Penfield, State of New York, including all improvements and all rights which the Seller has in or appurtenant to the property.

B. Townhome Unit to be constructed according to the plans and specifications designated Exhibit A attached hereto and initialed by Buyer and Seller.

C. HOMEOWNERS ASSOCIATION: Conveyance of the lot requires mandatory membership in Ellison Heights Homeowners Association, Inc. The Homeowners Association has title to certain common areas designated on the foregoing subdivision map. Buyer understands that a monthly fee of \$ _____ is currently required from members in the homeowners' association for maintenance of the common areas and services to individual lots including snow plowing, trash collection and common area liability insurance, all as detailed in the Ellison Heights Homeowners Association Offering Plan. Buyer understands that this monthly fee may change.

2. PRICE AMOUNT AND HOW IT WILL BE PAID. The purchase price is _____
(\$ _____).

Buyer shall receive credit at closing for the deposit made pursuant to paragraph 10 hereof. The balance of the purchase price shall be paid all in cash or certified check at closing.

3. MORTGAGE CONTINGENCY. This Contract: check one only

() (a) is not subject to Buyer obtaining mortgage financing

() (b) is subject to Buyer obtaining mortgage financing, satisfactory to Buyer in the minimum amount of \$ _____ no later than, 200___. In the event this contingency is not satisfied or waived by said date, either party may terminate the Contract by delivery of written notice to the other party, all

deposits shall be returned to Buyer and neither Buyer nor Seller shall have any further liability under the Contract. If a mortgage commitment is obtained by Buyer and it lapses or terminates for some reason other than a delay in closing caused by Buyer, and if Buyer has made a good faith effort to extend the commitment without success, Buyer may terminate this contract within five (5) business days following expiration of the commitment.

4. **CLOSING DATE AND PLACE.** The transfer of title to the property shall take place at the office of Seller's attorney or the office designated by Buyer's lender on or about the _____ day of _____ 200__, provided, however, that if there is a delay in completion of the improvements which is out of Seller's control, then Seller shall be entitled to a reasonable adjournment in the closing date without being liable therefor. The transfer of title to the unit shall take place only after or concurrently with the issuance of a certificate of occupancy for the unit being conveyed.

5. **BUYER'S POSSESSION OF PROPERTY.** Buyer shall have possession of the property on the day of closing.

6. **TITLE DOCUMENTS.** Seller shall provide the following documents in connection with the sale.

A. **Deed:** Seller will deliver to Buyer at closing a properly signed and notarized Warranty Deed with lien covenant.

B. **Abstract, Bankruptcy and Tax Searches, and Instrument Survey Map:** Seller will furnish and pay for and deliver to Buyer or Buyer's attorney at least 10 days prior to closing, fully guaranteed tax, title and United States Court searches, and an instrument survey of the Lot with improvements, all to be dated or redated after the date of this contract. Seller will pay for continuing searches to and including the day of closing and for the instrument survey.

C. **Documents to be Furnished regarding the Homeowners Association:** Since the property carries with it mandatory membership in the homeowners association, Seller will also furnish the following items to Buyer or Buyer's attorney at least ten (10) days prior to closing:

- a. Copy of the Offering Plan and all Amendments.
- b. Name and address of insurance agent administering common areas insurance policy.

7. **MARKETABILITY OF TITLE.** The deed and other documents delivered by Seller shall be sufficient to convey good and marketable title in fee simple to the property, free and clear of all liens and encumbrances, but subject to the terms of the Declaration, By-Laws and Offering Plan. Buyer also agrees to accept title to the property subject to public utility easements as long as those easements do not interfere with any existing improvements. Buyer acknowledges that no improvements may be made to the premises without prior written architectural approval from the Association Board of Directors as set forth at length in the Declaration and By-Laws.

8. **OBJECTIONS TO TITLE.** If Buyer raises a valid written objection to Seller's title which means that the title to the property is unmarketable, Seller may cancel this contract by giving prompt written notice of cancellation to Buyer, and Buyer's deposit shall be returned immediately. However, if Seller gives written notice within five (5) days that Seller will cure the problem prior to the closing date,

then this contract shall continue in force until the closing date, subject to Seller performing as promised. If Seller fails to cure the problem within such time, Buyer will not be obligated to purchase the property and his deposit shall be returned.

9. RECORDING COSTS, MORTGAGE TAX, TRANSFER TAX AND CLOSING ADJUSTMENTS. Buyer will pay for recording the deed and any mortgage and mortgage tax. Seller shall pay for any transfer tax. Water charges, sewer charges, and current taxes computed on a fiscal year basis, excluding any delinquent items, interest and penalties, will be prorated and adjusted between Seller and Buyer as of the date of closing. Buyer shall also pay at closing his prorated share of the common expenses assessment as provided for in Article VI of the Declaration and in the Offering Plan of the Homeowners Association.

10. ZONING. By signing this contract, Seller certifies that the property is in full compliance with all zoning or building ordinances for use as a single family residence.

11. DEPOSIT BY BUYER. Upon acceptance, Buyer will deposit Forty Thousand Dollars (\$40,000) with Seller, which deposit is to become part of the purchase price. The Seller will hold all funds received by it from purchasers directly, or through its agents or employees in trust until closing. Fix Spindelman Brovitz & Goldman, P.C., attorneys at law, 295 Woodcliff Drive, Fairport, New York 14450, is Seller's escrow agent who will hold funds deposited by Buyer at any time prior to the closing of title in a special escrow account in M&T Bank. These funds shall be held in trust in accordance with the provisions of Section 352-(e)(2)(b) and 352-h of the General Business Law of the State of New York and released only upon the authorization of Paula A. Lapin or Richard Brovitz, attorneys at Fix Spindelman Brovitz & Goldman, P.C. In the event closing does not occur for any reason except the Buyer's default under the terms of this Purchase Agreement, these funds shall be fully returned to Buyer. A complete explanation of the escrow provisions and Buyer's rights with respect to this escrow is set forth in Part II, Section X of the Offering Plan.

12. SELLER'S CONTINGENCY. This contract is contingent upon the Declaration for the homeowners association being recorded in the Monroe County Clerk's Office. If the contingency in this paragraph 12 is not satisfied, Seller may cancel this contract by written notice to the Buyer, in which case, Seller shall return the deposit to Buyer.

13. BROKERAGE AND REAL ESTATE COMMISSIONS. It is understood and agreed by both Buyer and Seller that Seller has retained RSM Real Property, LLC ("RSMRP") as selling agent and that Seller is liable for the real estate brokerage commission payable to RSMRP resulting from this contract.

14. SELLER'S WARRANTY. The Seller will provide the limited warranty and construct all improvements in accordance with the Limited Warranty ("*Warranty*") and Residential Construction Performance Guidelines prepared by Rochester Home Builders' Association, Inc. A copy of the Warranty is contained in Part II of the Offering Plan.

15. LIFE OF OFFER. Buyer agrees not to withdraw this Offer before _____, 2006 at 5:00 P.M.

16. RESPONSIBILITY OF PERSONS UNDER THIS CONTRACT; ASSIGNABILITY. If more than one person signs this contract, as Buyer, each person and any party who takes over that person's legal position will be responsible for keeping the promises made by Buyer in this contract. However, this contract is personal to the parties and may not be assigned by either without the other's consent.

17. **ENTIRE CONTRACT.** This contract, when signed by both Buyer and Seller, will be the record of the complete agreement between the Buyer and Seller concerning the purchase and sale of the property. No verbal agreements or promises will be binding on either the Buyer or Seller unless they are in writing, and signed by both Buyer and Seller. In the event of any conflict between this Contract and the Offering Plan, the terms of the Offering Plan shall control.

18. **RECEIPT OF OFFERING PLAN.** The Buyer acknowledges that he has received a copy of the offering plan and all filed amendments at least three (3) business days prior to the execution of the purchase contract.

19. **ATTORNEY APPROVAL.** This Contract is subject to the written approval of attorneys to Buyer and Seller within seven (7) calendar days from the date of Seller's acceptance.

Buyer:

Dated: _____

Buyer:

Witness: _____

ACCEPTANCE OF OFFER BY SELLER

Seller certifies that it owns the property and has the power to sell the property. Seller accepts the offer and agrees to sell on the terms and conditions set forth above.

Dated: _____

Seller:

ELLISON HEIGHTS LLC

By:

Steven P. Mancini, Member Manager

Seller's Attorney & Address:

Paula A. Lapin, Esq.

Fix Spindelman Brovitz & Goldman, P.C.

295 Woodcliff Drive

Fairport, NY 14450

Buyer's Attorney & Address:

Phone: (585) 641-8000

Fax: (585) 641-8080

E-mail: plapin@fixspin.com

Phone: _____

Fax: _____

E-mail: _____

WARRANTY DEED

THIS INDENTURE, made _____, 2006 between ELLISON HEIGHTS LLC, a New York limited liability company having an office at 197 West Main Street, Victor, New York 14564 ("*Grantor*") and ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC., with an office at 197 W. Main Street, Victor, New York 14564 ("*Grantee*");

WITNESSETH, that Grantor, in consideration of One Dollar lawful money of the United States and other good and valuable consideration paid by Grantee, does hereby grant and release unto Grantee, Grantee's successors and assigns forever, the premises set forth and described in Schedule A attached hereto and made a part hereof; said premises bearing the following tax map number and tax mailing address:

Tax Map Number: 123-19-1-26.1

Tax Mailing Address: c/o RSM Development Co., LLC,
197 W. Main Street
Victor, NY 14565

TOGETHER with the appurtenances and all the estate and rights of Grantor in and to said premises.

SUBJECT TO all covenants, easements, encumbrances and restrictions of record affecting said premises, if any.

Hereby intending to convey part of the same premises conveyed to the Grantor by deed recorded in the Monroe County Clerk's Office on February 15, 2005 at Liber 10087 of Deeds, Page 487.

TO HAVE AND TO HOLD the premises herein granted unto Grantee, Grantee's heirs, successors and assigns forever.

GRANTOR covenants as follows:

FIRST, Grantee shall quietly enjoy said premises;

SECOND, Grantor will forever warrant the title to said premises; and

THIRD, Grantor, in compliance with Section 13 of the Lien Law, will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of any improvement and will apply the same first to the payment of any cost of any improvement before using any part of the total of the same for any other purpose.

FOURTH, the premises conveyed hereunder does not constitute all or substantially all of the Grantor's assets and such conveyance is made in the ordinary course of Grantor's business.

IN WITNESS WHEREOF, Grantor has executed this Indenture as of the day and year first above written.

ELLISON HEIGHTS LLC

By: _____
Steven P. Mancini

**STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:**

On the _____ day of _____ in the year 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven P. Mancini, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Issued By:

The Talon Group

SCHEDULE A

COMMITMENT FOR TITLE INSURANCE

No. 14399.1

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND containing 7.5136 acres of land, more or less, situate in the Phelps & Gorham Purchase, Township 13, Range 4, Town Lot 11, Town of Penfield, County of Monroe, and State of New York, as shown on the drawing entitled "Ellison Heights, Resubdivision Plat of Lot 1 and Blocks A, B & C," prepared by BME Associates, having drawing number 9610RSM-01 and filed at the Monroe County Clerk's Office in Liber 326 of Maps, Page 99, being more particularly bounded and described as follows:

Beginning at a point, said point being on the northerly right-of-way line of Penfield Road, County Road 269 (Right-of-Way width varies), being a 50.00 foot offset from the 1927 centerline improvement for C.H. 166, centerline station 99+14.25, said point also being the southeast corner of lands now or formerly of Dolomite Products Co., Inc, (T.A. No. 123.19-01-56); thence

1. N10°40'57"W, along the easterly boundary line of said lands of Dolomite Products Co, Inc., a distance of 909.65 feet to the northeast corner thereof, said point also being on the southerly right-of-way line of Old Penfield Road (66' Right-of-Way); thence
2. N35°19'03"E, along said southerly right-of-way line, a distance of 133.89 feet to a point; thence
3. N74°28'33"E, continuing along said southerly right-of-way line, a distance of 55.75 feet to a ¾" rebar the northwest corner of lot 26. Said Lot 26 as shown on a plat of Ellison Heights Subdivision, and filed at the Monroe County Clerk's Office in Liber 306 of Maps, Page 64; thence
4. S24°02'27"E, along the westerly boundary line of said lot 26, a distance of 156.91 feet to the southwest corner thereof, said point marked by a ¾" rebar; thence
5. N65°57'33"E, along the southerly boundary line of said lot 26, a distance of 88.00 feet to the southeast corner thereof, said point marked by a ¾" rebar; thence
6. N24°02'27"W, along the easterly boundary line of said lot 26, a distance of 140.40 feet to a ¾" rebar on the aforementioned southerly right-of-way line of Old Penfield Road; thence
7. N88°47'33"E, along said southerly right-of-way line, a distance of 85.25 feet to a point; thence
8. S85°48'52"E, continuing along said southerly right-of-way line, a distance of 7.36 feet to the northwest corner of lot R-1; thence

The next 9 courses are along the westerly boundary line of said lot R-1.

9. S01°12'27"E, a distance of 185.08 feet to a point of curvature; thence
10. Southeasterly, along a curve deflecting to the left, having a radius of 230.00 feet, a distance of 176.05 feet to a point of tangency; thence
11. S45°03'51"E, a distance of 78.72 feet to a point of curvature; thence
12. Southeasterly, along a curve deflecting to the right, having a radius of 242.50 feet, a distance of 145.15 feet to a point of tangency; thence
13. S10°46'06"E, a distance of 244.63 feet to a point of curvature; thence
14. Southerly, along a curve deflecting to the right, having a radius of 200.00 feet, a distance of 121.97 feet to a point of reverse curvature; thence
15. Southerly, along said reverse curve having a radius of 25.00 feet, a distance of 35.16 feet to a point of reverse curvature; thence
16. Southeasterly, along said reverse curve having a radius of 65.00 feet, a distance of 51.75 feet to a point of tangency; thence
17. S10°47'22"E, a distance of 41.04 feet to a point on the aforementioned northerly right-of-way line of Penfield Road, said point also being the southwest corner of said lot R-1; thence
18. S79°12'38"W, along said northerly right-of-way line, a distance of 337.68 feet to a point; thence
19. N75°24'15"W, continuing along said northerly right-of-way line, a distance of 83.44 feet to the Point of Beginning.

Excepting Therefrom, ALL THAT TRACT OR PARCEL OF LAND containing 1.0737 acres of land, more or less, situate in the Phelps & Gorham Purchase, Township 13, Range 4, Town Lot 11, Town of Penfield, County of Monroe, and State of New York, known as Blocks R-A, R-B, R-C, D, E and F, as shown on the drawing entitled "Ellison Heights, Resubdivision Plat of Lot 1 and Blocks A, B & C," prepared by BME Associates, having drawing number 9610RSM-01 and filed at the Monroe County Clerk's Office in Liber 326 of Maps, Page 99.

Engineer's Description:

**Ellison Heights
Homeowners Association, Inc.**

**Town of Penfield
Monroe County, New York**

Prepared for:

Ellison Heights LLC
197 West Main Street
Victor, NY 14564



Prepared by:

BME Associates
10 Lift Bridge Lane East
Fairport, NY 14450

Project No. 9610RSM

February 2006

I. **Location of Property and General Site Features**

Ellison Heights is a proposed townhouse development on 8.587 acres located in the Town of Penfield, Monroe County, New York. The townhouse project is a portion of an overall project that may also include a 210-unit condominium project that will be located east of the townhouse project. The condominium parcel is not included in the townhouse development. The townhouse project includes 14 townhouse lots and a 7.514-acre open space parcel to be owned and maintained by the Ellison Heights Homeowners Association. The site features and site work construction details are shown on BME Associates drawings 9610RSM-01 through 12A and 9610RSM-18. The Town of Penfield Planning Board approved the final subdivision and site plans for Ellison Heights on June 9, 2005.

Access to the site will be from the existing Old Penfield Road, which is within a 66' wide Town of Penfield public road right-of-way. The Ellison Heights development will be served by the proposed 20' wide private road, which will be the main entrance to the development. The private drive will be maintained by the Ellison Heights Homeowners Association. A second emergency access into the proposed development will be located at an existing driveway located from the existing Penfield Road, County Road 269. The townhouses will be served by individual driveways, with the exception of three common driveways to serve blocks R-A, R-B, and F, all as shown on the above referenced plans.

The site topography is moderately sloped towards Irondequoit Creek located at the east boundary of the overall property. Mature deciduous and evergreen trees will remain between the proposed adjacent condominium buildings and Irondequoit Creek.

II. **Description of Lands of the Ellison Heights Homeowners Association**

1. Common open space lands totaling 7.514 acres are proposed. The Homeowners Association will be responsible for the maintenance of lawns, landscaped areas, and all private roads and driveways located on the open space property.

2. **Pavements**

A. Sable Oaks Lane

The site access road (Sable Oaks Lane) will be maintained by the Ellison Heights Homeowners Association. The private road will be 20' wide as shown on the plans and approximately 1800' long ending in a cul-de-sac. Road construction will consist of a 12" thick crusher run stone base, a 3" thick binder course, and a 1" thick top course. Thirty inch wide gutters, 6" thick on an 8" thick stone base, and 12" deep stone weep will be constructed on each side of the road to collect stormwater runoff from the road and adjacent lawn areas.

B. Private Driveway

The Ellison Heights Homeowners Association will maintain all driveways. These driveways are generally 18 feet in width. Driveway construction consists of a 6-inch thick crusher run subbase, a 2-inch thick binder course, and a 1-inch top course. The Ellison Heights Homeowners Association shall be responsible for the maintenance of these drives to include such items as sweeping, snow removal, pavement repairs, and periodic resurfacing.

C. Other Pavements within the Ellison Heights Townhouse development

Twelve (12) guest parking areas as shown on the plans constructed adjacent to the private drive, are to be maintained by the Ellison Heights Homeowners Association. Parking areas will consist of a 12" thick crusher run base subbase, a 3" thick binder course, and a 1" thick top course.

3. Soil Conditions

Ray M. Teeter, P.E., consulting Geotechnical Engineer, prepared a geotechnical engineering investigation for the site. Several test pits were done on the site and soils observed were primarily sands and silt with varying lesser amounts of gravel. The area appears to be suitable for the proposed development, and no conditions are expected that cannot be handled through normal construction practices, that include retaining walls construction, drainage improvements, erosion control, and desiltation measures. Structural design of pavements, drainage structures, retaining walls and erosion control were completed based on the results of the geotechnical evaluation.

A flood zone exists east of the project. The development is located on property that is at least 70' higher than the 100 year flood elevation. Therefore, there is no danger of flooding from the designated flood zone. Also, there is no danger of flooding from the groundwater table that exists well below the proposed footing elevations. An extensive erosion control plan has been prepared to protect the property from erosion, as well.

4. Utilities

The design plans for utilities to serve the project have been approved by the appropriate district, town, engineer, or authority having jurisdiction and will be constructed in accordance with the most recent specifications of the appropriate agency.

A. Water Distribution System

The water distribution system will be constructed in accordance with the most recent standards of the Monroe County Water Authority. The system shall provide services for both domestic and fire fighting purposes. The watermains,

hydrants, valves, and all other appurtenances within the dedicated easements shall be owned and maintained by the Monroe County Water Authority. Each unit will be provided with an individual service and usage will be metered on an individual unit basis by the Monroe County Water Authority. Individual homeowners shall be responsible for the maintenance of their own individual water service from the easement line to their home.

B. Sanitary Sewer System

The sanitary sewer system will be constructed in accordance with the most recent standards of the Town of Penfield. The Town of Penfield Sewer Department has reviewed and approved the proposed sanitary sewer. Each townhouse unit will be served by a four (4) inch PVC sanitary lateral that ties into a PVC sanitary sewer main with a diameter of eight (8) inches. The sanitary sewer system within the dedicated easements be owned and maintained by the Town of Penfield, which includes the 8" main and manholes. Individual homeowners will be responsible for the maintenance of their own individual sanitary lateral from the easement line to their home.

C. Storm Drainage System

The storm drainage system will be constructed in accordance with the most recent standards of the Town of Penfield. The storm drainage system within the property will be owned and maintained by the Ellison Heights Homeowners Association.

Each townhouse unit will be served by a six (6) inch storm lateral which ties into the storm drainage system. Individual homeowners will be responsible for the maintenance of their own individual storm lateral from the private storm sewer main line to their home and if necessary, installation and maintenance of sump pumps to drain the sump to the storm lateral. The roadways and lawn areas will be graded to direct surface runoff to various storm inlets. The storm drainage system will convey drainage to the recharge / detention facility located on the adjacent Ellison Heights property owned by the project sponsor. Maintenance of the recharge / detention facility and related structures for drainage purposes shall be the responsibility of the Ellison Heights Homeowners Association. The recharge / detention facility is designed to accept on-site and upstream drainage and to infiltrate it into the previous soils and discharge it to the receiving stream for storms having a re-occurrence frequency up to and including a 100-year storm at flow rates. The common areas are provided with adequate drainage to prevent localized flooding.

The design incorporates erosion control measures, early seeding, and establishment of temporary ground cover to minimize short-term erosion during construction. Long-term erosion is prevented through establishment of permanent ground covers throughout.

The common open space areas are gently to moderately sloped in the areas of the homesites and in most paved areas. A retaining wall, varying in height from 0' to 24' feet is proposed between Sable Oaks Lane and townhome blocks D, E and F. The purpose of the retaining wall is to achieve a grade transition from the lower road elevation to the upper townhouse plateau. The retaining wall is designed such that the natural wooded buffer can be maintained between the townhomes and road. Therefore, minimizing the potential of flooding / soil erosion / mudslides occurring on site.

D. Gas and Electric Service

The Rochester Gas and Electric Corporation will provide all units with gas and electric service. All gas and electric services will be installed using underground conduits and will be maintained by the appropriate agency by easement

E. Telephone Service

Telephone service will be provided by Frontier Telephone Corporation and will be by underground conduit. Frontier Telephone Corporation will maintain these services by easement.

F. Television Cable Service

Each individual unit will be equipped to receive television cable service from Time Warner Communications. The homeowner shall be responsible for contracting with the cable company to receive services. Time Warner Communications will maintain the television cable on easement.

G. Landscaping Areas

The maintenance of the lawn and landscaped areas shall be the responsibility of the Ellison Heights Homeowners Association. The lands to be maintained by the Ellison Heights Homeowners Association are indicated on subdivision drawing 9610RSM-01 as prepared by BME Associates and as described in Section II (1) above and include mowed lawn areas, trees, foundation plantings and natural areas. Details of the proposed landscaping are shown on drawings 9610RSM-06.

H. Lighting

Street lighting will be provided throughout the project. A lighting district will be created with all lots participating in the annual maintenance and administration of the district. Standard Rochester Gas & Electric Company fixtures will be utilized and will be located and provided in accordance with

the Town of Penfield street lighting standards and requirements. Individual building mounted or post lighting, if provided to supplement street lighting, will be the responsibility of the homeowner.

I. Sidewalks

A sidewalk improvement district will be created for all homeowners in Ellison Heights. The Town of Penfield will be responsible for maintenance of the frontage sidewalk along Penfield Road.

J. Retaining Walls

Two (2) retaining walls are proposed within the Ellison Heights Homeowners Association property, and will be subject to maintenance by the Association. One is located between Sable Oaks Lane and townhome blocks D, E and F. A second wall will be located near the northwest property. The retaining walls vary in height as shown on Drawing 8810RSM-04 and will be constructed using a H-pile and lagging wall system. Both walls will be located on Homeowners Association property. The design of the wall is in accordance with the recommendations of a geotechnical evaluation prepared by Foundation Design, P.C., dated May 2005 (retaining wall details are shown on Drawing 9610RSM-11).

III. **Construction**

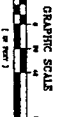
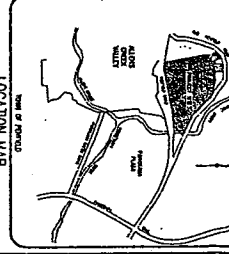
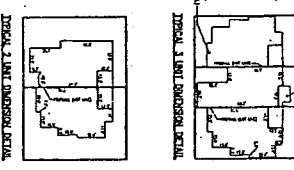
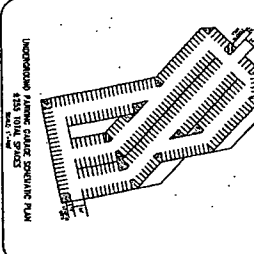
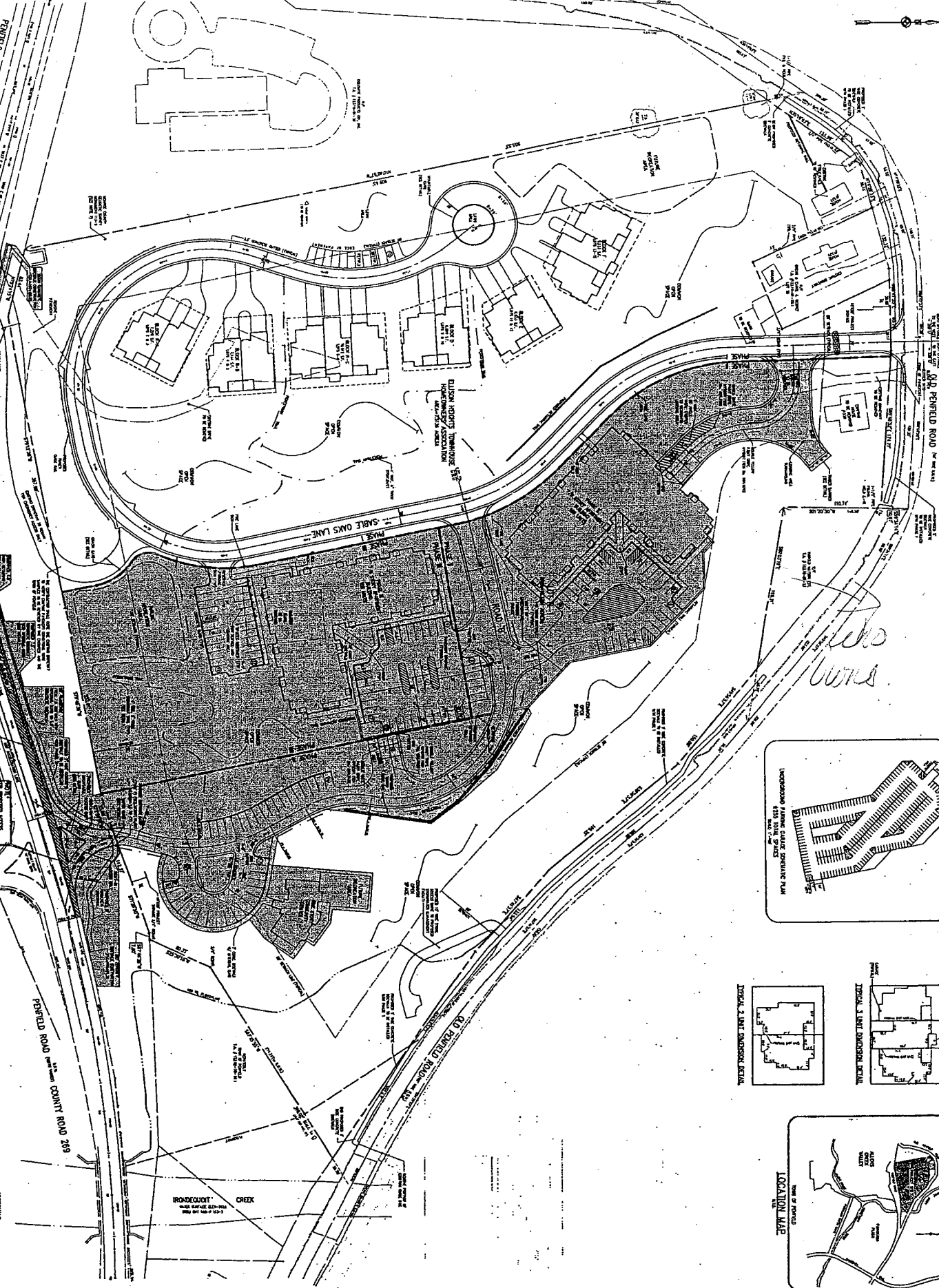
Construction timeframe is one year based on local market conditions. Site improvements including utilities, grading and pavement are to be completed.

IV. **Refuse Disposal**

As set forth in the offering plan, the Ellison Heights Homeowners Association will contract for removal and disposal of all refuse materials for the townhomes. The expense of refuse removal will be included in monthly common charges billed by the Association. Necessary permits for disposal of potentially toxic materials must be secured by the individual homeowner to ensure proper transportation of all waste materials to protect the health, safety, and well being of the public. Existing laws will strictly regulate any toxic wastes produced (not expected).

LEGEND

[Symbol]	EXISTING ROAD
[Symbol]	PROPOSED ROAD
[Symbol]	PROPOSED DRIVE
[Symbol]	PROPOSED SIDEWALK
[Symbol]	PROPOSED BIKEWAY
[Symbol]	PROPOSED TRAIL
[Symbol]	PROPOSED FUTURE USE
[Symbol]	PROPOSED UTILITY
[Symbol]	PROPOSED FUTURE USE
[Symbol]	PROPOSED UTILITY
[Symbol]	PROPOSED FUTURE USE
[Symbol]	PROPOSED UTILITY



PROPOSED ROAD ACCESS AND DRIVE TO BE CONSTRUCTION.

SEE DRAWING 96105M-07 FOR SITE PLAN NOTES

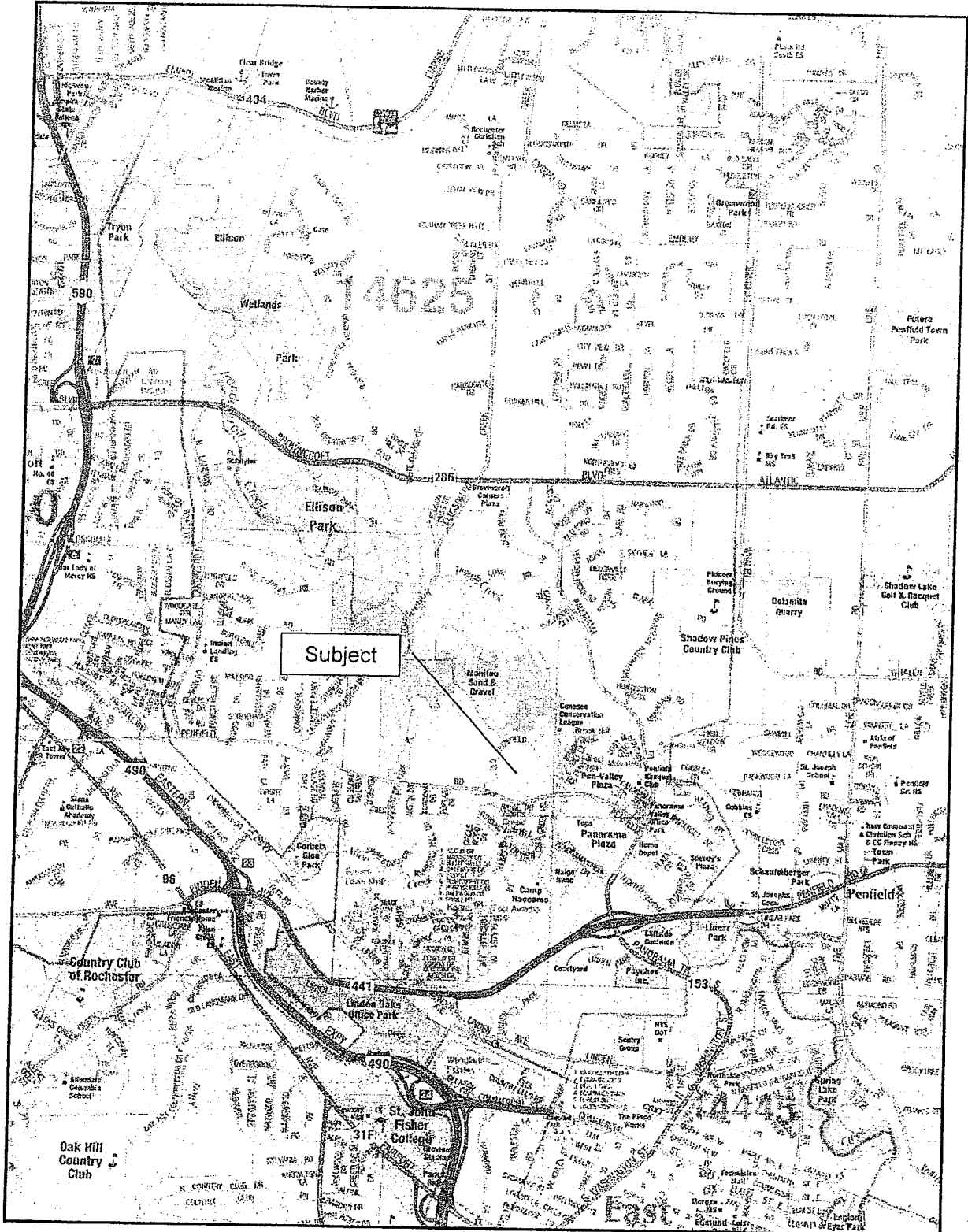
PREPARED BY:
ARCHITECTS:
ENGINEERS:
PLANNERS:
DATE:
SCALE:
PROJECT NO.:
SHEET NO.:

PHILIPS & COMPANY PURCHASE, TOWNSHIP 12, RANGE 4, TOWN LOT 61, 504 ACRES, PA. 12219-1-10

PROJECT	ELLISON HEIGHTS	NO. 1075 BRIDGE LANE, SUITE 200, HARRISBURG, PA 17112-1212	DATE	12/15/10	
CLIENT	ELLISON HEIGHTS DEVELOPMENT, LLC	1000 W. MARKET STREET, SUITE 200, HARRISBURG, PA 17102	REVISION	1	
DATE	12/15/10	PROJECT NO.	96105M-07	SHEET NO.	01
SCALE	AS SHOWN	DESIGNED BY	ARCHITECT	DATE	12/15/10
PROJECT NO.	96105M-07	PLANNED BY	PLANNER	DATE	12/15/10
SHEET NO.	01	ENGINEERED BY	ENGINEER	DATE	12/15/10
DATE	12/15/10	REVIEWED BY	GENERAL CONTRACTOR	DATE	12/15/10
SCALE	AS SHOWN	REVIEWED BY	AGENCY CONTRACTOR	DATE	12/15/10
PROJECT NO.	96105M-07	DATE	12/15/10	DATE	12/15/10
SHEET NO.	01	DATE	12/15/10	DATE	12/15/10

BME ASSOCIATES
 ARCHITECTS, ENGINEERS, PLANNERS, LANDSCAPE ARCHITECTS
 1075 BRIDGE LANE, SUITE 200, HARRISBURG, PA 17112
 PH: 717-651-1212 FAX: 717-651-7700
 WWW.BMEASSOCIATES.COM

LOCATION MAP



LIMITED WARRANTY

WARRANTOR:

The Warrantor Ellison Heights LLC is the Seller identified in the RESIDENTIAL CONTRUCTION AND PURCHASE CONTRACT ("*Contract*") to which this LIMITED WARRANTY is appended, with an address of 197 W. Main Street, Victor, New York 14564

HOME WARRANTED:

The Dwelling warranted is the Dwelling constructed by the Seller as identified in the Contract.

TO WHOM WARRANTED:

The Dwelling is warranted to the person or persons identified as the Buyers in the Contract.

WARRANTY DATE:

This Limited Warranty is effective upon transfer of title to or possession by the Buyer or Buyer's agent, whichever is earlier (Warranty Date).

THIS LIMITED WARRANTY EXCLUDES ALL OTHER WARRANTIES ON THE CONSTRUCTION AND SALE OF THE DWELLING AND ITS COMPONENTS, BOTH EXPRESS AND IMPLIED. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE HEREOF. THIS LIMITED WARRANTY IS MADE PURSUANT TO GENERAL BUSINESS LAW § 777-b AND EXCLUDES/MODIFIES THE HOUSING MERCHANT IMPLIED WARRANTY SET FORTH IN GENERAL BUSINESS LAW § 777-a

SELLER'S LIMIT OF TOTAL AGGREGATE LIABILITY:

The maximum total aggregate liability of the Seller under this Limited Warranty shall be equal to a maximum of 50 percent of the full contract price of the Property (as defined in the Contract) paid by the Buyer to the Seller for the first year of warranty coverage and 50 percent in years 2 through 6.

CONSEQUENTIAL DAMAGES:

This Limited Warranty excludes all consequential and incidental damages, except as otherwise required by New York State law.

1. *TO WHOM GIVEN.* This Limited Warranty is extended solely to the Buyer named in the Contract and solely during the time the Buyer owns the Property. It does not extend to subsequent owners of the Property or to other persons.

2. *BY WHOM MADE.* This Limited Warranty is made exclusively by the Seller whose name and address appear on the Contract.

3. *FINAL INSPECTION OF DWELLING.* Before the Buyer moves into the Dwelling or accepts the deed, the Seller will set up an appointment for final inspection of the Dwelling with the Buyer. The purpose of this final inspection is to discover any defects or flaws of a visible or obvious nature -- such as cracks, chips, dents, stains, or marks -- that may have occurred during the final stages in finishing the Dwelling, or any unfinished work caused by circumstances beyond the Seller's control.

All defects or flaws found on final inspection of the Dwelling will be itemized on a FINAL INSPECTION BEFORE POSSESSION Sheet, which will be signed by the Buyer and the Seller before occupancy of the Dwelling or transfer of title.

The purpose of the Limited Warranty is to identify the Seller's responsibilities for construction defects of a latent or hidden kind that would not have been found or disclosed on final inspection of the Dwelling.

The Seller's responsibility is limited to:

- a. Completion of items shown on the FINAL INSPECTION BEFORE POSSESSION Sheet, as provided in said Sheet; and
- b. Performance of warranty obligations under the provisions of this Limited Warranty, as set out below.

4. *WARRANTY COVERAGE AND PERIODS.* The Warranty Period for all coverage begins on the Warranty Date, which shall be conclusive for all purposes. The Warranty Date is the date that the Buyer takes title to the Dwelling, or the Buyer or any person authorized by the Buyer, begins residential occupancy of the Dwelling, whichever date is earlier.

a. **First Year Basic Coverage:** For one year from the Warranty Date, the Dwelling will be free from latent defects that constitute:

(1). Defective workmanship performed by the Seller, an agent of the Seller, or an employee or subcontractor of the Seller;

(2). Defective materials provided by the Seller, an agent of the Seller, or an employee or subcontractor of the Seller; and

(3). Defective design, provided by an architect, landscape architect, engineer, surveyor, or other design professional engaged solely by the Seller.

Workmanship, materials and design will be considered to be defective under this Limited Warranty if they fail to meet or exceed the relevant standards and specifications of the New York

State Uniform Fire Prevention and Building Code ("*Building Code*"); or if the Building Code does not provide a relevant specific standard, if they fail to meet or exceed the Residential Construction Performance Guidelines ("*Guidelines*") attached hereto, and which Guidelines are expressly made a part hereof or if neither the Building Code nor the Guidelines provide a relevant specific standard, if they fail to meet or exceed locally accepted building practices.

In the case of goods sold incidentally with or included in the sale of the Dwelling, such as stoves, refrigerators, freezers, room air conditioners, dishwashers, clothes washers, and dryers, workmanship will be considered to be defective if the Seller, an agent of the Seller, or an employee or subcontractor of the Seller, fails to install such goods in accordance with the manufacturer's standards and specifications, and the New York State Uniform Fire Prevention Building Code, or in accordance with the Guidelines, or locally accepted building practices, as applicable. As hereinafter set out (see Exclusions from All Coverage), merchantability, fitness and all other implied warranties with respect to such goods shall be governed by applicable laws and statutes.

b. Two Year Major Systems Coverage: For two years from the Warranty Date, the Plumbing, Electrical, Heating, Cooling and Ventilation Systems of the Dwelling which have been installed by the Seller, an agent of the Seller, or an employee or subcontractor of the Seller, are warranted to be free from latent defects that constitute defective installation by the Seller, an agent of the Seller, or an employee or subcontractor of the Seller.

Installation will be considered to be defective if the workmanship in such installation fails to meet or exceed the relevant standards and specifications of the New York Uniform Fire Prevention and Building Code; or if the Building Code does not provide a relevant specific standard, if it fails to meet or exceed the Guidelines, or if neither the Building Code nor the Guidelines provide a relevant specific standard, if they fail to meet or exceed locally accepted building practices.

The Plumbing System means gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; water, gas and sewer service piping, and their extensions to the tie-in of a public utility connection, or on-site well and sewage disposal system.

The Electrical System means all wiring, electrical boxes, switches, outlets and connections up to the public utility connection.

The Heating, Cooling and Ventilation System means all duct work, steam, water and refrigerant lines, registers, convectors, radiation elements and dampers.

All systems are exclusive of appliances, fixtures and items of equipment.

c. Six Year Major Structural Defect Coverage: For six years from the Warranty Date, the Dwelling will be free from latent defects that are Major Structural Defects, as defined below, and that constitute:

(1). defective workmanship performed by the Seller, an agent of the Seller, employee or subcontractor of the Seller;

(2). defective materials provided by the Seller, an agent of the Seller, employee or subcontractor of the Seller; or

(3). defective design, provided by an architect, landscape architect, engineer, surveyor, or other design professional engaged solely by the Seller.

Workmanship, materials, and design will be considered to be defective if they fail to meet or exceed the relevant standards and specifications of the New York State Uniform Fire Prevention and Building Code; or if the Building Code does not provide a relevant specific standard, if they fail to meet or exceed the Guidelines; or if neither the Building Code nor the Guidelines provide a relevant specific standard, if they fail to meet or exceed locally accepted building practices.

A Major Structural Defect is a defect resulting in actual physical damage to the following load-bearing portions of the Dwelling caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the Dwelling becomes unsafe, unsanitary or otherwise unlivable: foundation systems and footings, beams, girders, lintels, columns, walls and partitions, floor systems, and roof framing systems.

5. *WARRANTY.* If a defect occurs in an item covered by this Limited Warranty, the Seller will repair, replace or pay the Buyer the reasonable cost of repairing or replacing the defective item(s), within a reasonable time after the Seller's inspection or after the Seller's testing confirms the defect, as provided in Paragraph 7, below. Repair, replacement or payment of the reasonable cost for any Major Structural Defect is further limited to (1) the repair of damage to the Load-bearing portions of the Dwelling which is necessary to restore their load-bearing function, or the reasonable cost thereof and (2) the repair of those components of the Dwelling (exclusive of personal property) damaged by the major structural defect which made the Dwelling unsafe, unsanitary or otherwise unlivable, or the reasonable cost thereof. The choice among repair, replacement or payment is solely that of the Seller.

When the Seller finishes repairing or replacing the defect or pays the reasonable cost of doing so, the Seller shall be fully released and discharged from any liability for said defect, and upon the request of the Seller, a full release of all legal obligations with respect to the defect shall be signed by the Buyer and delivered to the Seller.

6. *EXCLUSIONS FROM ALL COVERAGE.* The following are excluded from the Basic Coverage, Major Systems Coverage, and Major Structural Defect Coverage:

a. **Magnuson-Moss Warranty Act.** Except as otherwise provided under FIRST YEAR BASIC coverage, above, this Limited Warranty does not cover manufacturing defects or loss or damage resulting from or to items excluded within the definition of "consumer products" under the Magnuson-Moss Warranty Act, Pb.L. 93-637, 15 U.S.C. 2301, which was

signed into law in January 1975. The Act applies to written warranties on tangible personal property which is intended to be attached to or installed in a dwelling, such as stoves, refrigerators, freezers, room air conditioners, dishwashers, clothes washers and dryers, furnaces, water heaters, and appliances. Merchantability, fitness, and all other implied warranties with respect to such goods shall be governed by the Magnuson-Moss Warranty Act, the New York Uniform Commercial Code, and other applicable statutes.

b. Defects in Outbuildings and Structures. This Limited Warranty does not cover defects in landscaping (including sodding, seeding, shrubs, trees and plantings), offsite improvements, or outbuildings and structures not constructed by the Seller, an agent of the Seller, or an employee or the subcontractor of the Seller.

c. Obvious Defects. This Limited Warranty does not cover any item of defective workmanship or materials which were obvious during Final Inspection and were not included in the FINAL INSPECTION BEFORE POSSESSION form, including, without limitation, any **cracks, chips, dents, stains or marks on kitchen cabinets, plumbing fixtures, electrical fixtures, mirrors, glass, appliances, micas, vinyls, ceramics, painted/stained surfaces, doors, woodwork and carpeting.**

d. Alteration or Modifications. This Limited Warranty does not cover any item of defective workmanship or materials for any material, system, or work which has been altered, modified, or supplemented in any material way, or which was performed or installed by any person other than the Seller, an agent of the Seller, employee or subcontractor of the Seller.

e. Consequential Damages. Except as otherwise required by the law, this Limited Warranty does not cover any injury to persons or damages to personal or real property, in whole or in part, which may be a consequence of; incident to or result from any defect in materials or performance of the work. That is, the Seller is responsible only for correcting the defect, and is not liable for any personal injury or property damages resulting from any such defect.

f. Other Exclusions from Coverage.

(1). Loss or damage caused by workmanship performed by any person other than the Seller, an agent of the Seller, or an employee or subcontractor of the Seller;

(2). Loss or damage caused by defective materials supplied by any person other than the Seller, an agent of the Seller, or an employee or subcontractor of the Seller;

(3). Loss or damage caused by defective design provided by any person other than a design professional retained exclusively by the Seller;

(4). After the First Year Basic Coverage, loss or damage caused by non-load bearing concrete floors of basements and concrete floors of attached garages and porches;

(5). Loss or damage of real property which is not part of the Dwelling and which is not included in the purchase price of the Dwelling;

(6). Loss or damage to the extent that is caused or made worse by:

(a). negligence, improper maintenance, or improper operation by anyone other than the Seller, its employees, agents, or subcontractors; or

(b). failure by the Buyer or anyone other than the Seller, Seller's employees, agents, or subcontractors, to comply with the warranty requirements of manufacturers or supplier of appliances, fixtures, or items of equipment; or

(c). failure of the Buyer to give notice to the Seller of any defects or damage within a reasonable time; or

(d). changes in the grading of the ground by anyone other than the Seller, Seller's employees, agents, or subcontractors; or

(e). changes, alterations or additions made to the Dwelling by anyone after the Warranty Date; or

(f). dampness or condensation due to the failure of the Buyer or occupant to maintain adequate ventilation;

(7). Conditions, loss or damage caused by or resulting from accidents, riot and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, vehicles, Acts of God, lightning, windstorm, hail, flood, mudslide, earthquake, volcanic eruption, wind-driven water, ground water springs, ground gas emissions, changes not reasonably foreseeable in the underground water table, and generally, caused by or resulting from acts of commission or omission beyond the Seller's control;

(8). Loss or damage caused by the seepage of water, unless caused by a construction defect;

(9). Loss or damage caused by the failure of Buyer to take timely action to minimize any such loss or damage;

(10). Loss or damage caused by insects;

(11). Loss or damage resulting from failure of the Seller to complete construction of the Dwelling, or to complete the construction timely;

(12). Loss or damage caused by or which arises while the Dwelling is being used primarily for nonresidential purposes;

(13). Loss or damage resulting from abnormal loading on floors by the Buyer which exceeds design loads as mandated by the Building Code.

(14). Any condition which does not result in actual physical damage to the Dwelling;

(15). Normal wear and tear and normal deterioration;

(16). Costs of shelter, transportation, food, moving, storage or other expenses associated with or related to any defect, or the repair or replacement of any defect in workmanship, materials or design.

(17). Any claim not filed in a manner set forth below in Paragraph 7, "Step-by-Step Claims Procedures."

7. *STEP-BY-STEP CLAIMS PROCEDURES.* As noted in Paragraph 4, this Limited Warranty has three separate periods of coverage: Defects which are covered for one year; Defects which are covered for two years; and Defects which are covered for six years.

The Buyer may make a claim for a defect at any time during the appropriate period of coverage. Any such claim must be in writing and shall be made on a Notice of Warranty Claim Form provided by the Seller. A sample claim form is attached hereto. If the Seller does not provide such a form, the Buyer's claim must nevertheless be in writing and shall include a description of the defect (referred to herein as Notice of Warranty Claim, or simply Notice of Claim). However, in order for the Buyer to preserve Buyer's rights under this Limited Warranty, the Seller must receive the Notice of Warranty Claim no later than the first business day after the expiration of the warranty coverage under which the claim is made. If the Seller does not receive such Notice of Claim by the specified deadline, the Buyer will forever be barred from making any claim for any defect under this Limited Warranty for which the coverage period expired.

The Notice of Claim must be made by personal delivery or United States certified mail, and shall be deemed to have been received either at the time of personal delivery or in the case of mail, as of the date of first attempted delivery at the address of the Seller and in the manner provided herein.

IT IS EMPHASIZED THAT RECEIPT BY THE SELLER OF NOTICE OF WARRANTY CLAIM ON A TIMELY BASIS AS PROVIDED ABOVE IS A NECESSARY CONDITION TO PROTECT THE BUYER'S RIGHTS TO WARRANTY PERFORMANCE UNDER THIS LIMITED WARRANTY.

No steps taken by the Seller, Buyer or any other person to inspect, test or correct defects will extend any time period under this Limited Warranty. The Seller's response to any complaint or request, other than a timely and properly completed Notice of Warranty Claim, will not impair, prejudice or otherwise affect any right of the Seller, including but not limited to the Seller's right to receive a timely and properly completed Notice of Warranty Claim.

The Buyer shall follow the following claim procedure for each separate defect which the Buyer claims is covered under this Limited Warranty:

a. The Buyer shall give Notice of Claim to the Seller, to be received by the Seller not later than the first business day after the expiration of the appropriate warranty period under which the claim is made, by written Notice of Warranty Claim.

b. The Seller shall have thirty (30) days from the date it receives Notice of Claim, not counting the day the notice is received, within which to inspect and/or test that part of the Dwelling for which the claim is made, and within a reasonable time not to exceed thirty (30) days from the date of such inspection and/or test (weather permitting and assuming required materials are available) within which to correct the defects for which notice was received. The Buyer or other occupants of the Dwelling must provide reasonable access to the Seller and its agents during normal business hours, for the purpose of such inspection, testing and corrective work. Failure by the Buyer to provide such reasonable access to the Seller will extend the time within which to perform the work.

(1). In the event:

(a). The Seller denies the claim or fails to make such inspection or tests within said thirty (30) days, although reasonable access was provided to the Seller for such inspection; or

(b). if so inspected or tested, the Seller fails to perform the corrective work within a reasonable time not to exceed thirty (30) days (weather permitting and assuming required materials are available), although reasonable access was provided to the Seller for the performance of the corrective work; or

(c). The Seller has corrected the defect and the Buyer is unsatisfied with the corrective action;

then, within thirty (30) days following any such event **but in no event later than six months following receipt by the Seller of the Notice of Claim, regardless of the denial of the claim or status of the corrective work or lack thereof** in order to preserve Buyer's rights, the Buyer must commence, and diligently prosecute, a conciliation proceeding ("*Conciliation Proceeding*") with the Rochester Home Builder's Association ("*Association*"), in accordance with its Rules and Procedures.

(2). The term "*correct the defect*" shall mean that the Seller may, at its option, repair the defect, or replace the defective kern or pay the Buyer the reasonable cost of such repair or replacement.

c. in the event:

(1). The written decision of the Association resulting from the

Conciliation Proceeding does not resolve the Buyer's claim or dispute in a manner satisfactory to the Buyer; or

(2). The Seller does not comply with the recommendation contained in the written decision of the Association within the time set out therein or as extended, in writing, by the mutual agreement of the parties; or

(3). The work performed by the Seller pursuant to the Association's written decision is not satisfactory to the Buyer; or

(4). The Association fails to hold the proceeding within sixty (60) days of receipt of notice and/or fails to render a written decision on its Conciliation Proceeding within thirty (30) days after the date of the proceeding,

then the Buyer may commence an action in a court of law with regard to the Buyer's claim or dispute.

Any fees for the Conciliation Proceeding shall be paid solely by the Seller.

8. *LEGAL ACTIONS, JURISDICTION AND CONDITIONS PRECEDENT.* No claim or cause of action under the Limited Warranty may be commenced or asserted against the Seller in any Conciliation Proceeding, suit, action, or other legal proceeding in any forum or court unless a written Notice of Claim, furnishing the information requested, has been received by the Seller as provided in Paragraph 7 above and the procedures set forth in Paragraph 7 above are followed. Notwithstanding anything to the contrary contained in this Limited Warranty, in the event (a) the defect(s) described in the Notice of Claim cause the Dwelling to be uninhabitable or (b) the applicable statute of limitations for commencing an action under this Limited Warranty will or may expire at any time after the Notice of Warranty Claim has been timely given, but prior to the completion of the procedures described in Paragraph 7 above, then the Buyer is not required to follow any further procedures described in Paragraph 7 above, and the Buyer may apply directly to the appropriate forum or court for relief.

9. *GENERAL PROVISIONS.*

a. This Limited Warranty may not be changed or amended in any way except in writing signed by both parties.

b. This Limited Warranty shall be binding upon and inure to the Buyer and the Buyers heirs, executors or administrators, and the Seller, and the Seller's heirs, successors, and assigns.

c. Should any provision of the Limited Warranty be determined unenforceable by a court of competent jurisdiction, such determination shall not affect the enforceability of the remaining provisions.

d. This Limited Warranty is to be governed under the laws of New York State.

e. Use of one gender in this Limited Warranty includes both genders, and use of the singular includes the plural, as may be appropriate.

NOTICE OF WARRANTY CLAIM FORM

Dear Buyer:

To ask the Seller to correct a defect in your Dwelling that you think is covered by the Limited Warranty, you must complete this form and deliver it to the Seller. This is necessary to protect your rights to warranty performance under the Limited Warranty. Even if you believe that the Seller is aware of the problem, fill out this form and deliver it to the Seller.

The information you will need to fill out the form will be on Page One of the Limited Warranty. However, if you do not know the answers to any questions, write "Not Known". Please do not leave any item blank.

Owner's Names: _____

Address of Dwelling Warranted: _____

Home Phone: _____

Work or Day Phone: _____

Warranty Date: _____

Describe the defect(s) which you think are covered by the Limited Warranty. Be sure to include when each defect first occurred or when you first noticed it. Use additional sheets, as necessary, to fully describe the problem:

Signature: _____ Date: _____

Signature: _____ Date: _____

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
EASEMENTS AND LIENS
ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC.**

THIS DECLARATION, made the 20th day of April, 2006, by Ellison Heights LLC, hereinafter called "Declarant"

WHEREAS, Declarant is the owner of certain subdivided real property in the Town of Penfield, Monroe County, New York, more particularly described in Schedule "A" attached hereto and made a part hereof; said land in its entirety being hereinafter referred to as all of the premises herein described as "Properties"; and

WHEREAS, Declarant desires to subject the Properties to those certain covenants, agreements, easements, restrictions, charges, and liens as hereinafter set forth; and

WHEREAS, THE ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC. is a New York Not-for-Profit Corporation formed for the purpose described in its Certificate of Incorporation;

NOW, THEREFORE, Declarant hereby declares that all of the Properties (and the common area herein described) shall be subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, burden and bind the Properties for and during the period of time specified hereafter, and be binding on all parties having any right, title or interest in the Properties or any part thereof; their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
NAME AND LOCATION**

The name of the corporation shall be Ellison Heights Homeowners Association, Inc., located at 197 W. Main Street, Town of Victor, Ontario County, New York 14564.

**ARTICLE II
DEFINITIONS**

SECTION 1: "Association" shall mean and refer to Ellison Heights Homeowners Association, Inc., its successors and assigns.

SECTION 2: "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

The Common Area to be owned by the Association at the time of the conveyance of the first Lot shall include all of the premises described as "Properties," excepting therefrom the townhome lots, as shown on the map of the Properties filed in the Monroe County Clerk's Office.

SECTION 3: "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

SECTION 4: "Declarant" shall mean and refer to Ellison Heights LLC, its successors and assigns if such successors or assigns shall acquire more than one undeveloped Lot from Declarant for the purpose of development.

SECTION 5: "Properties" shall mean and refer to Schedule A, which includes all Lots and Common Areas, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 6: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or resubdivision map of the Properties, with the exception of the Common Areas.

SECTION 7: A "Fine" shall be a sum of money not to exceed ten percent (10%) of the total annual common assessment for an individual lot. A fine may be a penalty.

ARTICLE III PROPERTY RIGHTS

SECTION 1: Owner's Easements of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to the Common Area, including the rights of ingress and egress to Owner's property over the Common Area, which easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, pursuant to its By-Laws, to adopt rules and regulations governing the use of the Common Area and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

(b) The right of the Association to suspend the right to the use of the Common Area other than the common access road, by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to grant easements in, dedicate or transfer title to the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members approving such transfer. No such dedication or transfer shall be effective unless an instrument agreeing to such a dedication or transfer has been signed by 85% of each class of members and their mortgagees has been recorded.

(d) The right of the Association to designate certain portions of the Common Area as paths, community gardens, specific recreation areas, and parking areas for the use of Owners, their invitees and guests. However, invitees and guests are restricted from the use of garden areas, and the parking of trailers, except as permitted under the Rules and Regulations.

(e) The right of invitees and visitors of any Owner to ingress and egress over the Common Area.

SECTION 2: Delegation of Use: Owners may delegate, in accordance with the By-Laws and Rules and Regulations, their right of enjoyment to the Common Area to family members, tenants, or contract purchasers who reside on the property.

ARTICLE IV EASEMENTS

SECTION 1: EASEMENTS for UTILITIES. The Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Properties.

SECTION 2: OTHER EASEMENTS. There is hereby created a blanket easement, provided use of said easement does not interfere with any improvements, upon, across, over and under all of the Properties, for ingress, egress, installation, replacement, repair and maintenance of all utilities, including but not limited to water, wastewater, surface water, gas, telephones, electricity, Cable TV, and a master TV antenna system.

By virtue of this easement, it is expressly permissible to erect and maintain the necessary equipment on the Properties, and to affix and maintain electrical or telephone wires and conduits, wastewater, surface water, and water lines, on, above or below any land owned by the Association and/or Owners.

An easement is hereby reserved to the officers, agents, or employees of the Association, including the employees of any management company under contract with the Association, over all of the Common Areas, to protect its interest by entrance to any Common Area, and to maintain any utilities for which an easement has been granted.

An easement is hereby reserved to Declarant to enter the Common Areas and Lots during the period of development and sale of the Properties, or any additions to the Properties, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be

reasonably required, convenient or incidental to the development and sale of lots, including, without limitation, a sales office, storage area, and signs, provided that this does not unreasonably obstruct access by members of the Association.

SECTION 3: PARTY WALLS.

(a) Each wall built as part of the original construction of the homes on the Lots which shall serve and separate two adjoining homes shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Each Owner shall have an easement to enter upon the Lot of an adjacent Owner for the purpose of maintaining or making repairs to a party wall. This easement is to be limited to the area of the other Owner's Lot reasonably necessary to effect said repairs, and such easement must be used in a reasonable manner so as not to unnecessarily interfere with the other Owner's enjoyment of his or her Lot. The area where such work is performed is to be restored to its condition prior to entry, as near as possible.

(c) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

(d) If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall may restore it, and if the other Owner(s) thereafter make use of the wall, they shall contribute to the cost of the restoration thereof in equal proportions, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

(e) Notwithstanding any other provision of this section, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by willful acts or negligence causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(f) The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE V MEMBERSHIP & VOTING RIGHTS

SECTION 1: MEMBERSHIP: Every Owner of a Lot which is subjected by this Declaration to assessment by the Association shall be a member of the Association ("Member").

Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

SECTION 2: The Association shall have two CLASSES OF VOTING MEMBERSHIP

CLASS A. Class A Members shall be all Owners, with the exception of Declarant. Each Class A member shall be entitled to one vote. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

CLASS B. The Class B Member(s) shall be the Declarant or its successors or assigns and shall be entitled to one vote for so long as one lot is owned by Declarant. The Class B Membership shall cease and be converted to Class A Membership when title to all Lots has been transferred, or 3 years after the first Lot has been conveyed by Declarant, whichever occurs first. Class A Members shall not be entitled to vote for Members of the Board of Directors until all Lots have been transferred or 3 years after the first Lot is transferred, whichever occurs first.

**ARTICLE VI
COVENANT FOR ASSESSMENTS**

SECTION 1: CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed for such Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual common assessments and special assessments. Annual common assessments are for maintenance charges including real estate tax charges for the Common Area. Special assessments shall include the cost of reconstructing those portions of the Common Areas which cannot be repaired, and for emergencies as the need therefor arises. All assessments shall be established and collected as hereinafter provided. The covenant in this Section shall not constitute a guarantee or promise of any kind by Declarant to pay any assessment, or any other obligation of any Owner, other than Declarant.

The annual common maintenance assessments and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs, late charges, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title, unless expressly assumed by them.

In spite of any provision to the contrary in this Article VI, the Declarant shall be obligated to pay only the difference between the amount collected on transferred Lots (which amount will not exceed the budgeted amount per transferred Lot) and the actual cost of operation of the Association.

SECTION 2: PURPOSE OF ASSESSMENTS. Assessments levied by the Association shall be used exclusively (i) to operate, maintain, repair, improve, construct, reconstruct and preserve the Common Area owned by the Association, exclusively for the benefit of its Members, their guests, tenants and invitees, and (ii) to provide service for the individual Lots as described further in this Declaration.

SECTION 3: SPECIAL ASSESSMENTS. In addition to the annual assessments, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, emergency repair, service or replacement of any improvement upon the Common Area, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly called for this purpose.

SECTION 4: NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 of this Article VI shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The presence of Members, in person or by proxy, entitled to cast two-thirds (2/3) of all the votes of the membership shall constitute a quorum.

SECTION 5: RATE OF ASSESSMENT. Annual common and special assessments, shall be fixed at a uniform rate for all Lots, and may be collected on a monthly, quarterly or annual basis.

SECTION 6: DUE DATES FOR ANNUAL COMMON & SPECIAL ASSESSMENTS. The Board of Directors shall annually fix the amount of the assessments against each Lot. Written notice of any change in the assessments shall be sent to every Owner subject thereto not less than thirty (30) days prior to the effective date of such change.

Due date(s) for payment of assessments shall be the first day of each month or as established by the Board. Payments received after the 10th of the month may, at the discretion of the Board, be subject to a late charge, which charge shall be a percentage of the assessment not to exceed the prime lending rate charged by M&T Bank at the time of the charge plus three (3) percent.

The Association shall, upon demand of a buyer or seller or their attorney, furnish a certificate signed by an officer of the Association or the Managing Agent, setting forth whether the assessments on a specified Lot have been paid. The Association may assess a reasonable charge for the preparation of any such certificate.

SECTION 7: EFFECT OF NON-PAYMENT OF ASSESSMENTS AND REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the date said assessment is due shall become a lien against the Lot, and shall bear interest as set forth in Section 6 above from its due date. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of a Lot.

The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot, and interest, late charges, costs, and reasonable attorney s fees of any such action will be added to the amount of such assessment.

Each such Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of such charge, and to enforce the aforesaid by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such Owner hereby expressly grants to the Association the power of sale in connection with such lien.

The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all Owners. The Association, acting on behalf of the Owners, shall have the power to bid for an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

SECTION 8: SUBORDINATION OF THE LIEN TO FIRST MORTGAGES. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereon.

SECTION 9: RESERVES AND SURPLUSES. The Association's Board shall establish, from time to time, reserves for such lawful purposes as in its sole discretion it may determine necessary or desirable for the greater financial security of the Association and the effectuation of its purposes. The Association shall not be obligated to spend in any fiscal year all the sums collected in such year, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply any such surplus to the reduction of the amount of the annual assessment in the succeeding year, but may carry forward the same from year to year.

SECTION 10: In spite of any provision to the contrary in this Article VI, the Declarant shall not be liable for the payment of common charges for unsold Lots owned by it. The Declarant shall, however, contribute to the Association that amount equal to the difference between the cost of operating the Association and the assessments collected from Owners as set forth in the projected budget.

SECTION 11: CONTRACTUAL AUTHORITY. The Association shall be entitled to contract with any corporation, firm or other entity in the performance of the various duties imposed on the Association hereunder and the performance by any such entity shall be deemed the performance of the Association hereunder.

ARTICLE VII MAINTENANCE

Assessments levied by the Association shall be used exclusively (1) to operate, maintain, insure, repair, improve, construct, reconstruct and preserve the Common Area owned by the Association, exclusively for the benefit of its Members, their guests, tenants and invitees; and (2) to provide the following services:

maintenance, repair, improvement, and snow plowing of driveways and roadways:

garbage and trash removal;

snow shoveling of sidewalks and steps;

landscape and maintenance of Common Areas;

maintenance of Common Area drainage swales and retention areas for surface water;

insurance on homes and Common Area;

establish reserves for driveway/road maintenance, minor exterior painting and repairs of homes and roof replacement.

ARTICLE VIII USE OF PROPERTY

The use of the Properties shall be restricted to and in accordance with the following provisions:

A. A Lot shall be used for single family residential purposes only. For the purpose of this section Single Family Residential shall mean the immediate family and no more than two (2) unrelated adults.

B. The Common Areas shall be used for the use and enjoyment of the Owners, their guests, invitees and assigns.

C. The Board of Directors is empowered to serve written notice of any violations of these restrictions. Such written notice shall be given at least two (2) times. If an Owner fails to comply within five (5) days after receipt of the second notice, the Board of Directors is empowered to assess a fine. A separate fine may be imposed for each violation. Unpaid fines will be considered additional assessments and will become a lien upon the Lot.

D. THE FOLLOWING SHALL APPLY TO ALL LOTS AND COMMON AREAS

(1) Only one (1) single-family dwelling and garage shall be erected, altered, placed or permitted to remain on any Lot.

(2) Each Member's dwelling and Lot shall be maintained in good repair and overall appearance. If a Member fails to maintain his house or Lot in a reasonably well maintained and

orderly manner, the Board of Directors may contract for exterior maintenance and any expenses incurred shall be considered additional common charges against the Lot in question.

(3) All private passenger motorized vehicles will be parked and stored in garages or on driveways and not on any other portion of the Lot. Trailers and boats shall be stored in garages or in designated areas. Large vehicles and trailers, other than small private passenger types, shall be parked and stored only at the direction of and with prior written approval of the Board of Directors. Motor vehicles making deliveries or providing services to the Lots are permitted as needed. No part of any Lot or Common Area shall be used continuously for tent camping or the parking of sleeper vans, campers or tent trailers.

(4) The Board of Directors may designate certain portions of the Common Area for use as paths, restricted common areas, community garden areas, and specific recreation areas for the use of Owners, their invitees and guests. Invitees and guests may use community garden areas only as provided in the Rules.

(5) Garbage and rubbish shall not be dumped or allowed to remain on any Lot or Common Area except in accordance with the rules of the Association.

(6) No radio, television or similar towers or antennae shall be erected on any Lot or attached to the exterior of any dwelling. Satellite Dishes up to 14 inches in diameter will be allowed only with prior permission of the Board of Directors, and shall not be placed on the front of the house.

7) Nothing shall be stored in the Common Areas except with the prior written consent of the Board of Directors.

(8) Motorized vehicles of any kind shall not be allowed on any pedestrian path, except for maintenance vehicles employed by the Association, and except for motorized assistance given to disabled people.

(9) Access to the Common Areas shall be by way of the Common Areas and not through private Lots.

(10) Mobile homes are not permitted on the Properties.

(11) No livestock or animals shall be permitted on any Lot except for two (2) domestic pets not kept for breeding. Pets cannot be kenneled outside.

ARTICLE IX ARCHITECTURAL & LANDSCAPE CONTROL

SECTION 1: Landscape care of the Common Area and the landscaped area of each Lot is the responsibility of and shall be controlled by the Association.

No fence, mailboxes, or walls shall be erected or maintained upon the Properties except those erected at the time of the original construction of the buildings located thereon, or of a substantially similar nature, without the written application to and approval by the Board of Directors.

SECTION 2: No alterations, additions, rebuilding, exterior modification of any kind, or re-painting of the exterior of any building shall be made unless it shall conform in architecture, is similar in material and color to the building as originally constructed, and is approved by the Board of Directors.

SECTION 3: No building, fence, wall or other structure or change in landscaping, shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereto be made, until the plans and specifications showing the nature, kind, shape, height, materials, color, and locations of the same shall have been submitted to, and approved in writing as to the harmony of external design and location in relation to surrounding structures by the Board of Directors of the Association.

If an individual Owner wishes to maintain the landscaping of that part of the Owner's Lot within ten (10) feet of the Owner's townhouse foundation that Owner must submit a written request for approval along with a proposed landscape plan to the Board of Directors.

In the event that the Board of Directors fails to approve or disapprove any such request, design or location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and compliance with this Article will be deemed to have been made.

ARTICLE X INSURANCE & CASUALTY DAMAGE

A. The Association, for the Common Areas and the townhomes, will obtain and maintain in force and effect a policy of liability, casualty, and other necessary insurance, in an amount, and with such coverages as are acceptable to the Association.

B. An annual evaluation shall be made by the Board of Directors to determine the adequacy of the insurance.

C. The Owner of any Lot shall be responsible for securing public liability, fire, and all insurance necessary to protect his fixtures and personal property interests as he shall be so advised.

ARTICLE XI ADDITIONAL PROPERTY SUBJECT TO THIS DECLARATION

SECTION 1: Declarant, its successors or assigns, shall have the right, without the consent of the members of the Association, to subject additional Properties to this Declaration

within three (3) years of the original date of this instrument, such Properties to be developed substantially as the Properties contained herein. However, neither Declarant, nor its successors or assigns, shall be bound to make such additions.

Such additions shall be made by recording in the Monroe County Clerk's Office a supplemental Declaration with respect to the additional Properties, which shall extend the scheme of the Declaration to such Properties.

SECTION 2: Additions to the Properties by the Association. Annexation of additional property by other than Declarant shall require the assent of seventy-five percent (75%) of Members, at a meeting duly called for this purpose on the same notice, and in the same manner as is required for meetings and voting by the By-Laws.

ARTICLE XII GENERAL PROVISIONS


SECTION 1: Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by, the Association, or the Owner of any land subject to this Declaration, their respective heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded, after which time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by the Owners of seventy-five percent (75%) of the Lots has been recorded, agreeing to change such covenants and restrictions, in whole or part.

This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than eighty percent (80%) of the Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. Any amendments must be recorded in the Monroe County Clerk's office to become effective.

SECTION 2: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

SECTION 3: Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges, now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Expenses of enforcing the covenants herein contained shall be chargeable to the Owner violating these covenants and the expense so incurred by the Association shall constitute a lien on such Owner's Lot, collectible in the same manner as assessments under the prior provisions hereof.

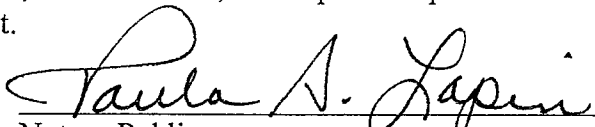
ELLISON HEIGHTS LLC,
DECLARANT

By: 
Steven P. Mancini,
Managing Member

STATE OF NEW YORK)

COUNTY OF ONTARIO) SS:

On the 20th day of April in the year 2006 before me, the undersigned, a Notary Public in and for said State, personally appeared Steven P. Mancini, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

PAULA A. LAPIN
Notary Public, State of New York
No. 4627286
Qualified in Onondaga County
Commission Expires June 30, 2009

*State of New York }
Department of State } ss:*

I hereby certify that the annexed copy has been compared with the original document filed by the Department of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

March 10, 2005



A handwritten signature in black ink, appearing to read "R. A. S.", is written over the printed title.

Secretary of State

DC-08

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CERTIFICATE OF INCORPORATION

OF

ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC.

Under Section 402 of the Not-For-Profit Corporation Law

THE UNDERSIGNED, for the purpose of forming a corporation pursuant to Article 4 of the Not-For-Profit Corporation Law of the State of New York, does hereby certify:

1. The name of the Corporation is "ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC."

2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law and is a Type A Corporation.

3. The purposes for which the Corporation is formed are as follows:

(a) To promote the health, safety and welfare of the residents of the residential community known as Ellison Heights, in lands situated in the Town of Penfield, County of Monroe and State of New York;

(b) To own, acquire, build, operate and maintain land and facilities for recreational, cultural and community use, including buildings, structures, improvements and personal property incident thereto;

(c) To enforce any and all covenants, restrictions and agreements applicable to the residential parcels within the above described residential community and the common properties (the enforcement of which is not specifically and exclusively reserved to others); and

(d) To make and perform any contracts and do any other acts and things, the exercise of any powers suitable, convenient, proper or incidental for the accomplishment of any

objects enumerated herein, but not for the pecuniary profit or financial gain of its members, directors or officers except as permitted under Article 5 of the Not-for-Profit Corporation Law.

In furtherance of the foregoing purposes, and subject to any limitations provided in the Not-For-Profit Corporation Law or any other statute of the State of New York, the Corporation shall have the power, either directly or indirectly, either alone or in conjunction or cooperation with others, to do any and all lawful acts and things and to engage in any and all lawful activities which may be necessary, useful, suitable, desirable, or proper for the furtherance, accomplishment, fostering, or attainment of any and all of the purposes for which the Corporation is organized.

4. The office of the Corporation is to be located in the County of Ontario, State of New York.

5. The names and addresses of the initial directors are as follows:

Steven Mancini
43 Walling Street
Victor, New York 14564

Robert Mancini
P.O. Box 901
Bedford, New York 10506

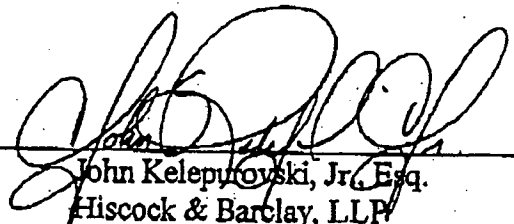
Ron Beller
4 Upper Terrace
London, England nw3 6rh

6. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him as agent of the Corporation is:

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c/o RSM Development Co., LLC
197 West Main Street
Victor, New York 14564

IN WITNESS WHEREOF, the undersigned has signed this Certificate of
Incorporation this 3rd day of March, 2005.



Name: John Keleprouski, Jr. Esq.
Address: Hiscock & Barclay, LLP
Financial Plaza
Post Office Box 4878
Syracuse, New York 13221

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CERTIFICATE OF INCORPORATION

OF

ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC.

Under Section 402 of the Not-For-Profit Corporation Law

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STATE OF NEW YORK
DEPARTMENT OF STATE
FILED MAR 04 2005
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BY: *fac*
Ontario

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DRAWDOWN

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HISCOCK & BARCLAY, LLP
Office and Post Office Address
Financial Plaza
Post Office Box 4878
Syracuse, New York 13221
Telephone (315) 422-2131

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BY-LAWS OF
ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
IDENTITY

These are the By-Laws of Ellison Heights Homeowners Association, Inc.

These By-Laws provide the method by which Ellison Heights Homeowners Association, Inc. (herein the "Association"), a homeowners association in the Town of Penfield, Monroe County, New York, organized under the Not-For-Profit Corporation Law, shall be governed.

The office of the Association shall be as designated by the Board of Directors, or at the address of the Declarant, Ellison Heights LLC (herein the "Declarant") 197 West Main St., Victor, N.Y., 14564.

The fiscal year of the Association shall be the calendar year.

ARTICLE II
DEFINITIONS

A. "Association" shall mean and refer to Ellison Heights Homeowners Association, Inc., its successors and assigns.

B. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Restrictions, Easements and Liens and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

C. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

D. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

F. "Declarant" shall mean and refer to Ellison Heights LLC, its successors and assigns.

G. "Declaration" shall mean and refer to the Declaration of Covenants, Restrictions, Easements and Liens applicable to the Properties and recorded in the Monroe County Clerk's Office.

H. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

I. A "Fine" shall mean a sum of money determined and levied by the Board of Directors or their agent on an Owner for the violation of the Declaration, By-Laws, or Rules of the Association. A fine can not exceed 10% of the total annual common assessment.

ARTICLE III BOARD OF DIRECTORS

A. Membership and Initial Selection. The Association shall be governed by a Board of Directors consisting of not less than three (3) nor more than five (5) persons. These directors shall be members in good standing of the Association. The initial Board of Directors shall be designated by Declarant who is authorized to choose the directors until all Lots have been transferred or until three (3) years after the transfer of the first unit, whichever first occurs. The directors designated by the Declarant need not be members of the Association.

B. Term and Election. At such time as the members become empowered to elect the Board of Directors they shall elect three (3) directors, the person receiving the greatest number of votes serving three (3) years, the person receiving the next highest number of votes serving two (2) years, and the person receiving the next highest number of votes serving one (1) year. Thereafter, at each annual meeting the members shall elect one (1) director to serve for three (3) years.

C. Removal. Any director may be removed from the Board with or without cause by a majority vote of the members of the Association. In the event of death, resignation, or removal of a director his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

D. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

E. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining approval of all the directors. Any actions so approved shall be in writing and have the same effect as though taken at a meeting of the directors.

F. Powers and Duties. The Board of Directors shall exercise all the powers and duties permitted the governing body of the Association, including those existing under the Not-For-Profit Corporation Law of New York State. Such powers and duties shall be exercised in

accordance with the provisions of the Declaration of Covenants, Restrictions, Easements and Liens applicable to the property recorded in the Monroe County Clerk's Office (herein the "Declaration") which govern the use of the land, and shall include but shall not be limited to the following powers and duties:

1. To make and collect assessments, including special assessments, against members to defray the costs of the Association. To file a lien against any property for which assessments are not paid within thirty-one (31) days after due date, or to bring an action at law against the Owner personally obligated to pay the same.
2. To establish reserve funds for such lawful purposes as it, in its sole discretion, may determine necessary or desirable for the financial security of the Association, including capital reserve accounts.
3. To use the proceeds of assessments in the exercise of its powers and duties.
4. To issue or cause to be issued upon demand of a buyer or seller or their attorney or mortgagee, a certificate setting forth whether or not an assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
5. To assure the maintenance, repair, replacement and operation of all Association property for the common use and enjoyment of the lot owners.
6. To adopt, publish, and distribute to members rules and regulations governing the use of the Common Areas, and the personal conduct thereon of members and their guests, and to establish penalties or fines for the infraction thereof. The initial rules are attached hereto as Schedule 'A'.
7. To enforce by legal means the provisions of the Declaration, By-Laws, and Regulations for the use of the Properties.
8. To procure and maintain adequate property casualty insurance (bare walls coverage) on all townhome units and liability and casualty insurance on property owned by the Association. The Board of Directors shall annually review the amount of insurance coverage to assure that the Association and its members are fully protected. The Board shall also procure insurance on all directors, officers or employees having fiscal responsibility as it may deem appropriate.
9. To authorize the officers to enter into management agreements with third parties in order to facilitate the efficient operation of the facilities and services of the Association. It shall be the primary purpose of such management agreements to provide for the administration, management, repair and maintenance of the facilities, and all improvements included therein, designated as Common Areas, and the receipt and disbursement of such funds

as may be authorized by the Board of Directors. The term of these management agreements shall be as determined by the Board to be in the best interests of the Association.

10. To employ personnel for reasonable compensation to perform, or to retain and/or contract for, the services required for proper administration of the purposes of the Association.

11. To pay the cost of all snow plowing, lawn care and other lot services rendered to the Association and not billed to members individual lots.

12. To receive, consider, and act upon any application which pertains to the building, rebuilding, or any alteration of a structure, and landscape of property in accordance with Article IX of the Declaration.

13. To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

G. Method of Calling Meetings.

1. The first meeting of the Board of Directors shall take place within six (6) months after the closing of the first Lot and thereafter regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board. Notice of regular meetings shall be given to each director personally or by mail, telephone or telegram at least three (3) days prior to the day named for the meeting unless such notice is waived. The first regular meeting held in each calendar year shall be the annual, meeting of the Board.

2. Special meetings of the Board of Directors may be called by the President and must be called by the Secretary at the written request of three directors. No less than three (3) days notice of the meeting shall be given personally, or by mail, telephone, or telegram, which notice shall state the time, place, and purpose of the meeting.

3. Any director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

H. Quorum. A quorum at the Board of Directors meeting shall consist of a director or directors present in person, holding at least a simple majority of the eligible votes. The acts of the Board approved by a majority of the directors present in person or by proxy at a meeting at which a quorum is present shall constitute the acts of the Board of Directors except as specifically otherwise provided in the Declaration. If at any meeting of the Board of Directors there be fewer than a quorum present, the directors present shall adjourn the meeting from time to time until a quorum is present. At an adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

I. Action Without Meeting. Any action required or permitted to be taken at any

meeting of the Board of Directors may be taken without a meeting if all the members of the Board of Directors consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board of Directors.

J. Officers. The officers of the Association shall be a President, Secretary, and Treasurer. They shall be elected at the annual meeting by the Board of Directors from among the members of the Board and shall hold office for a term of one (1) year or until the next annual meeting. Officers may be removed and replaced by vote of the directors at any meeting. Any person may hold two (2) offices except that the President shall not be the Secretary. The Board of Directors may from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

1. The President shall be the chief executive officer of the Association and shall preside over the meetings of the Board of Directors and of the members. He shall have all the powers and duties which are usually vested in the office of the president, including but not limited to the power to appoint committees from among the directors, members and residents of the subdivision from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.

2. The Secretary shall keep the minutes of all proceedings of the Board of Directors and of members. He shall attend to the giving and serving of all notices to the directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary, and as may be required by the directors or the President. The Secretary shall keep a current record containing the names, alphabetically arranged, of all persons who are members of the Association, showing their place of residence. Such record shall be open for inspection as prescribed by law. In the absence or disability of the President, he shall exercise the powers and perform the duties of the President.

3. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls and accounts of the members including an account for each Lot in the subdivision; he shall keep the books of accounts of the Association in accordance with good accounting practices. The Treasurer shall receive and deposit, in appropriate bank accounts as shall be designated as depository by the Board of Directors all monies of the Association; disburse funds of the Association as directed by action of the Board of Directors; sign with the President all checks and promissory notes of the Association; cause an annual audit of the accounts of the Association to be made by an accountant, selected by the Board of Directors, at the completion of each fiscal year; and prepare an annual budget and statement of income and expense at the inception of each fiscal year. Upon adoption of said budget and financial statement by the Board of Directors, the Treasurer shall deliver a copy of same to each member of the Association. The fiscal year shall be the calendar year.

4. Compensation. The officers shall not receive any salary for their services. However, an officer may be reimbursed for actual expenses incurred in the performance of his duties.

5. Fidelity Bonds. Fidelity bonds shall be required by the Board of Directors for officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Board of Directors. The premium on such bonds shall be a common expense and be paid by the Board of Directors.

6. Vacancies. A vacancy in any office may be filled by appointment by the remaining members of the Board of Directors. The officer so appointed to such vacancy shall serve for the remainder of the term of the office to which they are appointed.

ARTICLE IV
ANNUAL MEETINGS OF THE HOMEOWNERS' ASSOCIATION
AND POWERS OF MEMBERS

A. Meetings. Meetings of the members shall be held annually after the end of the control period and when called by the Board of Directors, or by the President, or by any three (3) members. Board members shall be elected at the Annual Meeting. Special assessments shall have the assent of two-thirds (2/3) of the votes of the Members. All meetings shall be held at the principal office of the Association or at such other place in the Town of Penfield, or any immediately adjacent town, as may be fixed by the President. The meeting notice shall state the time, date, place and purpose of the meeting.

B. Notice of Meeting. The Secretary shall give not less than seven (7) days notice of any meeting of members personally, or by mail, or telegram, which notice shall state the time, date, place, and purpose of the meeting. Any member may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

C. Quorum. A quorum at members meetings shall consist of a simple majority of the eligible members present by proxy or in person. The acts of the members must be approved by vote of a simple majority of the eligible members except as specifically otherwise provided in these By-Laws, the Declaration, or the Not-For-Profit Corporation Law.

ARTICLE V
ARCHITECTURAL & LANDSCAPE CONTROL

A. The maintenance, repair and replacement of the exterior of all townhome units and garages, including all roofs and landscaping and lawn maintenance are the responsibility of the Association.

B. No fences, or walls shall be erected or maintained upon the Properties except those erected at the time of the original construction of the buildings located thereon, or of a substantially similar nature, without the written application to and approval by the Board of Directors.

C. No alterations, additions, building, rebuilding, or any exterior modification of any kind, or re-painting of the exterior of any building shall be made unless it shall conform in

architecture, material and similar color to the building as originally constructed, and is approved by the Board of Directors.

D. No building, fence, wall or other structure or change in landscaping shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereto be made, unless and until the plans and specifications showing the nature, kind, shape, height, materials, color, and locations of the same shall have been submitted to, and approved in writing as to the harmony of external design and location in relation to surrounding structures, by the Board of Directors of the Association.

In the event that said Board of Directors fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, no approval will be required and compliance with this Article will be deemed to have been made.

ARTICLE VI LIABILITY OF BOARD OF DIRECTORS

In order to limit the liability of the Owners, any contract, agreement, or commitment made by the Board of Directors shall state that it is made by the Board of Directors as agent for the Owners as a group only and that no member of the Board of Directors nor individual Owner shall be liable for such contract, agreement, or commitment. The Board of Directors shall have no liability to the Owners in the management of the Association except for willful misconduct or bad faith and the Owners shall severally indemnify all members of the Board of Directors in accordance with their duties as such members except for acts of willful misconduct or acts made in bad faith. Such several liability of the Owners shall, however, be limited to the extent that his proportionate interest in the common area bears to the total liability of the members of the Board of Directors.

ARTICLE VII AMENDMENTS

A. These By-Laws may be amended at a regular or special meeting of the members by a vote of two-thirds (2/3) of a quorum of members is present in person or by proxy.

B. In case of any conflict between the Articles of Incorporation and these By-Laws the Articles shall control and in the case of any conflict between the Declaration and these By-Laws the Declaration shall control.

This is a true copy of the By-Laws of Ellison Heights Homeowners Association, Inc. as of this _____ day of _____, 2006.

ELLISON HEIGHTS HOMEOWNERS
ASSOCIATION, INC.

SCHEDULE A
RULES AND REGULATIONS

In addition to the other provisions of the By-Laws, the following rules and regulations, together with such additional rules and regulations as may hereafter be adopted by the Board of Directors, shall govern the use of the Lots and Common Areas.

1. The Common Area pathways must not be obstructed or encumbered.
2. Parking on the Common Areas will be in Board designated areas only.
3. The landscaping of the Common Area is for the enjoyment of the Owners. Trees, shrubs, bushes, and all landscaping shall not be cut, tampered with, or harmed in any way.
4. Garbage, trash, and cuttings shall not accumulate on Lots and the Common Area. Collection of garbage and trash from Lots shall be at the direction of the Board of Directors.
5. A maximum of two (2) pets, in the aggregate, may be kept in any dwelling or on any Lot. No animals of any kind shall be raised, bred or kept in any dwelling or on any Lot, except that dogs, cats or other domesticated household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose(s). No Owner or resident shall allow any pet to run free in the Common Areas. Pets on the Common Areas shall be leashed. Owners shall be responsible for picking up after pets.
6. Motor vehicle repair is to be carried out in an enclosed garage.
7. Boats, trailers and large vehicles shall be stored inside garages. Temporary driveway parking of such vehicles is permitted.
8. Storage of equipment, supplies and firewood shall be in garages only.

MODEL FORM OF
ESCROW AGREEMENT

THIS AGREEMENT made this 20th day of April, 2006, between ELLISON HEIGHTS LLC, 197 West Main Street, Victor, New York 4564 (the 'Sponsor') and FIX SPINDELMAN BROVITZ & GOLDMAN, P.C., 295 Woodcliff Drive, Fairport, New York 14450 ("Escrow Agent") as escrow agent.

WHEREAS, the Sponsor is creating cooperative interests in certain real property by virtue of the fact that lot owners in the Ellison Heights Townhomes, Penfield, New York will own certain green areas in common;

WHEREAS, Fix Spindelman Brovitz & Goldman, P.C. is authorized to act as an escrow agent hereunder in accordance with General Business Law ("GBL") Section 352-e(2-b) and the Attorney General's regulations promulgated thereunder;

WHEREAS, Sponsor desires that Escrow Agent act as escrow agent for deposits and payments by purchasers and subscribers, pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and other good and valuable consideration, the parties hereby agree as follows:

I. ESTABLISHMENT OF THE ESCROW ACCOUNT.

1.1 Sponsor and Escrow Agent hereby establish an escrow account with the Escrow Agent for the purpose of holding deposits or payments made by purchasers or subscribers. The escrow account will be opened with Canandaigua National Bank & Trust, 61 W. Main Street, Victor, New York 14564. The account number is 11027-18318.

1.2 The account will be named Fix Spindelman Brovitz & Goldman, P.C., as escrow agent for the Ellison Heights Homeowners Association.

1.3 Paula Lapin, Esq. and Richard Brovitz, Esq., are the sole signatories on the account..

1.4 The escrow account shall be a non interest-bearing IOLA account established pursuant to Judiciary Law § 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

2.1 All funds received from prospective purchasers or subscribers prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be deposited in the escrow account. All instruments to be deposited into

the escrow account shall be made payable to, or endorsed by the purchaser or subscriber to the order of Fix Spindelman Brovitz & Goldman, P.C., as escrow agent for Ellison Heights Homeowners Association. Any instrument payable or endorsed other than as required by, and which cannot be deposited into such escrow account, shall be returned to the prospective purchaser or subscriber promptly, but in no event more than five business days following receipt of such instrument by the Escrow Agent. In the event of such return of funds, the instrument shall be deemed not to have been delivered to Escrow Agent pursuant to the terms of this Agreement.

2.2 Within ten (10) business days after tender of the deposit submitted with the subscription or purchase agreement, the Escrow Agent shall notify the purchaser of the deposit of such funds in the bank indicated above, provide the account number, and disclose the initial interest rate. If the purchaser does not receive notification of such deposit within fifteen (15) business days after tender of the deposit, the purchaser may cancel the purchase and rescind within ninety (90) days after tender of the deposit, or may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with these regulations and requisite notice was timely mailed to the subscriber or purchaser.

3. RELEASE OF FUNDS.

3.1 Escrow Agent shall not release the escrowed funds of a defaulting purchaser until after consummation of the plan as defined in the Attorney General's regulations. Consummation of the plan shall not relieve Sponsor of its fiduciary obligations pursuant to GBL Section 352-h.

3.2 Escrow Agent shall continue to hold the funds in escrow until otherwise directed in a writing signed by both sponsor and purchaser or (b) a determination of the Attorney General or (c) a judgment or order of a court of competent jurisdiction or until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds.

3.3 Sponsor shall not object to the release of the escrowed funds to (a) a purchaser who timely rescinds in accordance with an offer of rescission contained in the plan or an amendment to the plan or (b) all purchasers after an amendment abandoning the plan is accepted for filing by the Department of Law.

3.4 If there is no written agreement between the parties to release the escrowed funds, Escrow Agent shall not pay the funds to Sponsor until Escrow Agent has given the purchaser written notice of not fewer than ten (10) business days. Thereafter, the funds may be paid to Sponsor unless the purchaser has made application to the Department of Law pursuant to the dispute resolution provisions contained in the Attorney General's regulation and has so notified Escrow Agent in accordance with such provisions.

4. RECORDKEEPING.

4.1 Escrow Agent shall maintain all records concerning the escrow account for seven years after release of the funds.

4.2 Upon the dissolution of the law firm which was Escrow Agent, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the Department of Law of such transfer.

4.3 Escrow Agent shall make available to the Attorney General, upon his request, all books and records of Escrow Agent relating to the funds deposited and disbursed hereunder.

5. GENERAL OBLIGATIONS OF ESCROW AGENT.

5.1 Escrow Agent shall maintain the accounts called for in this Agreement under the direct supervision and control of Escrow Agent.

5.2 A fiduciary relationship shall exist between Escrow Agent and Purchasers, and Escrow Agent acknowledge its fiduciary obligations.

6. RESPONSIBILITIES OF SPONSOR.

6.1 Sponsor agrees that Sponsor and its agents, including any selling agents, shall immediately deliver all deposits and payments received by them prior to closing of an individual transaction to Escrow Agent.

6.2 Sponsor agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and compliance with the Attorney General's regulations.

7. TERMINATION OF AGREEMENT.

7.1 This Agreement shall remain in effect unless and until it is cancelled, by either:

(a) Written notice given by Sponsor to Escrow Agent of cancellation of designation of Escrow Agent to act in said capacity, which cancellation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor Escrow Agent; or

(b) The resignation of Escrow Agent upon giving notice to Sponsor of its desire to so resign, which resignation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor Escrow Agent; or

(c) All shares or units offered pursuant to the plan have been sold and all sales transactions have been consummated.

7.2 Upon termination of the duties of Escrow Agent as described in paragraph 7.1 above, Escrow Agent shall deliver any and all funds held by it in escrow and any and all contracts or documents maintained by Escrow Agent to the new escrow agent.

8. SUCCESSORS AND ASSIGNS.

8.1 This Agreement shall be binding upon Sponsor and Escrow Agent and their successors and assigns.

9. GOVERNING LAW.

9.1 This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

10. ESCROW AGENT'S COMPENSATION.

10.1 Sponsor agrees that Escrow Agent's compensation shall not be paid from escrowed principal nor from any interest accruing thereon and that compensation to Escrow Agent, if any, shall not be deducted from escrowed funds by any financial institution under any circumstance.

11. SEVERABILITY.

11.1 If any provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of such provision to other persons or to other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. ENTIRE AGREEMENT.


12.1 This Agreement, read together with GBL Section 352-e (2-b) and the Attorney General's regulations, constitutes the entire agreement between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above.

SPONSOR

Ellison Heights LLC

By:



Steven P. Mancini, Member

ESCROW AGENT

Fix Spindelman Brovitz & Goldman, P.C.

By: Paula A. Lapin
Paula A. Lapin, Of Counsel

APPLICATION TO THE ATTORNEY GENERAL
FOR A DETERMINATION ON THE
DISPOSITION OF DOWNPAYMENTS

[Send this application to the reviewing attorney assigned to the subject plan.]

Re: _____
Address of Building or Name of Project

File Number: _____

Application is made to the Attorney General to consider and determine the disposition of down payments held pursuant to GBL Sections 352-e(2-b) and 352-h. The following information is submitted in support of this application:

1. Name of Applicant _____
2. Address of Applicant _____
3. Name, Address, and Telephone Number of Applicant's Attorney (if any) _____

4. This is an application for
 return of downpayment.
 forfeiture of downpayment.
 other: _____
5. The project is a conversion of occupied premises.
 newly constructed or rehabilitated.
 vacant (as is).
6. The project is structured as
 a cooperative.
 a condominium.
 a homeowners association.
 a timeshare.
 other: _____

7. Name and Address of Sponsor: _____

8. Name and Address of Escrow Agent: _____

9. If downpayments are maintained in an escrow account:
- (a) Name of account _____
 - (b) Name and address of bank _____
 - (c) Account number (if known) _____
 - (d) Initial interest rate (if known) _____
10. If downpayments have been secured by bonds:
- (a) Name and address of bond issuer or surety: _____

 - (b) Copy of bond included in this application. (DO NOT SEND ORIGINAL BOND). If not included, explain:

11. If downpayments have been secured by a letter of credit:
- (a) Name and address of bank which issued the letter of credit: _____

 - (b) Date of expiration of the letter of credit, if known:

12. Plan information:
- (a) Date of filing of plan: _____

(b) Plan
[] has been declared effective. Approximate date: _____
[] has not been declared effective.

(c) If effective, the plan
[] has closed or the first unit has closed. Approximate date: _____
[] has not closed.
[] don't know.

(d) Downpayments are secured by
[] escrow account.
[] bonds.
[] letter of credit.

13. Contract information:

(a) Copy of contract and of all riders or modification letters are attached. (DO NOT SEND ORIGINALS.)

(b) Date on which subscription or purchase agreement was signed: _____

(c) Date(s) of downpayment(s): _____

(d) Total amount of downpayment(s): _____

(e) Names and addresses of subscribers or purchasers affected by this application:

14. State the basis for your claim. Please be as specific as possible. You may add additional sheets. Attach copies of any relevant documents.

15. I am contemporaneously sending a copy of this application to the following persons:

Note: You are required to mail a copy of this Application to all other affected parties.

In filing this application, I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities I may contact a private attorney. The above application is true and accurate to the best of my knowledge. False statements made herein are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature: _____ **Date:** _____

Name (Printed): _____

Telephone: (Home) _____ **(Business)** _____

Mailing Address: _____

2/6/92

SPONSOR'S CERTIFICATION

**RE: ELLISON HEIGHTS TOWNHOMES SUBDIVISION, NEW YORK
ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC.**

We are the sponsor and the principals of the Sponsor of the homeowners association offering plan for the captioned property.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 22 and such other laws and regulations as may be applicable.

We have read the entire offering plan. We have investigated the facts set forth in the offering plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the offering plan does, and that documents submitted hereafter by us which amend or supplement the offering plan will:

- (i) set forth the detailed terms of the transaction and be complete, current and accurate;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;
- (v) not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;
- (vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth, or (d) did not have knowledge concerning the representation or statement made.

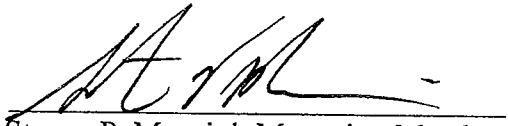
This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

(signature page follows)

Dated: April 20, 2006

ELLISON HEIGHTS, LLC
SPONSOR


Sworn to before me this day of 20th
April, 2006

By: 
Steven P. Mancini, Managing Member

Paula A. Lapin
Notary Public

PAULA A. LAPIN
Notary Public, State of New York
No. 4627286
Qualified in Onondaga County
Commission Expires June 30, 2009

Sworn to before me this day of 20th
April, 2006


Steven P. Mancini

Paula A. Lapin
Notary Public

PAULA A. LAPIN
Notary Public, State of New York
No. 4627286
Qualified in Onondaga County
Commission Expires June 30, 2009

Sworn to before me this day of _____
_____, 2006

Robert S. Mancini

Notary Public

Sworn to before me this day of _____
_____, 2006

Ron Beller

Notary Public

Dated: _____, 2006

ELLISON HEIGHTS, LLC
SPONSOR

Sworn to before me this day of _____
_____, 2006

By: _____
Steven P. Mancini, Managing Member

Notary Public

Steven P. Mancini

Sworn to before me this day of 28th
April, 2006

Robert S. Mancini
Robert S. Mancini

Paula A. Lapin
Notary Public

PAULA A. LAPIN
Notary Public, State of New York
No. 4627286
Qualified in Onondaga County
Commission Expires June 30, 20 10

Sworn to before me this day of _____
_____, 2006

Ron Beller

Notary Public

Dated: _____, 2006

ELLISON HEIGHTS, LLC
SPONSOR

Sworn to before me this day of _____
_____, 2006

By: _____
Steven P. Mancini, Managing Member

Notary Public

Steven P. Mancini

Sworn to before me this day of _____
_____, 2006

Robert S. Mancini

Notary Public

Sworn to before me this day of 28th
April, 2006



Ron Beller

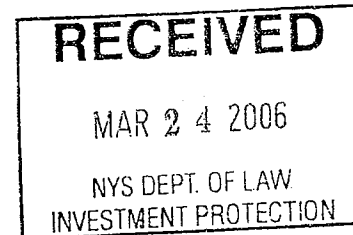
Paula A. Lapin
Notary Public

PAULA A. LAPIN
Notary Public, State of New York
No. 4627286
Qualified in Onondaga County
Commission Expires June 30, 20 10



March 15, 2006

New York State Department of Law
120 Broadway
New York, New York 10271
Attn: Real Estate Financing Bureau



RE: Certification by Expert on Adequacy of Budget
Ellison Heights Homeowners Association, Inc.

Gentlemen:

The sponsor of the homeowners association offering plan for the above captioned property retained my firm to review the Schedule of Income & Expenses containing projections of income and expenses for the first year of operation as a homeowners association. My experience in this field includes:

Over fifteen (15) years in the management of townhouse associations and condominiums.

I understand that I am responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Attorney General in Part 22 insofar as they are applicable to the Schedule of Income & Expenses. I have reviewed the Schedule and investigated the facts set forth in the Schedule and the facts underlying it with due diligence in order to form a basis for this certification. I also have relied on my experience in managing residential property.

I certify that the projections in the Schedule of Income & Expenses appear reasonable and adequate under existing circumstances, and the projected income will be sufficient to meet the anticipated operating expenses for the next year of operation as a homeowners association.

I certify that the Schedules:

- (i) set forth in detail the terms of the transaction as it relates to the Schedule and is complete, current and accurate.

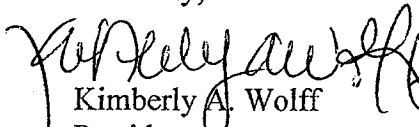


- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of operation as a homeowner association.
- (iii) do not omit any material fact.
- (iv) do not contain any untrue statement of a material fact.
- (v) do not contain any fraud, deception, concealment, or suppression.
- (vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances.
- (vii) do not contain any representation or statement which is false, where I: (a) knew the truth; (b) with the reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth, or (d) did not have the knowledge concerning the representations or statement made.

I further certify that we are not owned or controlled by the sponsor. I understand That a copy of this certification is intended to be incorporated into the offering plan.

This certification is made under penalty or perjury for the benefit of all persons to whom this offer is made. I understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

Sincerely,


Kimberly A. Wolff
President

Sworn to before me this 22
day of May, 2006.



CARRIE JO GODDARD
Notary Public, State of New York
No. 01HA60413
Qualifies in Onondaga County
Commission Expires 03/24/2010
NO# 01HA6040413

ENGINEER'S CERTIFICATION

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

The undersigned, being duly sworn, depose and say as follows:

The Sponsor of the offering plan for Ellison Heights Homeowners Association, Inc. retained our firm to prepare a report describing the construction of the property (the "Report"). We examined the building plans and specifications that were prepared by BME ASSOCIATES, dated May 2005, last revised February 2006, and prepared the Report, dated February 2006, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the Report.

We are a licensed engineer in the State where the property is located.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 22 insofar as they are applicable to this Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

(i) sets forth in narrative form the description and/or physical condition of the entire property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that we examined;

(ii) in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the description and/or physical condition of the property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that we examined;

(iii) does not omit any material fact;

(iv) does not contain any untrue statement of a material fact;

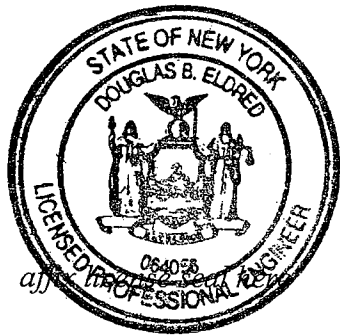
(v) does not contain any fraud, deception, concealment, or suppression;

(vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) does not contain any representation or statement which is false, where we:
(a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the sponsor and that our compensation for preparing this Report is not contingent on the development of the property as the Ellison Heights Homeowners Association, Inc. or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the property.

Dated: 4/5/06



BME Associates

By: Douglas B. Elrod

Registered Engineer
Lic. No. 064056

Affirmed to before me this
5th day of April, 2006

[Signature]
Notary Public

DAVID E. WOOD
Notary Public, State of New York
No. 4964979
Qualified in Monroe County
Commission Expires April 16, 2010

MANAGEMENT CONTRACT

This contract made this 20th day of April, 2005, between Ellison Heights Homeowners Association, Inc., (hereinafter referred to as the "Association") and RSM Development Co., LLC, 197 W. Main Street, Victor, New York 14564, (hereinafter referred to as the "Management Agent").

WITNESSETH:

The parties hereto mutually agree as follows:

FIRST: This Management Contract shall commence immediately upon the happening of the transfer of title to the first unit located in Ellison Heights Townhomes Subdivision.

SECOND: The Association hereby appoints the Management Agent, and the Management Agent hereby accepts appointment as exclusive managing agent of the Board of Directors of the Association regarding property known as Ellison Heights Townhomes Subdivision on Penfield Road, Penfield, New York (the "Property"), upon the terms and conditions hereinafter provided.

THIRD: The Management Agent shall perform the following services:

bill and collect common charges, hire and discharge employees, supervise repairs and alterations; purchase supplies and materials for the Association; maintain the Association's books and records; attend the Annual Meeting of the Board of Directors and of the Unit Owners and attend all meetings of the Board of Directors which it is requested to attend; engage contractors for the maintenance and repair of the Common Areas; provide the Association annually at the Association's expense with a written balance sheet and statement of profit and loss which shall be prepared by an independent public accountant and which shall contain an express opinion by such accountant that such statements fairly present the financial position and results of operations of the Association and generally perform the duties of a managing agent of residential property.

FOURTH: The Association hereby authorizes the Management Agent to perform any act or do anything necessary or desirable to carry out the Agent's agreements contained in Article "THIRD" hereof and everything done by the Management Agent under the provisions of said Article "THIRD" shall be done as Agent of the Association, and all obligations or expenses incurred thereunder shall be for the account, on behalf and at the expense of the Association and its Board of Directors.

FIFTH: The Association shall indemnify and save the Management Agent harmless in respect of liability and damages, costs and expenses in connection with any damage or injury whatever to persons or property arising out of the use, management, maintenance or control of the Property.

SIXTH: The Association shall pay services hereunder the sum of Four Thousand Eight Hundred Dollars (\$4,800.00) per year in equal monthly payments of Four Hundred Dollars (\$400.00) on the last day of each month throughout the term of this contract. The Board of Directors shall have the option to terminate this Agreement at the end of three (3) years or at any time with cause.

SEVENTH: The Management Agent shall have full authority to enter into all contracts on behalf of the Association necessary to carry out the affairs of the Association. However, in the event any contract shall obligate the Association for an expenditure in excess of \$2,000.00, which is not contemplated within the existing budget of the Association, such contract will not be entered into without the written approval of the Board of Directors of the Association.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year first above written.

ELLISON HEIGHTS HOMEOWNERS
ASSOCIATION, INC.

By: 

RSM DEVELOPMENT CO., LLC

By: 

Steven P. Mancini, Managing Member