

DECLARATION

THE PACKETT'S GLEN CONDOMINIUM

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DECLARATION OF CONDOMINIUM

For the land and all improvements thereon known as Packett's Glen a condominium located on West Avenue between Perrin Street and West Shreet in the Village of Fairport County of Monroe, and State of New York, as more particularly described in Schedule A hereto.

--WITNESSETH--

West Avenue Associates, a New York general partnership, with its office at 46 Prince Street, Rochester, New York (hereinafter called the "Sponsor") hereby declares on behalf of itself, its successors and assigns:

ARTICLE I

SUBMISSION OF PROPERTY

The land described in Schedule "A", together with all improvements thereon shall be subject to the provisions of Article 9-B of the Real Property Law of the State of New York (hereinafter called the "Condominium Act") from the date of the recording of this Declaration until the date on which it is terminated.

ARTICLE II

NAME OF CONDOMINIUM

The name of the Condominium shall be Packett's Glen.

ARTICLE III

DEFINITIONS

The terms below will be used frequently in this Declaration and shall have following meaning:

- A. Common Charge Each Unit's proportionate share of the Common Expenses of the ownership and operation of the Condominium determined in accordance with its Common Interest and payable in monthly installments.
- B. Common Expenses Common Expenses means and includes:
 1. Expenses of operation of the property; and,

2. All sums designated common expenses by or pursuant to the provisions of this article, the Declaration or the By-Laws.

The Common Expenses shall include:

1. The cost of maintenance, repair, and replacement of the Common Elements;
2. The cost of operation, management, and administration of the Condominium, including, but not limited to, compensation paid by the Condominium to a managing agent, accountants, attorneys, and other employees.
3. The cost of insurance, purchased and held in accordance with the provisions of this Declaration;
4. Reserve funds; and,
5. The cost of items for common use or benefit incurred in accordance with the provisions of the Condominium Act, this Declaration or the By-Laws of the Condominium.

C. Common Elements The Common Elements consist of all those parts of the Condominium Property which are not within the Units including, but not limited to, the following:

1. All land and the garage buildings.
2. The meeting room, elevator, elevator lobbies, and such building storage space on the lower level of the Building as is not part of any Unit.
3. The foundations, columns, girders, beams, chimneys and supports to the Building.
4. Those portions of the Exterior Walls bounding each Unit which are located between such Unit and either the outside, a Common Element or another unit and which separate the Unit from the outside, such Common Element or another Unit.
5. In all two-story units, namely 205, 206 and 207, that part of the floor which lies between the unfinished interior surface of the ceiling or the first floor of each Unit and the surface of the subfloor on the second floor of each Unit.

6. The entire roof of the Building from the exterior to the surface of the interior unfinished underside of the roof; that space which vertically separates two Units from one another or a Unit from a Restricted Common Element from the unfinished interior surface of the ceiling of the Unit to the underside surface of the subflooring above.
 7. All corridors, hallways or entrances which are used in common by two or more Unit owners, and all interior floors, walls and ceilings within the Building which are neither located within nor part of the Unit.
 8. All central and appurtenant installations for utility services such as electricity, water, gas, and sewage which are not owned by a public utility company and which are either located within a Common Element or used in common by two or more Unit owners.
 9. All pipes, ducts, wires, cables, conduits, and portions thereof which are not owned by a public utility company and which are either located within a Common Element or used in common by two or more Unit owners.
 10. All other parts of the Condominium Property and all appliances and installations existing in the Building, Garage or on the Condominium Property for common use or necessary or convenient to the existence, maintenance, comfort or safety of the Condominium.
- D. Restricted Common Elements Those areas specifically designated in Article VI of this Declaration which are exclusively restricted in use and enjoyment to the owner of a particular Unit.
- E. Common Interest Each Unit's percentage interest in the Common Elements.
- F. Condominium Packett's Glen
- G. Condominium Documents The Declaration, By-Laws and Plans of the Condominium.

- H. Condominium Property The land, the Building, the Garage the parking lots and all other improvements on the land of the Condominium together with all easements, rights and appurtenances belonging thereto, and all other common property, personal or mixed, used or intended to be used by or for the Condominium.
- I. Plans The plans for the Condominium shall be filed in the Office of the Clerk of the County of Monroe, State of New York. They shall consist of the following documents: (1) Survey map; (2) Plot plan showing the Building, Garage, the Units, yards, walkways, parking lots and the land (the "Plot Plan"); (3) floor plans approved by the Department of Buildings and Property Conservation of the Village of Fairport which plans shall be verified by a Licensed Architect as showing the layout, location and approximate dimension of each Unit and by the Assessor of the Village of Fairport as to conformity of each Units with its assigned tax account number.
- J. Unit A Unit is a part of the Condominium Property which is intended for residential use only and will be owned outright, in fee simple absolute, by the purchaser thereof.

ARTICLE IV

THE BUILDING

The Building is a two story structure with a lower level formerly used as a school. This building contains 30 units of which 10 are on the lower level, 9 on the first floor, 11 on the second floor. The building has interior common corridors, a lower level meeting room and interior building storage and mechanical space. The walls of the building consist of brick and the roof of _____.

ARTICLE V

COMMON ELEMENTS

The following provisions shall apply to the Common Elements and they shall govern each Unit owner's interest in and use of Common Elements:

- A. Allocation of Common Interest Each Unit owner shall have the following percentage interest in the Common Elements:

PACKETT'S GLEN

Residential Unit	Floor Area in Square Feet	% Interest in Common Elements
001	1585	3.77%
002	1420	3.38%
003	1485	3.53%
004	1205	2.87%
005	1205	2.87%
006	1205	2.87%
007	1045	2.49%
008	1020	2.43%
009	1035	2.46%
010	1420	3.38%
101	1585	3.77%
102	1420	3.38%
103	1485	3.53%
104	1205	2.87%

Residential Unit	Floor Area in Square Feet	% Interest in Common Elements
105	1205	2.87%
106	1205	2.87%
107	1510	3.59%
108	1595	3.79%
109	1420	3.38%
201	1430	3.40%
202	1420	3.38%
203	925	2.20%
204	1640	3.90%
205	2090	4.97%
206	1680	4.00%
207	2090	4.97%
208	1690	4.02%
209	915	2.18%
210	1490	3.54%
211	1420	3.38%

These percentage interests have been determined by calculating the approximate proportion that the floor area of each Unit bears to the total floor area of all Units in the Condominium.

The percentage interest represents the proportionate ownership right held by each Unit in the Common Elements. Such ownership right cannot be separated from a Unit and can only be sold, mortgaged, leased or otherwise transferred together with the Unit. The percentage interest of each Unit shall further be used to determine the Common Charge due from such Unit.

- B. Changes in Common Interest A Unit's Common Interest may be changed only by an amendment to this Declaration made in accordance with Article XVIII of this Declaration and executed in recordable form by all the Unit owners. No change in the Common Interest of a Unit shall affect the lien of a prior recorded mortgage against such Unit unless written consent of the holder of such mortgage is obtained and recorded.

- C. Covenant Against Partition In order to preserve the Condominium and the condominium method of ownership, the property constituting the Common Elements shall remain undivided. No person, regardless of the nature of his or her interest in the Common Elements, shall have the right to bring any action or proceeding for the partition or division of the whole or any part thereof, unless and until this Declaration has been terminated.
- D. Rules and Regulations No person shall use the Common Elements or any part of the Common Elements in a manner contrary to or inconsistent with the rules and regulations of the Condominium. These rules and regulations are contained in Article VI of the By-Laws and may be amended by the Unit owners in accordance with Article VII of the By-Laws.
- E. Maintenance, Repair, Replacement, Management, and Operation of the Common Elements The maintenance, repair, replacement, management, and operation of the Common Elements shall be the responsibility of the Board of Managers. The Board may, however, delegate duties in this area to a person or persons of its choice or hire a manager to perform them.
- F. Expenses The cost of all maintenance, repair, replacement, management, and operation of the Common Elements shall be assessed as Common Expenses and shall be included in the annual budget of the Condominium. If, however, the amounts of the Common Expenses as so assessed and budgeted are not sufficient in any one fiscal year to pay for the costs of maintenance, repair, replacement, management, and operation of the Common Elements, the Board of Managers shall make a special assessment against the Unit owners to cover the deficiency.
- G. Use Subject to terms of this Declaration and the rules and regulations of the Condominium, each Unit owner may use the Common Elements for their intended purpose in a manner that will not restrict or interfere with other Unit owners.
- H. Alterations and Improvements The Board of Managers shall have the right to propose and make alterations and improvements to the Common Elements provided that no such addition or improvement shall be made unless and until it has been approved by an affirmative vote of at least 20 Unit owners. The cost of any such addition or improvement shall be met by a special assessment against the Unit owners other than Sponsor.

ARTICLE VI

RESTRICTED COMMON ELEMENTS

There are certain so-called "Restricted Common Elements" which are part of the Common Elements but restricted in use and enjoyment to the owner of a particular Unit. The Restricted Common Elements in Packett's Glen are the garage unit assigned and deeded to each unit and the patio area of units 205, 206, and 207.

ARTICLE VII

COMPOSITION OF UNITS

- A. Real Property Each Unit together with its Common Interest shall for all purposes constitute a separate parcel of real property which is owned outright, in fee simple, and which may be sold, mortgaged, leased or otherwise transferred just as any other parcel of real property subject, however, to the provisions of the Condominium Act, this Declaration, and the By-Laws of the Condominium.
- B. Boundaries Each Unit shall have the boundaries shown on the Plans, subject to an encroachments which may develop from construction of the Units or by settlement or movement of the Building.

Each Unit is measured horizontally from the unfinished interior surface of one of its Exterior Walls to the unfinished interior surface of the opposite Exterior Wall. As used herein the term "Exterior Wall" shall mean a wall which separates a Unit from either (1) another Unit or Units; (2) the outside; or, (3) a Common Element such as the interior courtyard, laundry room, meeting room, lower level building storage or mechanical space, common corridors, hallways or entrances. Doors, windows and skylights of a Unit are a part of the Unit as are all walls located entirely within a Unit. All finishing and decorative materials, including, but not limited to, molding, door posts, paint, wallpaper, and fabrics are a part of the Unit.

Each Unit is measured vertically from the lower surface of the subfloor of the Unit to the surface of the unfinished ceiling above except for Units 205, 206, and 207 Packett's Glen which are measured vertically from the surface of the subfloor of the Unit on the first floor to the unfinished interior surface of the ceiling on the

second floor excepting only that part which lies between the unfinished interior surface of the ceiling on the first floor and the surface of the subfloor on the second floor. All finishing and decorative materials including, but not limited to, linoleum, carpeting, hardwood floors, fabrics and paint are part of the Unit.

All pipes, wires, conduit and utility lines or portions thereof which are located within a Unit and serve only such Unit shall be owned by the Unit owner unless owned by a public utility company. Any pipes, wires, conduits or public utility lines not owned by a public utility company and located in either Common Elements or within a Unit while serving two or more Units shall be owned in common by all the Unit owners.

C. Easements Each Unit shall have an easement in or a right to use any pipe, wire, conduit, utility line and portion thereof which serves his or her Unit while located in another Unit or the Common Elements.

D. Unit Designation and Layout (Two-Story Units underlined)

<u>Unit #</u>	<u>Rooms</u>						<u>Utility</u>		
	<u>Foyer</u>	<u>Liv. Room</u>	<u>Din. Room</u>	<u>Kitchen</u>	<u>Bath</u>	<u>Pdrn</u>	<u>1BR</u>	<u>2BR</u>	<u>Room</u>
LOWER LEVEL									
001	X	X	X	X	2	-	-	X	X
002	X	X	X	X	2	-	-	X	X
003	X	X	X	X	2	-	-	X	X
004	X	X	X	X	1	-	X	-	X
005	X	X	X	X	1	-	X	-	X
006	X	X	X	X	1	-	X	-	X
007	X	X	X	X	1	-	X	-	X
008	X	X	X	X	1	-	X	-	X
009	X	X	X	X	1	-	X	-	X
010	X	X	X	X	2	-	-	X	X
FIRST LEVEL									
101	X	X	X	X	2	-	-	X	X
102	X	X	X	X	2	-	-	X	X
103	X	X	X	X	2	-	-	X	X
104	X	X	X	X	1	-	X	-	X
105	X	X	X	X	1	-	X	-	X
106	X	X	X	X	1	-	X	-	X
107	X	X	X	X	2	-	-	X	X
108	X	X	X	X	2	-	-	X	X
109	X	X	X	X	2	-	-	X	X

SECOND LEVEL

201	X	X	X	X	2	-	-	X	X
202	X	X	X	X	2	-	-	X	X
203	X	X	X	X	1	-	X	-	X
204	X	X	X	X	2	-	-	X	X
205	X	X	X	X	1	X	-	X	X
206	X	X	X	X	1	X	-	X	X
207	X	X	X	X	1	X	-	X	X
208	X	X	X	X	2	-	-	X	X
209	X	X	X	X	1	-	X	-	X
210	X	X	X	X	2	-	-	X	X
211	X	X	X	X	2	-	-	X	X

ARTICLE VIII

MAINTENANCE AND REPAIRS OF UNITS
AND RESTRICTED COMMON ELEMENTS

- A. Unit Owner's Responsibility for Unit Each Unit owner shall maintain, repair and replace, at his or her expense, all portions or his or her Unit, including, but not limited to, floors, walls, ceilings, finishing and decorative materials, windows, doors, skylights, fixtures, appliances, equipment, conduits, ducts, plumbing, water service, and electrical wiring except insofar as the same have been designated as a Common Element in which case the responsibility for maintenance, repair and replacement shall be borne by the Board of Managers.
- B. Unit Owner's Responsibility for Restricted Common Elements Each Unit owner shall maintain, repair and replace, at his or her expense each and every portion of any Restricted Common Element assigned or appurtenant to his or her Unit.

- C. Right of Entry The Board of Managers or any one or more qualified persons designated by the Board of Managers shall have the right and authority to enter into any Unit during reasonable hours for the purpose of (1) performing such emergency repairs therein as may be necessary to prevent damage to the Common Elements or another Unit or Units; (2) abating any nuisance, or any dangerous, unauthorized, prohibited or unlawful activity; or, (3) carrying out its responsibilities under the terms of this Declaration and By-Laws. This right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use and enjoyment of the owner or occupant of such Unit and shall, whenever possible, be preceded by a reasonable notice to the Unit's owner or occupant.

ARTICLE IX

USE RESTRICTIONS

The use of the Condominium Property shall be governed by the following provisions:

- A. Use of Units The Units shall be used for residential dwelling purposes only.
- B. Use of Common Elements The Common Elements shall be used only for their intended purpose and for the enjoyment of the Unit owners.
- C. Nuisances No nuisance shall be allowed upon the Condominium Property nor shall any use or practice be allowed which interferes with the peaceful possession and quiet enjoyment of the Condominium Property by the Unit owners.
- D. Lawful Use No immoral, improper, offensive, or unlawful use shall be made of the Condominium Property or any part thereof, and the Unit owners shall comply with all applicable laws and governmental regulations.
- E. Interpretation The physical boundaries of the Units shall be conclusively presumed to be the actual boundaries rather than any metes and bounds description in a deed, mortgage, or plan.

F. Regulations Regulations concerning the use of the Condominium Property may be issued or amended by the Unit owners in accordance with the terms of Article VII of the By-Laws. The initial regulations are set out in Article VI of the By-Laws and they will be effective from and after the recording of the By-Laws in Monroe County Clerk's Office until amended by a document also to be recorded in that office. No regulation or amendment may impair, affect, limit the rights of any mortgagee unless the prior written consent of such mortgagee has been obtained.

G. Sale, Lease, or Mortgage of a Unit Each Unit owner may sell or lease his or her Unit to whomever he or she desires without restriction, and upon whatever terms he or she can obtain.

Mortgage financing may be sought by the owner or purchaser of a Unit from a source of his or her choice and upon whatever terms he or she can secure. Each Unit owner shall have the right to take back a purchase money mortgage upon the sale of his or her unit.

ARTICLE X

CERTIFICATION BY BOARD OF MANAGERS

Upon request by a Unit owner or by a prospective purchaser or lessee of a Unit, the Board of Managers shall provide a written statement certifying the kind and amount of any special assessment as well as the current annual Common Charges assessed against the Unit. The statement shall further certify either that there are no unpaid special assessments or Common Charges outstanding against the Unit as of the date of the statement or, if there are, the kind and amount such unpaid special assessments and Common Charges. Neither the Unit owner nor the purchaser or lessee of the Unit who has requested and received such a statement from the Board of Managers shall be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid special assessments or Common Charges against such Unit in excess of the amount certified in such statement.

ARTICLE XI

ADMINISTRATION

The administration of the Condominium Property shall be governed by the following provisions:

- A. Governing Body The Condominium shall be governed by a Board of Managers consisting of five to seven persons elected in accordance with Article II of the By-Laws.
- B. By-Laws The By-Laws of the Condominium are attached to this Declaration as Schedule "B" and shall become effective upon their recording in the Monroe County Clerk's Office. They may be amended and new By-Laws may be adopted in accordance with Article VII thereof.
- C. Powers and Duties of Board of Managers The powers and duties of the Board of Managers are established by the Condominium Act, this Declaration and the By-Laws. In addition, the Board shall have such implied powers as may reasonably be required for the effective administration of the Condominium.

The powers and duties of the Board of Managers shall be exercised in the manner prescribed by the By-Laws provided that any duties or rights of the Board which are granted by or to be exercised in accordance with the provisions of the Condominium Act or this Declaration shall be so exercised.
- D. Determinations by the Board of Managers Unless the vote of a greater number is required by this Declaration or the Condominium Act, the votes cast by a majority of the Managers at a meeting at which a quorum is present, or the unanimous written consent of the Managers, shall constitute the decision of the Board of Managers. A quorum shall consist of the presence of three or more Managers at such meeting.
- E. Notice or Demands Notices or demands for any purpose shall be given in the manner provided in this Declaration and the By-Laws.
- F. Service of Process Service of process in connection with any legal action commenced against the Condominium or against its Board of Managers may be made upon the President or Secretary of the Condominium at the Unit in which he or she resides.

- G. Funds Held by Board All funds received by the Board of Managers of the Condominium and the proceeds of such funds shall be held by the Board for the benefit of the Unit owners and shall be used for the purposes stated in this Declaration and the By-Laws.

ARTICLE XII

INSURANCE

The insurance of the Condominium shall be governed by the provisions which follow:

- A. Authority to Purchase Except builders' risk and other required insurance furnished by Sponsor during the conversion of the Building into the Condominium, all insurance policies for the Condominium shall be purchased by the Board of Managers for the benefit of the Unit owners and their respective mortgagees, as their interests may appear. A certificate of insurance with a New York Standard Mortgagee Endorsement shall be issued to the holder of a first mortgage lien on a Unit and each policy shall include a waiver of the right of subrogation as to claims against individual Unit owners, the Unit owners as a group, and the Board of Managers and its respective officers, employees and agents. All policies and endorsements shall be kept by the Board of Managers.
- B. Authority to Adjust The Board of Managers is and shall be the agent for each Unit owner, each Mortgagee, other named insured and each of their respective beneficiaries and any other holder of a lien or other interest in the Condominium for the purposes of adjusting and settling any and all claims which may arise under the insurance policies purchased by the Board. The Board shall further have the authority to execute and deliver releases upon the payment of any claim or claims.
- C. Unit Owner's Right to Purchase Insurance Coverage Each Unit owner is encouraged to buy insurance, at his or her expense, for the protection of any fixtures, appliances, equipment or decorative finishing materials which have been specially ordered for his or her Unit as well as for the protection of his or her personal property since the Board of Managers will not buy insurance for these items. Each Unit owner is further encouraged to buy additional public liability insurance for his or her protection.

D. Unit Owner's Responsibility to Obtain Insurance Coverage on Improvements and Betterments to the Restricted Common Elements of His or Her Unit Each Unit owner shall further buy insurance, at his or her expense, for the protection of all improvements and betterments, fixtures, appliances, equipment, decorative finishing materials and personal property made, installed or stored in a Restricted Common Element belonging to the Unit, such as the garage. It is advisable that any such coverage be placed with the carrier or company insuring the Unit and the Condominium generally.

E. Special Provisions Each endorsement or policy of insurance bought by a Unit owner shall contain the same waiver of subrogation as that described in Paragraph A above and each such policy shall further provide that it will not in any way affect or diminish the insurance policies purchased and held by the Board of Managers. In order to ensure compliance with these provisions each Unit owner shall deliver a copy of any endorsement and insurance policy bought by him or her to the Board of Managers.

F. Coverage of Insurance Policies Obtained by the Board of Managers

1. Property Insurance The Condominium Property shall be insured in an amount equal to its replacement value as determined at least once in any three year period by the insurance company affording the coverage. Such coverage shall include:

- a. loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and,
- b. such other risks as are customarily covered with respect to structures similar to the Building in construction, location, and use including, but not limited to, vandalism, malicious mischief, windstorm, and additional perils.

2. Public Liability and Property Damage Insurance covering public liability and property damage shall be provided in such amounts and in such forms as shall be determined sufficient by the Board of Managers.

3. Workmen's Compensation Should Workmens Compensation Insurance be required by law for the Condominium, a Workmen's Compensation Insurance policy meeting any such requirement shall be procured by the Board of Managers.

4. Fidelity Insurance The Board of Managers are free to decide whether or not it will obtain insurance against misappropriation of Condominium funds.
 5. Cross-Liability Endorsements All policies of liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit owners as a group (and/or the Board of Managers) to an individual Unit owner, and cross-liability endorsements to cover liabilities of an individual Unit owner to the Unit owners as a group (and/or the Board of Managers).
- G. Premiums Premiums for insurance policies purchased by the Board of Managers shall constitute a Common Expense.
- H. Insurance Trustee The insurance policies purchased by the Board of Managers shall be for the benefit of the Condominium, the Unit owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds be payable to the Board of Managers, as Insurance Trustee. The Board, as Insurance Trustee shall receive such proceeds and hold the same in trust for the benefit of the Condominium, the Unit owners and their respective mortgagees in the following shares:
1. Common Elements Proceeds on account of damage to Common Elements--for each Unit owner in accordance with such owner's percentage interest in the Common Elements.
 2. Units Proceeds on account of damage to the Units:
 - a. Partial or total destruction of the Building (where the Building is to be restored). The share of the owners of each damaged Unit shall be in proportion to the cost of repairing the damage suffered by each Unit.
 - b. Total destruction of the Building (where 75% or more of the Building is destroyed and a determination is made pursuant to Articles XIII and XIX of this Declaration not to repair or restore the Building). The share of each Unit owner shall be equal to his or her percentage interest in the Common Elements.

The Board of Managers shall certify each Unit Owner's share, and such certification shall be binding upon the owner.

I. Distribution of Proceeds Proceeds of insurance policies received by the Board of Managers, as Insurance Trustee, shall be distributed to or for the benefit of the Unit owners, in the following manner:

1. Reconstruction or Repair If the damage for which the insurance proceeds were paid is to be repaired and reconstructed, such proceeds shall be used by the Board to first pay for the cost of repair and reconstruction of the Common Elements and thereafter to pay for the cost of repair and reconstruction of the Units.
2. Determination Not to Reconstruct or Repair If it is determined in accordance with Articles XIII and XIX of this Declaration that the damage for which the insurance proceeds were paid shall not be reconstructed or repaired, the proceeds held by the Board of Managers shall be distributed to the Unit owners in accordance with their respective percentage interests in the Common Elements. No such distribution shall, however, be made to a Unit owner unless there is first paid out of his or her share: (i) all amounts due, with interest, on any mortgage against his or her Unit; and, (ii) any unpaid Common Charges, special assessments and other Lien against his or her Unit, together with the interest charges and fees attributable thereto. In addition, no such distribution shall be made until the Board of Managers has either arranged and paid the cost of the demolition of the remains of the Building or arranged for a bona fide sale of the Condominium property and the expenses of any such demolition or sale shall be paid out of the proceeds of insurance held by the Board.

ARTICLE XIII

RECONSTRUCTION OR REPAIR OR CASUALTY DAMAGE

- A. Responsibility If the Building or any part thereof is damaged by fire or other casualty, it shall be reconstructed or repaired except in the case of total destruction (75% or more of the Building) in which case this Condominium may be terminated in accordance with Article XIX of this Declaration.

- B. Plans on Reconstruction Any reconstruction or repair shall be substantially in accordance with the Plans as modified by then good building practices.
- C. Encroachments Encroachments which may be created as a result of reconstruction or repair shall not give rise to a claim or legal cause of action on the part of any Unit owner, provided that the reconstruction or repair was done substantially in accordance with the Plans. Such encroachments shall be allowed to continue in existence for so long as the Building stands.
- D. Responsibility for Reconstruction and Repair The Board of Managers shall arrange and be responsible for all reconstruction and repair upon damage by fire or other casualty. The Board must, however, consult each Unit owner and, to the extent possible, comply with any requests made by them regarding the reconstruction or repair on his or her Unit.
- E. Procedure

1. Estimate of Costs Immediately after a casualty the Board of Managers shall obtain reliable and detailed estimates of the cost of reconstructing or restoring the damaged property. Such cost may include professional fees and premiums for such bonds as the Board of Managers desires.

If the proceeds of insurance are not sufficient to pay for the estimated cost of reconstruction and repair a special assessment shall be made in an amount sufficient to provide the necessary funds. Similarly, if at any time during reconstruction and repair, or upon completion of reconstruction and repair, it appears that the funds available are insufficient to pay for the costs thereof, a special additional assessment shall be made against the Unit owners in an amount sufficient to provide the necessary funds.

2. Construction Funds The funds held by the Board of Managers for payment of the cost of reconstruction and repair after casualty shall be disbursed in payment of such cost to the contractors, suppliers and personnel doing the work or supplying the materials or services required.

3. Payments and Surplus The cost of reconstruction and repair shall be paid first from insurance proceeds and thereafter from special assessments, if required. If there is a balance remaining after payment of all costs of reconstruction and repair such balance shall be distributed jointly to the Unit owners in accordance with their respective percentage interest in the Common Elements and their mortgagees.

4. Allocation When the damage is to both the Common Elements and the Units, the insurance proceeds shall be applied first to the costs of repairing or reconstructing the Common Elements and thereafter, to the cost of repairing or reconstruction the Units.

F. Charges to Units Any charges within Units by Unit owners shall be subject to the following restrictions:

1. Owner shall comply with all local laws and building codes.
2. Copies of plans and building permit shall be filed with the Board of Managers prior to the start of construction.
3. The Board of Managers may require bond or other security.
4. Interference with the use of or disturbance of Common Elements shall be subject to approval of the Board of Managers.

ARTICLE XIV

TAXES

The assessment of each of the Units for real estate taxes are governed by the provisions of Subsection 339-y of the Condominium Act, but Sponsor can make no warranty or representation that the assessing entity or entities will comply with this law.

ARTICLE XV

ASSESSMENTS

Assessments against the Unit owners shall be made by the Board of Managers and shall be paid by the Unit owners in accordance with the following provisions:

- A. Assessment for Common Expenses Each Unit owner shall be liable for a share of the Common Expenses as assessed for the purpose of securing the proper management, maintenance, and operation of the Condominium. Such share shall correspond to his or her percentage interest in the Common Elements.
- B. Special Assessments Each Unit owner shall further be liable for a share of any Special Assessment made by the Board and authorized by this Declaration or the By-Laws. Such share shall also correspond to his or her percentage interest in the Common Elements.
- C. Accounts All sums collected by the Board of Managers from its assessment may be deposited in a single fund. The Board shall, however, establish the following accounts for bookkeeping purposes:
 1. Common Expenses Account - to which shall be credited collections of assessments for all Common Expenses.
 2. Alteration and Improvement Account - to which shall be credited all sums collected from a special assessment for alterations and improvements of and to the Common Elements.
 3. Reconstruction and Repair Account - to which shall be credited all special assessments for reconstruction and repair.
 4. Emergency Account - to which shall be credited all special assessments for emergencies as well as the cost of any litigation.
 5. Contingency Account - to which shall be credited all other assessments and any surplus which may be set aside for contingencies.

D. Assessments for Common Expenses For so long as Sponsor is entitled to select the members of the Board of Managers, Sponsor shall determine and assess all Common Expenses. When Sponsor is no longer entitled to select the Board of Managers, the Board shall make an assessment for Common Expenses at its first meeting thereafter. Each Unit owner shall be liable for the payment of a share of these Common Expenses corresponding to his or her percentage interest in the Common Elements. Such share shall constitute a Common Charge against his or her unit and shall be due and payable in equal monthly installments commencing on the first day of the month following the date on which the assessment is made and ending on December 1 the same year.

Thereafter, all assessments for Common Expenses shall be made annually and in advance for each calendar year on or before the second Monday in December of the year preceding the year for which the assessment is made. The Common Charges derived from such annual assessments shall be payable in twelve equal consecutive monthly payments due on the first day of each month, beginning with January of the year for which the assessment is made.

If the annual assessment for Common Expenses is not made as required, each Unit owner shall continue to make his or her monthly installment payments of the Common Charges pursuant to the immediately preceding assessment until changed by a new assessment for Common Expenses.

- E. Special Assessments Special assessments shall be made in accordance with the provisions of the Condominium Documents, and if the time of payment is not prescribed by the Condominium Documents, the same shall be determined by the Board of Managers.
- F. Special Assessments for Emergencies Special assessments for the cost of emergencies and litigation shall be made by the Board of Managers, as the need therefor arises.
- G. Assessment Roll The total assessment against the Unit owners together with each Unit owner's proportionate share thereof shall be kept in a book of assessments which shall be available in the office of the Condominium for inspection at all reasonable times by Unit owners or their duly authorized representatives. Such book shall indicate for each Unit the name and address of the owner or owners, the amount of monthly

installments due from the Unit owner together with a record of paid and unpaid installments. The book shall also include the amount of any special assessments against the Units together with a record of each Unit's share of such assessment and any paid and unpaid installments thereof.

H. Liability for Assessments The Board of Managers, on behalf of the Unit owners, shall have a lien against each Unit for unpaid Common Charges and special assessments, together with the interest thereon. This Lien shall be prior to all other liens except: (1) liens for taxes on the Unit in favor of any assessing entity, school district, special district, county or other taxing unit; and, (2) all sums unpaid on a first mortgage of record. Upon the sale or conveyance of a Unit, all unpaid Common Charges and special assessments shall be paid out of the sale proceeds or by the grantee. This liability may not be avoided by a waiver of the use or enjoyment of any Common Element or by abandonment of the Unit for which the assessments have been made.

I. Lien for Assessments The Lien for unpaid Common Charges and special assessments shall arise when a verified notice claiming the lien has been recorded by the Board of Managers in the Office of the Clerk of the County of Monroe stating the name and address of the Condominium, the liber and page of record of the Declaration, the name of the record owner of the Unit, the Unit designation, the amount due, and the date when due.

The lien when so filed shall continue in effect until all the sums secured by it, with interest, shall have been fully paid or until the expiration of six years from the date of filing, whichever occurs first. Upon payment of the amount secured by the lien the Unit owner shall be entitled to an instrument duly executed and acknowledged by the Board of Managers certifying to the fact of payment.

J. Interest Special Assessments and installments of the Common Charges which are paid on or before fifteen (15) days after the date when due shall not bear interest but all sums not so paid on or before fifteen (15) days after the date when due shall bear interest from the date when due until paid at ten (10) percent per annum or the maximum rate of interest per annum then permitted under applicable law to be charged to individuals, whichever is less. All payments made shall

be applied first to interest due, if any, and then to the special assessment or Common Charge payment first due.

- K. Suit The Board of Managers, on behalf of the Unit owners and in its discretion, may enforce collection of due and unpaid assessments by legal action or foreclosure of any lien securing such assessments, or by any other available legal proceeding. The Board shall be entitled to recover in such action, suit or proceeding the payments which are delinquent at the time of judgment or decree together with the interest accrued and unpaid thereon and all costs incident to the collection, action, suit, or proceeding, including reasonable attorneys' fees.

If the Board of Managers decides to foreclose a lien securing unpaid special assessments or Common Charges, such foreclosure action shall be brought in the name of the Board of Managers. The Board of Managers, acting on behalf of the Unit owners, shall have power to bid in the Unit at the foreclosure sale and to acquire and hold, lease, mortgage, or convey the same.

ARTICLE XVI

COMPLIANCE, DEFAULT

Each Unit owner shall comply strictly with the terms of the Condominium Documents.

- A. Legal Proceedings Failure to comply with any of the terms of the Condominium Documents shall be grounds for relief which may include an action to recover sums due, an action for damages, injunctive relief, foreclosure of lien, or any combination thereof, and such relief may be sought by the Board of Managers on behalf of the Unit owners or, if appropriate, by an aggrieved Unit owner.
- B. Costs and Attorneys' Fees In any legal action or other proceeding started because of the failure of a Unit owner to comply with the terms of the Condominium Documents, the successful party shall be entitled to recover the costs of such action or proceeding as well as reasonable attorneys' fees.

C. No Waiver of Rights Even if the Board of Managers does not exercise or enforce any rights, remedies or privileges granted by the Condominium Documents the Board will still have those rights, remedies and privileges and may exercise or enforce them in the future.

D. Cumulative Rights All rights, remedies, and privileges granted to the Board of Managers or a Unit owner by the terms of the Condominium Documents shall be separate and cumulative. The Board or Unit owner may exercise and enforce one or more of these rights, remedies or privileges, one at a time or all at once.

ARTICLE XVII

LIABILITY FOR DAMAGE AND INDEMNIFICATION

Each Unit owner shall be bound by the following provisions on liability for damages and indemnification:

A. Liability for Damage Each Unit owner shall be liable for the expense of any maintenance, repair or reconstruction required because of his or her act, neglect or carelessness, or that of any member of his or her family or his, her, or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of the insurance carried by the Condominium. Such liability shall extend to any increase in fire insurance rates occasioned by the use, misuse, occupancy, or abandonment of a Unit or the Common Elements. Nothing in this section shall, however, be interpreted so as to nullify or modify any waiver of subrogation rights, contained in the insurance policies purchased by the Board of Managers for the Condominium.

B. Indemnification If a person were to suffer bodily injury or property damage while within a Unit or Restricted Common Element and such injury or damage results in a claim or suit against any other Unit owner or owners or against the Board of Managers or any of its officers, agents or employees, then, the owner of the Unit or Restricted Common element within which the injury or damage occurred shall (1) indemnify and hold harmless the other owner or owners, the Board of Managers and any of its officers, agents or employees against whom the claim or suit is brought and (2)

defend, at his or her own cost, any litigation resulting therefrom. There shall, however, be no obligation to indemnify and defend any Unit owner or owners or person whose negligence or willful misconduct caused or contributed to the injury or damage.

C. Indemnification - Acts and Decisions by the Board of Managers To the full extent authorized by law, the Unit owners shall indemnify and hold harmless any person made a party in any civil or criminal action or proceeding by reason of the fact that he, she, his, her, or their testate or intestate representative is a Manager on the Board of Managers.

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

ARTICLE XVIII

AMENDMENTS

Except for alterations in each Unit owner's percentage interest in the Common Elements, which require the consent of all Unit owners and their mortgagees, this Declaration may be amended in the following manner:

A. Notice The Board of Managers, or a group of not less than five (5) Unit owners, shall issue a notice to all Unit owners stating:

1. The time and place of a meeting to consider the proposed amendment; and,

2. The subject matter of the proposed amendment.

Such notice shall be subscribed by an authorized Manager, where issued by the Board of Managers, or at least five (5) Unit owners where issued by Unit owners.

- B. Resolution A resolution adopting a proposed amendment may be passed at such meeting upon an affirmative vote in favor of such Resolution by not less than twenty-four (24) Unit owners subject, however, to the written approval by all first mortgagees of record where the Amendment would impair or adversely affect the security held by such mortgagees.
- C. Amendment By Written Consent An amendment may also be adopted by the unanimous written consent of the Unit owners subject to the written approval by all first mortgagees of record where the Amendment would impair or adversely affect the security held by such mortgagees. This manner of adopting an amendment is an alternative to the adoption of an amendment by a meeting of the Unit owners.
- D. Recording A copy of each amendment, once adopted, shall be certified by the officers of the Board of Managers as having been duly adopted and shall be effective when recorded in the Office of the Clerk of the County of Monroe, New York. Copies of each such amendment shall be sent or delivered to the Unit owners and no amendment shall be effective unless it has been so sent or delivered to each holder of a first mortgage where the amendment would impair or adversely affect the security of such mortgagee.
- E. Restrictions on Amendments For so long as Sponsor owns one or more Units, this Declaration may not be amended so as to impair or adversely affect Sponsor's interests without Sponsor's prior written consent.

ARTICLE XIX

TERMINATION

The Condominium shall be terminated, if at all, in the following manner:

- A. Voluntary Termination The Condominium may be terminated if at least 24 Unit owners vote in favor of such termination at a special meeting called in accordance with the provisions of By-Laws subject, however, to the written approval of all first mortgagees. The termination shall become effective upon the recording in the Monroe County Clerk's Office of a certificate of termination executed by the 24 or more Unit owners who voted in favor of the termination and all first mortgagees.
- B. Involuntary Termination If it is determined by a vote of at least 24 Unit owners at a special meeting of the Unit owners called in accordance with the provision of the By-Laws that the Building shall not be reconstructed or repaired after 75 percent or more of the Building has been damaged by fire or other casualty or taken under the power of eminent domain, the Condominium shall be terminated.
- C. Effect of Termination After termination of the Condominium, the Unit owners shall own the Condominium Property as tenants in common in undivided shares and the holders of mortgages and liens against the Units shall have mortgages and liens upon the respective undivided share of the Unit owners. The share of each Unit owner shall be equal to his or her percentage interest in the Common Elements.

Following termination, the Condominium Property may be partitioned and sold upon the application of any Unit owner. If the Board of Managers, however, receives and determines to accept an offer for the sale of the entire Condominium Property, each Unit owner shall be bound by such determination and shall execute all deeds and other documents which may be reasonably required to effect the sale in such forms and at such time as the Board of Managers shall direct. In such event, an application for partition or other division of the Condominium Property shall be set aside and if the sale is completed and the title to the Condominium Property is transferred to the purchaser such application shall be deemed withdrawn in its entirety. The proceeds of any such sale, less the expenses of sale or the cost of any partition action, shall be paid to the Board of Managers.

- D. Distribution to Unit Owners If the Condominium has been terminated and the Condominium property sold, then the Board of Managers shall distribute the net proceeds of the sale to the Unit owners in shares equal to their respective percentage interests in the Common Elements. No distribution shall, however, be made to a Unit owner unless there is first paid out of his or her share (1) all amounts due, with interest, on any mortgage against his or her Unit; and, (2) any unpaid Common Charges, special assessments or other lien against his or her Unit together with the interest charges and fees attributable thereto.
- E. Powers of Board of Managers The Board of Managers shall continue have the powers granted to it by this Declaration and the By-Laws after the Condominium has been terminated.

ARTICLE XX

COVENANTS RUNNING WITH THE LAND

All provisions of the Condominium Documents shall be construed to be covenants running with the land and every Unit owner, tenant or person who claims an interest in the Condominium Property and their respective heirs, distributors, successors and assigns shall be bound by each and every provision of the Condominium Documents.

ARTICLE XXI

LIENS

- A. Protection of Property All liens against a Unit other than a first mortgage lien and real property taxes shall be satisfied or otherwise removed of record within 30 days from the date on which such lien was filed, recorded, or docketed.
- B. Notice of Lien A Unit owner shall give notice to the Board of Managers of every lien against his or her Unit, other than a first mortgage lien or one for real property taxes, within five days after such lien has been filed, recorded, or docketed.
- C. Notice of Suit Unit owners shall give notice to the Board of Managers of every suit or other proceeding which will or may affect the title to his or her Unit.
- D. Effect of Failure to Comply With Article Failure to

comply with this Article concerning liens will not affect the validity of any judicial sale.

ARTICLE XXII

JUDICIAL SALES

- A. Validity No judicial sale of a Unit shall be valid unless the sale is a result of a public sale with open bidding.
- B. Redemption by Board Managers In the event an action is started for the foreclosure of a mortgage or other lien against a Unit, the Board of Managers shall have the right, but not the obligation, to either stop such action by paying to the mortgagee or lienor the amount due under the mortgage or lien being foreclosed or to purchase the Unit at the public sale. Any such payment or purchase shall be made by the Board on behalf of the Unit owners. If the Board chooses to pay the amount due under the mortgage or lien then the Board shall have the right to collect the amount so paid from the Unit owner and the right to file a lien in the amount against the Unit in accordance with the procedures described in Article XV of this Declaration. If the Board chooses to purchase the Unit at the public sale, the Board shall take and have absolute title to the Unit and shall have the right to hold, lease or sell the Unit upon such terms as it deems advisable.

ARTICLE XXIII

CONDEMNATION

If an action in eminent domain is started for the taking of all or part of the Condominium, the award for such taking shall be payable as follows:

- A. If the award is for the taking of the entire Condominium, the full amount of such award shall be paid to the Board of Managers, as trustee, for distribution to each Unit owner in a proportion equal to his or her percentage interest in the Common Elements. No distribution shall, however, be made to a Unit owner unless there is first paid out of his or her share (i) all amounts due, with interest, on any mortgage against his or her Unit; and, (ii) any unpaid Common Charges, special assessments and other lien against his or her Unit, together with the interest charges and fees attributable thereto.

- B. If the award is for the taking of only a part of the Condominium Property and is less than \$10,000, the entire award shall be paid to the Board of Managers, as trustee, for distribution to the Unit owner or owners whose Unit or part thereof has been taken. No distribution shall, however, be made to a Unit owner without (i) the prior written consent of the mortgagee of his or her Unit; and, (ii) there first having been paid out of his or her share of the award all unpaid Common Charges, special assessments and other liens against his or her Unit, together with any interest charges or fees attributable thereto. If the taking includes a part or parts of the Common Elements then so much of the award as is allocable to the taking of the Common Elements shall be held by the Board of Managers to reduce the Common Charges for the next succeeding fiscal year.
- C. If the award is for the taking of only part of the Condominium Property and is in excess of \$10,000, it shall be distributed to (i) each Unit owner whose Unit has been taken in the proportion that the value of the taking of his or her Unit bears to the value or the taking of all Units; and, (ii) to all Unit owners to the extent that the Common Elements have been acquired in proportion to their respective percentage interest therein provided, however, that no distribution shall be made to a Unit owner unless there is first paid out of his or her share (i) the amount due, with interest, on any mortgage against the Unit; and, (ii) any unpaid assessment or other lien against his or her Unit, together with the interest charges and fees attributable thereto.

ARTICLE XXIV

SEVERABILITY RELATING TO CONDOMINIUM DOCUMENTS

If any term, provision, phrase, section, article, or other part of the Condominium Documents is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify, or impair in any manner whatsoever any other term, provision, phrase, section, article, or other part of the Condominium Documents.

ARTICLE XXV

UNIT DEEDS

Any transfer of title to a Unit shall include all ownership rights of such Unit in and to the Common Elements and the Restricted Common Element assigned to such Unit and any other appurtenances thereto.

ARTICLE XXVI

CAPTIONS

The captions in the Condominium Documents are used only as a matter of convenience and shall not be relied upon or used to interpret the meaning of the text of the Condominium Documents.

ARTICLE XXVII

GENDER, SINGULAR, PLURAL

Whenever the context permits, the use in the Condominium Documents of the plural shall include the singular, the use of the singular shall include the plural, and the use of any gender shall include all genders.

ARTICLE XXVIII

SEVERABILITY RELATING TO DECLARATION

If any term, provision, phrase, section, article or other part of this Declaration is determined to violate or be in conflict with the law of the State of New York, then the law shall be deemed controlling but the validity of the remainder of this Declaration shall not be affected by such violation or conflict.

IN WITNESS WHEREOF, Sponsor has executed this Declaration this ____ day of _____, 1983.

WEST AVENUE ASSOCIATES

By: _____

STATE OF NEW YORK)
 : SS.
COUNTY OF MONROE)

On this ____ day of _____, 1983, before me personally appeared _____, to me known who, being by me duly sworn, did depose and say that he resides at _____

_____, New York, that he is the _____ of CONIFER DEVELOPMENT, INC., as General Partner of West Avenue Associates, the New York Partnership described in the foregoing instrument, the corporation which executed the foregoing instrument that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by the order of the Board of Directors of said Corporation, and that he signed his name thereto by like order as the act of such Limited Partnership.

Notary Public

PROJECT DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situated in the Village of Fairport, Town of Perinton, County of Monroe, and State of New York, more particularly bounded and described as follows:

Beginning at a point in the southerly right-of-way line of West Avenue, 181.50' easterly from the intersection of said right-of-way line with the easterly right-of-way line of West Street; thence

- 1) S 89° 03' 01" E, along the right-of-way line of West Avenue, a distance of 288.35 feet to a point; thence
- 2) S 0° 33' 31" W a distance of 393.58 feet to a point; thence
- 3) N 89° 26' 29" W a distance of 83.00 feet to a point; thence
- 4) N 43° 49' 44" W a distance of 10.65 feet to a point; thence
- 5) S 89° 00' 56" W a distance of 28.20 feet to a point; thence
- 6) S 43° 49' 44" W a distance of 77.79 feet to a point; thence
- 7) N 89° 13' 13" W a distance of 118.31 feet to a point; thence
- 8) N 0° 46' 47" E a distance of 460.25 feet to the point and place of beginning.

All as shown on a map entitled "Resubdivision Map of Part of Lot 2 of the West Avenue School Subdivision" by Om P. Popli, P.E., dated May 21, 1984 and filed in the Monroe County Clerk's Office in Liber 231 of Maps at pages 30 and 31.

BY-LAWS OF

PACKETT'S GLEN CONDOMINIUM

ARTICLE I

IDENTITY

- A. The Condominium These are the By-Laws of Packett's Glen Condominium (the "Condominium") located at West Avenue in the Village of Fairport, Monroe County, New York. They constitute Schedule "B" to the Declaration of the Condominium which was recorded in the Monroe County Clerk's Office on _____, 1985 in Liber _____ of Deeds, at Page _____.
- B. Government These By-Laws establish the method by which the Condominium shall be governed.
- C. Office The office of the Condominium shall be at the Unit owned or occupied by the then current President of the Condominium.
- D. Fiscal Year The fiscal year of the Condominium shall be the calendar year.
- E. Definition All terms for which a definition has been given in Article III of the Declaration shall have the same definition when used in these By-Laws.

ARTICLE II

BOARD OF MANAGERS

- A. Membership and Election The Condominium shall be governed by a Board of Managers. For so long as Sponsor is entitled to vote for the Managers, there may be as few as one Manager and no Manager need be a resident of the Condominium. Thereafter, the Board shall consist of five to seven Managers. The election of Managers shall be made by the Unit owners each year in accordance with Article IV, Section I(2) of these By-Laws.
- B. Term Each Manager shall serve for one year or until the next annual meeting of the Unit owners, whichever occurs first, and until his or her successor has been elected.
- C. Removal Any Manager may be removed for cause by the remaining Managers of the Board before his or her term expires. Any Manager shall further be automatically removed from the Board at such time as he or she is no longer eligible to serve as Manager.
- D. Vacancy In the event of a vacancy on the Board of Managers, the Board shall by majority vote elect a Manager to fill such vacancy for the remainder of the term but if the Board is unable to make such election it shall call a special meeting of the Unit owners for the election of such Manager in accordance with the proceedings described in Article IV.
- E. Right to Vote Each Manager shall have one vote.
- F. Powers and Duties The Board of Managers shall have all the powers and duties given the governing body of the Condominium by the provisions of the Declaration and Article 9-B of the Real Property Law of the State of New York (the "Condominium Act"). These powers and duties shall be exercised in accordance with the provisions of the Declaration and the Condominium Act and shall include, but not be limited to, the following:
1. To make and collect (i) an annual assessment for Common Expenses against the Unit owners to pay for the cost of maintenance and operation of the Condominium; and, (ii) such special assessments against the Unit owners as may be required.

2. To use the proceeds of all assessments in the exercise of its powers and duties.
3. To assure the maintenance, repair, replacement, operation, improvement, and alteration of the Common Elements.
4. To enter into any Unit during reasonable hours for the purpose of (i) performing such emergency repairs therein as may be necessary to prevent damage to the Common Elements or another Unit or Units; (ii) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity; or, (iii) carrying out its responsibilities under the terms of the Declaration, the Condominium Act and these By-Laws. This right of entry shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use and enjoyment of the owner or occupant of the Unit and shall, whenever possible, be preceded by reasonable notice to such owner or occupant.
5. To assure the reconstruction of improvements after condemnation or damage by fire or other casualty.
6. To propose amendments to the Declaration and these By-Laws.
7. To enforce the provisions of the Declaration and these By-Laws by equitable or legal means.
8. To purchase and maintain insurance for the Condominium in accordance with the requirements of the Declaration.
9. To adjust and settle, as agent for the Unit owners, all claims arising under the insurance policies purchased by the Board of Managers and to execute and deliver releases upon the payment of claims.
10. To act as Insurance Trustee and to hold and distribute insurance proceeds received in accordance with the terms of the Declaration.
11. To pay the cost of all heat, electricity, water, sewer, and other utility services rendered to the Condominium and not billed directly to the Unit owners.

12. To employ personnel for reasonable compensation and to retain or contract for the services required for the proper management and administration of the Condominium.
13. To contract for the management of the Condominium and to delegate to such manager the powers which are necessary for effective management.
14. To borrow money for the benefit of the Condominium and to execute and deliver in the name of the Condominium promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, or other evidences of debt or security therefor.
15. To open bank accounts on behalf of the Condominium and to designate as signatories on such accounts the appropriate officer or officers of the Condominium.
16. To acquire, on behalf of the Unit owners and in the name of the Board of Managers or in the name of the designee, any Unit pursuant to the terms of the Declaration and to convey, lease or hold it upon such terms and conditions as the Board shall deem advisable.

G. Method of Calling Meetings

1. Regular meetings of the Board of Managers shall be held at such time and place as may be determined from time to time by the Board. Notice of regular meetings shall be given to each Manager personally or by mail, telephone, or telegram at least ten days prior to the day of 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 Managers may be called by the President and must be called by the Secretary at the written request of any two Managers. Not less than three days' notice of such special meeting shall be given personally or by mail, telephone, or telegram, except in the case of an emergency.
3. Any Manager may waive the right to receive notice of a meeting either before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

4. All notices shall state the time, place, and purpose of the meeting.
- H. Quorum Except when Sponsor is in control, when no quorum is required, a quorum at a meeting of the Board of Managers shall consist of the presence of four (4) or more Managers at such meeting. Once the requirements for a quorum have been met at a meeting, such quorum shall not be broken by the subsequent departure or withdrawal of a Manager from such meeting. If at a meeting of the Board of Manager there be less than a quorum present, the Managers 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. Determination by the Board of Managers The votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers.
- J. Action Without Meeting Any action required or permitted to be taken at any meeting of the Board of Managers may be taken without a meeting if all the Managers of the Board of Managers consent in writing. Such consent must be filed with the minutes of the proceedings of the Board of Managers.
- K. Officers The officers of the Condominium shall be a President, Secretary, and Treasurer. They shall be elected by the Board of Managers at the annual meeting of the Unit owners from and among the Managers of the Board and they shall hold office for a term of one year or until the next annual meeting and until their respective successors have been elected. Officers may be removed and replaced by vote of the Managers at any meeting. Any person may hold two offices except that the President shall not also be the Secretary. The Board of Managers 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 Condominium.
1. The President shall be the chief executive officer of the Condominium and shall preside over the meetings of the Board of Managers and of the Unit owners. He or she 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 and among the Managers, the Unit owners and residents of the Condominium as may be necessary or helpful in the conduct of the affairs of the Condominium.

2. The Secretary shall keep the minutes of all proceedings of the Board of Managers and of the Unit owners. He or she shall send to the Managers all notices required by these By-Laws and other notices required by law. He or she shall have custody of the seal of the Condominium and affix the same to instrument requiring a seal when duly signed. He or she shall keep the records of the Condominium, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary, and as may be required by the Managers or the President. In the absence or disability of the President, he or she shall exercise the powers and perform the duties of the President.
 3. The Treasurer shall have custody of all property of the Condominium, including funds, securities and promissory notes, or other evidences of indebtedness. He or she shall keep the assessment rolls and accounts of the Unit owners; he or she shall keep the books of account of the Condominium in accordance with good accounting practices; and he or she shall perform all other duties of the office of treasurer.
- L. The compensation, if any, of all officers and employees of the Condominium shall be fixed by the Board of Managers; provided that no Manager shall be entitled to compensation for his services as a Manager but shall be reimbursed only for any out-of-pocket expenses incurred in behalf of the Condominium. This provision, however, shall not preclude the Board of Managers from hiring a Manager as an employee of the Condominium nor shall it preclude the Board from contracting with a Manager for services to the Condominium other than services in his or her capacity as Manager.

ARTICLE III

FISCAL MANAGEMENT

The provisions for fiscal management of the Condominium described in the Declaration shall be supplemented by the following provisions.

- A. Assessment Book The assessment roll shall contain one account for each Unit. Such account shall have the name and address of the owner or owners, the amount of each assessment made against the Unit, the dates and amounts in which the assessments come due, all amounts paid and the balance due.
- B. Budget
1. The Board of Managers shall adopt a budget each calendar year which shall contain the estimated costs of the management and operation of the Condominium. Such costs shall include, but not be limited to, the following items:
 - a. Maintenance and operation of the Common Elements such as landscaping, driveways, parking lots, walkways, corridors, hallways, entrances, the exterior of the building, laundry room and the like.
 - b. Common utility services.
 - c. Insurance
 - d. General administration and accounting.
 - e. Taxes which may be assessed against the entire Condominium until each Unit is separately assessed.
 - f. Contingency funds.
 2. Copies of any proposed budget shall be sent to each Unit owner on or before December 1 of the year preceding the year for which the budget is being made. If the proposed budget is later amended, a copy of any such amendment shall be furnished to each Unit owner.
- C. Depository The Board of Managers shall designate the bank or banks in which the funds of the Condominium shall be deposited. Withdrawal of funds from any such account shall only be by checks signed by such person or persons as authorized by the Board of Managers.
- D. Audit An audit of the accounts of the Condominium, including a statement of receipts and expenditures, shall be made annually at the end of each fiscal year, by a certified public accountant, selected by the Board of

Managers and a copy of the report, including the statement of receipts and expenditures for the year, shall be furnished to each Unit owner and to each Manager.

- E. Fidelity Bonds Fidelity bonds may be required by the Board of Managers for the officers and employees of the Condominium and from any contractor handling or responsible for Condominium funds. The amount of any such bond shall be as determined by the Board of Managers and the premium costs, unless paid by the contractor or employee involved, shall be a Common Expense.

ARTICLE IV

MEETINGS AND POWERS OF UNIT OWNERS

- A. First Meeting of Unit Owners Within thirty days after the date on which Sponsor is no longer entitled to select the Board of Managers, the Sponsor shall call the first meeting of the Unit owners. At such meeting the Unit owners shall elect the Managers to the first elected Board of Managers, and the Managers chosen shall then serve until the next annual meeting of the Unit owners and until their respective successors have been elected.
- B. Annual Meetings An annual meeting of the Unit owners shall be held for the election of Managers to the Board of Managers and for the transaction of other business on such day in November in each year as shall be designated by the Board of Managers.
- C. Special Meeting Special meetings of the Unit owners shall be held from time to time when called by the Board of Managers or by the President or by five or more Unit owners.
- D. Place of Meetings All meetings of the Unit owners shall be held at the principal office of the Condominium or at such other place in the Village of Fairport, Monroe County, New York, as may be designated by the Board of Managers.

- E. Notice of Meeting The Secretary shall give each Unit owner not less than seven days' notice of any meeting of the Unit owners. Such notice shall be personally delivered or sent by mail or telegraph, and it shall state the time, place, and purpose of the meeting. Any Unit owner may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of notice.
- F. Right to Vote Each Unit shall be entitled to one vote at every meeting of Unit owners. In the event that more than one person or a corporation, partnership, or other legal entity holds title to a Unit, then one person shall be designated in writing as the representative for the Unit and the representative so designated shall have only one vote.
- G. Quorum A quorum at any annual or special meeting of Unit owners shall consist of the presence of persons having at least sixteen (16) votes. Once a quorum is present at a meeting, it is not broken by the subsequent departure or withdrawal of any Unit owner or owners from such meeting.
- H. Adjourned Meetings In the event of the absence of a quorum the Unit owners present shall adjourn the meeting to another time and place and it shall not be necessary to give notice of the adjourned meeting if the time and place thereof is announced at the meeting at which such adjournment is made. If a quorum is present at the adjourned meeting, any business may be transacted that might have been transacted at the original meeting.
- I. Voting
1. Action by the Unit Owners The votes of a majority of Unit owners present at a meeting at which a quorum is present shall constitute the decision of the Unit owners except (i) for the election of Managers to the Board of Managers; and, (ii) as otherwise required by the Declaration or the Condominium Act.
 2. Election of Managers The Managers shall be elected to the Board of Managers by a plurality of the votes cast by the Unit owners at their annual meeting. Each Manager so elected must be a Unit owner or a resident of the Condominium.

- J. Proxies Any Unit owner may authorize another person or persons to act in his or her behalf by proxy, provided that such proxy must be in writing and executed by the Unit owner giving it. Such proxy shall be revocable at any time by written notice to the Secretary of the Condominium.
- K. Action without Meeting Any action required or permitted to be taken at any meeting of the Unit owners may be taken without a meeting by the unanimous written consent of the Unit owners.

ARTICLE V

INDENIFICATION

To the full extent authorized by law, the Unit owners shall indemnify and hold harmless any person made a party in any civil or criminal action or proceeding by reason of the fact that he, she, their testate, or intestate representative is a Manager on the Board of Managers and/or an officer of the Condominium.

ARTICLE VI

RULES AND REGULATIONS

- A. Rules and Regulations The following rules and regulations shall govern the use of the Units and the Common Elements as well as the conduct of the Unit owners and residents of the Condominium:
1. The sidewalks, entrances and driveways must not be obstructed, encumbered or used for any purpose other than ingress and egress to and from the premises.
 2. No awnings or other projections shall be attached to the outside walls of the buildings without the prior written consent of the Board of Managers.
 3. No baby carriages, velocipedes, mopeds, or bicycles shall be allowed to stand on the sidewalks, entrances, or driveways of the Condominium, but shall be kept within the respective Units, garage and/or the parking lot.

4. No Unit owner shall allow anything whatever to fall from the windows or doors of the premises, nor sweep or throw any dirt or other substance from his or her Unit onto any of the Common Elements.
5. No Unit owner shall play, or permit to be played, within his or her Unit or any of the Common Elements of the Condominium any musical instrument, tape recorder, phonograph, hi-fi, stereo, fm set, radio, or other type of equipment for producing sound between the hours of eleven o'clock, p.m., and eight o'clock, a.m., if the sound level thereof is objectionably high and disturbing to another owner or owners.
6. No radio or television antenna or any other antenna shall be installed without the written permission of the Board of Managers. Any antenna installed on the roof or exterior walls of the building without the consent of the Board of Managers, in writing, may be removed by the Board without notice to the owner.
7. No garbage, trash, or cuttings shall be placed, stored or collected in any area other than that designated for such purpose.
8. No boats, trailers, unlicensed cars, snowmobiles or other seasonal vehicles shall be left or stored in the garage, parking lot or on any other part of the Condominium property without prior written consent of the Board of Managers.
9. All window treatments must show white or beige from the outside.
10. Except for one (1) dog and one (1) cat belonging to an Owner or tenant of a Unit, fish, or birds kept in a cage, no animals, birds or insects shall be kept or maintained in any unit or other portion of the Property except with the consent of the Board of Managers which may, from time to time, (i) impose reasonable rules and regulations setting for the the type and number of animals, birds and insects and (ii) prohibit certain types of animals, birds or insects entirely. In any event, pets may be allowed outdoors only when a responsible person and leashed. The Board of Management shall have the right to require any Owner, any tenant of any Owner, or any family member or guest of any Owner or tenant to dispose of any animal, bird or insect, if, in the

opinion of the Board of Management, acting in its sole discretion, such animal, bird or insect is creating a nuisance because, e.g., the Owner does not clean up after the animal, the animal is too noisy or the animal is not properly controlled.

ARTICLE VII

AMENDMENTS TO BY-LAWS

Amendments to these By-Laws may be adopted by the Unit owners only and then only in the following manner.

- A. The subject matter of a proposed amendment shall be included in the notice of the meeting of the Unit owners at which a proposed amendment is to be considered.
- B. A resolution to adopt a proposed amendment must receive the affirmative vote of at least twenty (20) Unit owners.
- C. In lieu of a meeting to adopt a proposed amendment may be adopted by the unanimous written consent of the Unit owners.
- D. The amendment shall become effective when included in an amendment to the Declaration and then only.

COUNSEL'S TAX OPINION

June 19, 1985

West Avenue Associates
46 Prince Street
Rochester, NY 14607

Re: Packett's Glen

Gentlemen:

The undersigned is an attorney, duly admitted to the Bar of the State of New York and the Federal Bar, and serves as General Counsel of Conifer Development, Inc., General Partner of West Avenue Associates, Sponsor of Madison Court Condominium (the "Condominium").

I have examined the Offering Plan, Declaration, Plans and By-Laws of the Condominium. Based upon my examination of applicable provisions of New York Law including, without limitation, Article 9-B of the Real Property Law (herein the "Condominium Act") and Article 23-A of the General Business Law, it is my opinion that:

1. Each unit in the Condominium will be taxed separately for real estate purposes, and each unit owner, who does not elect to take the standard deduction, will be entitled under present law to claim a deduction for Federal and New York State income tax purposes for the following:
 - a. Real estate taxes assessed against his or her unit and paid by him or her; and,
 - b. The amount paid by him or her on account of interest on any bona-fide mortgage indebtedness covering the unit.
2. Unit owners who make application and meet the requirement of the Town of Perinton and Section 458 of the Real Property Law of the State of New York will qualify for Veterans partial exemption from real property taxes.
3. Unit owners who make application and meet the age and income requirements of the Town of Perinton and Section 467 of the Real Property Law of the State of New York will qualify for an old-age partial exemption from real property taxes.
4. Regarding Federal taxation of the Condominium, Section 528 of the Internal Revenue Code exempts qualifying homeowners associations from income taxes on "exempt function income." Exempt function income includes membership dues, fees, and assessments received from association members. Income which

is not exempt function income is subject to income tax at the current rate of 30%. Examples of non-exempt function income are interest earned on a sinking fund for capital improvements, amounts from non-members for use of the association's facilities, and amounts paid by association members for special use of the association's facilities.

In order to qualify for this limited tax exemption, an association must meet the following requirements.

- a. It must be organized and operated for exempt function purposes;
- b. At least 60% of its gross income must be received as membership dues, fees, or assessments from the Lot Owners;
- c. At least 90% of the association's expenditures must be for the acquisition, construction, management, maintenance and care of association property;
- d. No part of the association's earnings may inure to the benefit of any individual except through a rebate of excess membership dues or directly through the acquisition or upkeep of association property;
- e. The association must file the appropriate election for the year with the Internal Revenue Service.

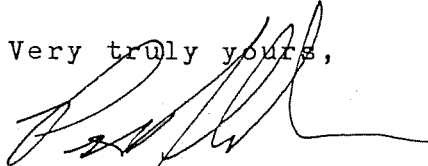
Based on our review of the estimates of projected income and expenses which you have provided, it is our opinion that the Condominium can qualify for the limited income tax exemption for homeowners associations under Section 528 of the Internal Revenue Code. We point out, however, that qualifying under Section 528 is determined on a year-by-year basis. Therefore, the Association must carefully monitor its operation to insure that the requirements set out above, as well as those that may be added by new legislation or administrative action, are satisfied each year. We also point out that the tax exemption is limited, so that even in years when the exemption applies the Association may nonetheless incur federal tax liability on non-exempt function income.

The tax status of homeowners associations is unclear under the New York State tax statutes. For that reason, no opinion is expressed regarding the liability of the Association for any state taxes.

This opinion may be inserted in the Offering Plan of Packett's Glen Condominium. The opinion is based upon the fact presented by Sponsor as set forth in the Plan and current applicable law, regulations, and decisional law.

The undersigned can provide no assurance that changes in law, regulations, and decisional law will not change the opinion set forth above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter J. Obourn", written over the closing "yours,".

Peter J. Obourn
General Counsel

1988

Department of Health and Human Services
Washington, D.C. 20201

Department of Health and Human Services
Washington, D.C. 20201

CERTIFICATIONS

Department of Health and Human Services
Washington, D.C. 20201

Department of Health and Human Services
Washington, D.C. 20201

Department of Health and Human Services
Washington, D.C. 20201

SPONSOR'S CERTIFICATION

Packett's Glen Condominiums

We are the Sponsor and the principals of sponsor of the condominium 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 20 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 circumstances underlying these 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:

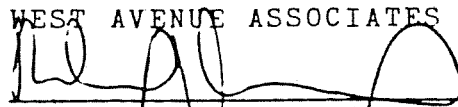
- (i) set forth the detailed terms of the transaction and be complete, current, and accurate;
- (ii) afford potential investors, purchasers, and participants an adequate basis upon which to found their judgment.
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material 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;

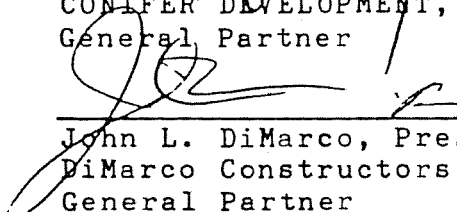
(vii) not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or, (d) did not have knowledge concerning the representations or statements made.

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.

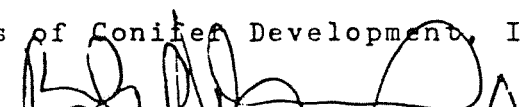
Sponsor: WEST AVENUE ASSOCIATES

By:

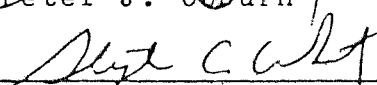

Richard J. Crossed, President
CONIFER DEVELOPMENT, INC.
General Partner


John L. DiMarco, President
DiMarco Constructors, Corp.
General Partner

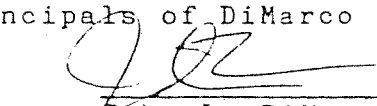
Principals of Conifer Development, Inc.:

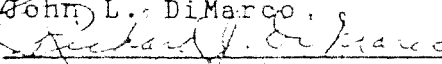

Richard J. Crossed

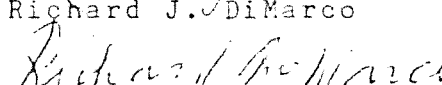

Peter J. Osburn


Stephen C. Whitney


Principals of DiMarco Constructors Corp.


John L. DiMarco


Richard J. DiMarco


Richard DiMarco, Sr.

Sworn to before me this
9 day of July, 1985


Notary Public

Notary Public
MONROE COUNTY, N. Y.
Commission Expires

MARY FREUND TILTON
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1987

STATE OF NEW YORK)
: SS
COUNTY OF MONROE)

On this 19 day of July, 1985 before me personally came RICHARD J. ~~CROSSED~~, PETER J. OBOURN, STEPHEN C. WHITNEY, JOHN L. DIMARCO, RICHARD J. DIMARCO, AND RICHARD DIMAARCO, SR. to me known and known to me to be the individuals described in and who executed the foregoing instrument, and they before me acknowledged that they have made, signed, and executed the same for the purpose therein contained.



MARY FREUND TILTON
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1987

ARCHITECT'S CERTIFICATION

Packett's Glen Condominiums

The Sponsor of the offering plan for condominium ownership of the captioned property retained our firm to prepare a report disclosing the condition of the project when rehabilitated (the "Report"). We visually inspected the property on June 1, 1985, examined the building plans and specifications that were prepared by Stephen C. Whitney, dated November 26, 1984, and prepared the Report dated June 10, 1985, a copy which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the Report.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Attorney General in Part 20 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 circumstances underlying the facts with due diligence in order to form a basis for this certification. We certify the Report does:

- (i) set forth in detail the condition of the entire property as it will exist upon completion of rehabilitation, provided rehabilitation is in accordance with the plans and specifications that I/we examined;

- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition of the property as it will exist upon completion of rehabilitation provided rehabilitation is in accordance with the plans and specifications that I/we examined;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;
- (v) not contain any fraud, deception, concealment, or suppression;
- (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 representations or statements 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.

The undersigned is a registered architect duly licensed by the State of New York.

The undersigned also is a shareholder of Conifer Development, Inc. a General Partner of the Sponsor, holder 12.5 percent of the outstanding shares of stock.

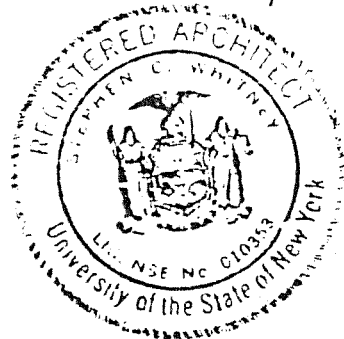
STEPHEN C. WHITNEY, P.C.

By: *Stephen C. Whitney*
 Stephen C. Whitney

Sworn to before me this
19 day of July, 1985

Mary Freling Tilton
 Notary Public

MARY FRELING TILTON
 Notary Public in the State of New York
 MONROE COUNTY, N. Y.
 Commission Expires March 30, 1987





July 16, 1985

West Ave Associates
46 Prince Street
Rochester, N.Y. 14607

RE: Packett's Glen

Dear Sir:

The sponsor of the condominium offering plan for the captioned property retained our firm to review Schedule B containing projections of income and expenses for the first year of condominium operation. Our experience in this field includes the management of four condominium properties of similar size to Packett's Glen for the past four years and our principal's involvement in the management of over 1200 condominium units over the past eight years.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Attorney General in part 20 insofar as they are applicable to Schedule B.

We 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.

We certify that the projections in Schedule B appear reasonable and adequate based on present prices (adjusted to reflect continued inflation and present level of consumption for comparable units similarly situated).

We certify that this certification and all documents prepared by us hereafter that concern the Schedule does:

- (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 judgement;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;



- (v) not contain any fraud, deception, concealment, or suppression;
- (vi) not contain any promises or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and,
- (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 representations or statements made.

We further certify that we are not owned or controlled by and have no beneficial interest in the sponsor and that my compensation for preparing the Certification is not contingent on the conversion of the property to a condominium or on the profitability or price of the offering. We understand that a copy of this Certification is intended to be incorporated into the offering plan so that prospective purchasers may rely on it.

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

Martin R. Becker

Sworn to before me this

16 day of July, 1985

Mary Freund Tilton
Notary Public

MARY FREUND TILTON
Notary Public in the State of New York
MONROE COUNTY, N. Y. R7
Commission Expires March 30, 1987

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 1st day of January 1984 between

THE STATE OF TEXAS, as grantor, and THE CITY OF HOUSTON, as grantee.

WHEREAS, the State of Texas has granted to the City of Houston an easement in and to certain land owned by the State of Texas, and

WHEREAS, the City of Houston desires to exercise the easement granted to it by the State of Texas, and

WHEREAS, the State of Texas has agreed to grant to the City of Houston the easement described in the instrument referred to above,

IN WITNESS WHEREOF, the State of Texas has hereunto set its hand and seal this 1st day of January 1984.

By _____
City of Houston

By _____
State of Texas

DECLARATION OF EASEMENT

This Declaration, made this _____ day of _____, 1985, by Conifer Development, Inc., a New York corporation with its principal offices at 46 Prince Street, Rochester, New York 14607, being hereinafter referred to as the "Developer."

W I T N E S S E T H :

Whereas, the Developer is the owner of real property on West Avenue in the Village of Fairport, Town of Perinton, and County of Monroe, as the same is shown on a map of the subdivision recorded in the Monroe County Clerk's Office in Liber _____ of Maps, at page _____, hereinafter "Fairport West", upon which the Developer desires to construct a condominium and townhouse development.

Whereas, the Developer desires that certain portions of the property described above be subdivided into lots upon which are constructed, or will be constructed, residential dwelling units having at least one party wall in common with another unit, hereinafter a "Townhouse", which lots and Townhouses will be individually owned.

Now therefore, the Developer, for itself, its successors and assigns, declares the following:

ACCESS EASEMENT

1. Access Easement. The owner of each of the ten Townhouse lots in the Fairport West Townhouse Development shall have an egress and ingress easement in common with others, for the benefit of their guests, invitees, successors and assigns, over a portion of the real property of the Developer. The easement area shall be as set forth and particularly described in Schedule C attached hereto.

2. Easement Maintenance. The owners of the lots in Fairport West and the Developer, its successors and assigns, shall share in the costs and expenses of the ground maintenance of the easement area, including snow removal, road gutter repair, road sealing, resurfacing and repair, and street lighting maintenance and service. The costs and expenses to be borne by the owners of the lots in Fairport West shall be twenty-five percent (25%) of the actual costs and expenses incurred by the Developer, its successors and assigns, including but not limited to the governing body of Packett's Glen Condominium for a fiscal year. The obligation of each lot owner in Fairport West shall be specifically limited to, and equal to, one-tenth (1/10) of the total cost and expense of the Fairport West lot owners set forth above. The sum of money to be paid by each lot owner in Fairport West shall be due upon receipt of notice from the Developer, its successors and assigns, and shall be a continuing personal obligation of each lot owner. The Developer, its successors and

assigns, shall have the right of collection and enforcement provided in law and equity.

The Developer, it successors and assigns, shall have full enjoyment of its property, provided it does not interfere with, or restrict, the use and enjoyment of this easement. The easement hereby granted shall run with the land in perpetuity, and bind the Developer, its successors and assigns. Upon transfer of title of each lot in Fairport West, if the grantee assumes the covenants and conditions contained herein, and no money is owed the Developer, its successors and assigns, by the grantor for the cost and expenses of the ground maintenance of the easement area, then the grantor shall be released from performance hereunder.

To have to hold the rights and privileges granted to the parties set forth above, their heirs, or successors, and assigns forever.

In Witness Whereof, this Declaration has been duly executed by the mortgagor.

In the Presence of:

STATE OF NEW YORK)
COUNTY OF MONROE)

: SS.:

On _____ 19__, before me personally came to me known, who, being by me duly sworn, did depose and say that deponent resides at No. _____ deponent is _____ of _____ the corporation described in and which executed, the foregoing instrument; deponent knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; deponent signed deponent's name thereto by like order.

Schedule C

All that tract or parcel of land being Part of Lot 2 of West Avenue School Subdivision in the Village of Fairport, Town of Perinton, Monroe County, New York known and described as follows:

Commencing at a point on the southerly highway boundary line of West Avenue (49.5' r.o.w.) being 469.85' easterly from the easterly highway boundary line of West Street (49.5' r.o.w.); thence (A) south $00^{\circ}-33'-31''$ west and along the east property line of Lot 2 of the West Avenue School Subdivision a distance of 528.58' to a point; thence (B) north $89^{\circ}-26'-29''$ west a distance of 59.99' to a point being the point of beginning for the following description; thence (1) south $00^{\circ}-33'-31''$ west a distance of 23.07' to a point; thence (2) north $89^{\circ}-26'-29''$ west a distance of 103.00' to a point; thence (3) north $64^{\circ}-33'-43''$ west a distance of 18.91' to a point; thence (4) north $00^{\circ}-46'-47''$ east a distance of 85.00' to a point; thence (5) south $89^{\circ}-13'-13''$ east a distance of 8.01' to a point; thence (6) north $43^{\circ}-49'-44''$ east a distance of 77.79' to a point; thence (7) north $89^{\circ}-00'-56''$ east a distance of 28.20' to a point; thence (8) south $00^{\circ}-33'-31''$ west a distance of 117.25' to a point of curvature; thence (9) southeasterly and along a curve to the left having a radius of 10.0' a distance of 15.71' to a point of tangency; thence (10) south $89^{\circ}-26'-29''$ east a distance of 20.31' to the point of beginning.

This description was prepared by Denluck-Hyde Engineering and Surveying Associates, P.C. in accordance with a map by same dated January 28, 1984 and revised May 31, 1984.

