

*City Planner Copy*



**CONDOMINIUM DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS, AND EASEMENTS FOR CEDARVIEWSOUTH CONDOMINIUM**

THIS DECLARATION is made pursuant to the Condominium Ownership Act of the State of Wisconsin, Chapter 703 of the Wisconsin Statutes (hereinafter sometimes referred to as the "Act") this 8 day of April, 2004, by Philip F. Fox and Mary F. Fox (hereinafter referred to as "Declarant").

**1. STATEMENT OF DECLARATION.**

The purpose of this Declaration is to submit the lands hereinafter described and the improvements constructed or to be constructed thereon to the condominium form of ownership in the manner provided by the Act and this Declaration.

Declarant hereby declares that he is the sole owner of the real property described in Section 3 hereof, together with all buildings and improvements thereon (hereinafter referred to as "the property") which is hereby submitted to the condominium form of ownership is provided by in the Act and this Declaration, and which property shall be held, conveyed, devised, leased, encumbered, used, improved, and in all respects otherwise affected subject to the provisions, conditions, covenants, restrictions and easements of this Declaration and the Act. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to the Declarant, his successors and assigns, and to all parties hereafter having any interest in the property.

**2. NAME AND ADDRESS.**

The aforesaid real estate and all buildings and improvements thereon and thereto shall be known as CEDARVIEWSOUTH CONDOMINIUM. The address of the Condominium is 14826/14824 South Cedar Lake Road, Kiel, Wisconsin 53042.

**3. LEGAL DESCRIPTION.**

The following described real estate, also described in the Condominium Plat attached hereto as Exhibit "A", is hereby subjected to the provisions of this Declaration:

Lot Two (2), Volume 16 of Certified Survey Maps, page 15, being a part of the NE 1/4 of the NE 1/4, Section 26, Town 17 North, Range 21 East, Town of Schleswig, Manitowoc, Wisconsin.

**4. DESCRIPTION AND LOCATION OF BUILDING.**

There shall be one (1) main building on the real estate described in Section 3 above, which building shall contain two (2) units. Said building is one story in height, has separate full

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GONDOMINIUM DECLARATIONS OF CONDITIONS,  
COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR CEDARVIEWSOUTH GONDOMINIUM

Document Number

Document Title



VOL 19/2 PG 663

STATE OF WI - MTWC CD  
PRESTON JONES REG/DEEDS  
RECEIVED FOR RECORD  
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Recording Area

Name and Return Address *FILE*  
Philip F. & Mary F. Fox  
18430 Split Rail Lane  
Kiel, WI. 53042  
*\$35.00*

Parcel Identification Number (PIN)



basements, and is constructed principally as a wood frame building with vinyl siding, and roof covered with asphalt composition roofing shingles. The building is to be located on the real estates as indicated in the Condominium Plat marked Exhibit "A" attached hereto and made part of this Declaration. The building and units are more fully described in the building and floor plans attached hereto as a part of the Condominium Plat.

## 5. DEFINITION AND DESCRIPTION OF UNITS.

5.1 Definition. A unit (including garage) is that part of the building intended for individual, private use, comprised of one or more cubicles or air at one or more levels of space having outer boundaries formed by the interior surfaces of the perimeter walls, floors, ceilings, windows, window frames, doors and door frames of the units, and the basement area within a unit, with the basement floor boundary extending to three (3) inches beneath the surface of the floor, as said boundaries are shown in the Condominium Plat attached hereto, together with all fixtures and improvements therein contained.

5.2 Identification. Each unit is numerically designated as set forth in the Condominium Plat attached hereto. In addition, each unit has a designated street address which is not shown on the Condominium Plat. Unit One is commonly known as 14826 South Cedar Lake Road, Kiel, Wisconsin 53042 and Unit Two is commonly known as 14824 South Cedar Lake Road, Kiel, Wisconsin 53042. The approximate area of each unit, number of rooms, immediate common elements to which the units have access, and further details identifying and describing the units are set forth in the Condominium Plat.

## 6. COMMON ELEMENTS AND FACILITIES.

6.1 Description. The common elements and facilities shall consist of all of CEDARVIEWSOUTH CONDOMINIUM improvements and appurtenances, except the individual units and fixtures therein, as defined hereunder, and shall include, without limitation, the land on which the building is located; building exteriors, bearing walls, floors and ceilings (except the interior surfaces thereof, which form the outer boundaries of a unit); roofs, foundations; pipes; ducts; electrical wiring and conduits; utility services; public utility lines, well, pump, pressure tank, water and sewer laterals; outside walls, girders, beams and supports; and the walks, driveways, outdoor parking areas, and landscaping comprising the Condominium property.

6.2 Easements. Each unit owner shall have a valid, exclusive easement to the space between the interior and exterior walls and to the center of the common walls with the adjoining unit for purposes of adding additional utility outlets, wall hangings, erection of not-bearing partition walls, and the like, where space between the walls may be necessary for such uses; provided that the owner shall do nothing to impair the structural integrity of the building or the soundproofing of common walls between the units, and provided further that the common elements and facilities be restored to their former condition by the unit owner at his/her/their sole expense upon completion or termination of the use requiring the easement. Easements are hereby granted and declared for the benefit of the unit owners and the Association of Unit owners (hereafter described) for the installation, maintenance and repair of common utility services in and



on any part of the common elements or units.

## **7. LIMITED COMMON ELEMENTS.**

7.1 Description. A portion of the common elements and facilities are designated as "limited common elements", as shown in the Condominium Plat. Such limited common elements shall be reserved for the exclusive use of the owner or occupant of the unit to which they are appurtenant, to the exclusion of the other unit in the condominium. Such limited common elements consist of the garage, patios, and such other limited common elements as may be identified in the Condominium Plat.

7.2 Use. The manner of use of the limited common elements shall be governed by the By-Laws of, and such rules and regulations as may be established by, the Association of Unit Owners, and no unit owner shall alter, remove, repair, decorate, landscape, or adorn any limited common element, or permit such, in any manner contrary to such By-Laws and rules and regulations. No major or structural changes or alterations shall be made by any unit owner to any of the limited common elements without the prior written approval of the Association, which approval may be given upon such terms and conditions as the Association deems appropriate.

## **8. PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS AND FACILITIES AND LIMITED COMMON ELEMENTS.**

Each unit owner shall own an undivided interest in the common elements and facilities and limited common elements as a tenant in common with the other unit owner and, except as otherwise limited in the Declaration, shall have the right to use and occupy the common elements and facilities and limited common elements for all purposes incident to the use and occupancy of his/her/their unit as a place of residence, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with his/her/their unit.

The percentage of such undivided interest in the common elements and facilities and limited common elements relating to each unit and its owner for all purposes, including proportionate payment of common expenses, shall be Fifty Percent (50%) per unit.

## **9. ASSOCIATION OF UNIT OWNERS.**

9.1 Membership, Duties and Obligations. All unit owners shall be entitled and required to be a member of an Association of unit owners to be known as CEDARVIEWSOUTH CONDOMINIUM OWNER'S ASSOCIATION (hereinafter "Association"), which shall be responsible for carrying out the purposes of this Declaration, including the exclusive management and control of the common elements and facilities and limited common elements. Such Association may be incorporated as a non-profit corporation under the laws of the State of Wisconsin. Each unit owner and the occupants of the unit shall abide by and be subject to all of the rules, regulations, duties and obligations of this Declaration and the By-Laws and rules and regulations of the Association.



9.2 Voting Rights. Each unit shall be entitled to one (1) vote at meetings of the Association. Only one (1) membership and one (1) vote shall exist for each unit; if title to a unit is held by more than one person, the membership related to that unit shall be shared by such owners in the same proportionate interests and by the same type of tenancy in which title to the unit is held. The vote pertaining to the unit may be shared pro rata among the owners, but unanimous agreement is conclusively presumed if any one of them purports to cast the one vote without protest being made promptly by any of the others to the person presiding over the meeting or until any one of the multiple owners files a statement with the Secretary stating that thereafter votes must be cast pro rata.

The respective rights, qualifications, and obligations of the members shall be as set forth in the By-Laws of the Association.

#### **10. RESIDENTIAL PURPOSE.**

All buildings and the units therein contained are intended for and restricted exclusively to residential use as governed by the terms and conditions contained herein and the By-Laws of the Association.

#### **11. REPAIRS AND MAINTENANCE.**

11.1 Individual Units. Each unit owner shall be responsible for keeping the interior of his/her/their unit and all of its equipment, fixtures and appurtenances in good order, condition, and repair and in a clean and sanitary condition, and shall be responsible for decorating, and keeping the interior of the unit in good repair, each unit owner shall be responsible for the maintenance, repair, or replacement of any plumbing fixtures, water heater, furnaces, doors, and windows (including replacement of broken glass), screens and screening, lighting fixtures, refrigerators, heating and air conditioning equipment, dishwashers, disposals, laundry equipment such as washers, dryers, ranges, or other equipment which may be in or connected with the unit.

11.2 Common Elements and Facilities. The Association shall be responsible for the management and control of the common elements and facilities and shall cause the same to be kept in good, clean, attractive, and sanitary condition, order, and repair. Without in any way limiting the foregoing, this shall include all painting, repair and maintenance of building and garage exteriors, walls and roofs, repair and maintenance of walks and drives, and maintenance and upkeep of all landscaping.

The percentage of such undivided interest in the common elements and facilities and limited common elements relating to each unit and its owner for all purposes, including proportionate payment of common expenses, shall be Fifty Percent (50%) per unit.

11.3 Prohibition Against Structural Changes by Owner. A unit owner shall not, without first obtaining the written consent of the Association, make or permit to be made any structural alterations, changes or improvements to his/her/their unit, or in or to the exterior of the



building or any common or limited common elements and facilities. A unit owner shall not perform or allow to be performed, any act or work which will impair the structural soundness or integrity of any building, or the safety of the property, or impair any easement or hereditament, without the prior written consent of the Association. The aforementioned notwithstanding however, each unit owner shall be permitted to construct a deck and one garage and/or storage building located on that portion of the common elements designated as "limited common elements" as shown in the Condominium Plat. Said storage building shall not exceed 12 feet by 24 feet in dimensions. All construction shall be in a manner that is harmonious with its respective dwelling, and shall conform and comply with all local regulations and ordinances as may apply to the construction of said storage buildings.

11.4 Entry for Repairs. The Association may enter any unit at reasonable times and under reasonable conditions with any maintenance, construction or repair of public utilities or for any other matters for which the Association is responsible. Such entry shall be made with prior notice to the owners, except in the case of an emergency when injury or property damage will result from delayed entry, and with as little inconvenience to the owners as practical, and any damage caused thereby shall be repaired by the Association and treated as a common expense except as allocable to an individual unit or units.

## 12. UNIT OWNER'S RIGHTS WITH RESPECT TO INTERIORS AND WALLS.

Each unit owner shall have the exclusive right to paint, repaint, tile, panel, paper, or otherwise refurnish and decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his/her/their unit and all walls, ceilings, floors, and doors within such boundaries, and to erect partitions walls of a non-structural nature; provided that such unit owner shall take no action which in anyway will materially change any common walls.

## 13. DESTRUCTION AND RECONSTRUCTION.

In the event of a partial or total destruction of a building or buildings, they shall be repaired and rebuilt as soon as practicable and substantially to the same design, plan, and specifications as originally built, unless within five (5) days of the date of damage or destruction, by affirmative 100% vote of the unit votes entitled to be cast, it is determined not to rebuild or repair. In such event, the property shall be removed from the provisions of the Condominium Ownership Act by an instrument to that effect duly recorded, and the same shall have and be given effect as in the case of a unanimous removal from the Act, pursuant to 703.28 of the Wisconsin Statutes.

On reconstruction, the design, plan, and specifications of any building or unit may vary from that of the original upon approval of the Association; provided, however, that the number of square feet of any unit may not vary more than Ten Percent (10%) from the number of square feet for such unit as originally constructed, and the location of the buildings shall be substantially the same as prior to damage or destruction. The proceeds of any insurance provided by the Association and collected for such damage or destruction shall be available to the Association for the purpose of repair or reconstruction, as provided in Section 14 hereof. The Association shall



have the right to levy assessments as a common expense in the event that the proceeds of any insurance collected are insufficient to pay the estimated or actual costs of repair or reconstruction.

#### 14. INSURANCE.

The Board of Directors of the Association shall provide and maintain fire and broad form extended coverage insurance on the buildings and any portion thereof in any amount not less than the full replacement value of the buildings from time to time. Such insurance shall be obtained in the name of the Association as trustee for each of the unit owners and their respective mortgagees as their interest may appear. Premiums shall be a common expense. To the extent possible, the insurance shall provide that the insurer waive its rights of subrogation as to any claim against the unit owners, the Association, and their respective servants, agents and guests, and that the insurance cannot be canceled, invalidated, nor suspended on account of conduct of any one or more unit owners, or the Association, or their servants, agents, and guest, without thirty (30) days prior written notice to the Association giving it the opportunity to cure the defect within that time. The amount of protection and the types of hazards to be covered shall be reviewed by the Board of Directors at least annually and the amount of coverage may be increased or decreased at any time it is deemed necessary as determined by the Board of Directors to conform to the requirements of full insurable value.

In the event of partial or total destruction of a building or buildings, and it is determined to repair or reconstruct such building or buildings in accordance with Section 134 hereof, the proceeds of such insurance shall be paid to the Association as trustee to be applied to the cost thereof. If it is determined not to reconstruct or repair, then the proceeds shall be distributed to the unit owners and their mortgagees, if any, as their respective interest may appear, in the manner provided by the Act.

If insurance coverage is available to combine protection for the Association and the unit owner's individual unit, the Board of Directors is hereby given discretionary power to negotiate such combination of insurance protection on an equitable cost-sharing basis under which the unit owner would be assessed individually for the amount of insurance which he/she/they direct(s) the Board of Directors to include in such policies for his/her/their additional protection. Copies of all such policies shall be provided to each mortgagee. Nothing contained in this paragraph shall be deemed to prohibit any unit owner, at his/her/their own expense, to provide any additional insurance coverage on his/her/their improvements which will not duplicate any insurance provided by the Association of unit owners.

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The Board of Directors shall also provide public liability insurance covering the common elements and facilities and the limited common elements in such amounts as may be determined at the discretion of the Board of Directors from time to time.

#### 15. LIABILITY FOR COMMON EXPENSES.

The costs of administration of the Association, insurance, repair, maintenance, and other expenses of the common elements and facilities and limited common elements, including common



services provided to the unit owners, shall be paid for by the Association. The Association shall make assessments against the unit owners and the units for such common expenses in proportion with the percentage of the undivided interest in the common and limited common elements and facilities relating to each unit, in the manner provided in the By-Laws of the Association. No unit owner may exempt himself/herself/themselves or his/her/their unit ownership from liability for his/her/their contribution toward the common expenses by waiver of the use or enjoyment of any of the common or limited common elements and facilities or by abandonment of his/her/their unit; and no conveyance shall relieve the unit owner-grantor of his/her/their unit of such liability, and he/she/they shall be jointly, severally and personally liable along with his/her/their grantee in any such conveyance for the common expenses incurred up to the date of sale, until all expenses charged to his/her/their unit have been paid.

All assessments, when due, shall immediately become a personal debt of the unit owner and also a lien, until paid, against the unit to which charged, as provided in the Act. Assessments shall be made against the unit owners and the units at the beginning of each fiscal year of the Association to meet estimated common expenses of the association for the ensuing year; however, if prorated and paid monthly, the assessments shall not be considered due until the respective installment payment dates. In the event of a delinquency in payment, the Association may accelerate annual assessments remaining unpaid with respect to such delinquent unit for purposes of collection or foreclosure action by the Association.

#### **16. PARTITION OF COMMON ELEMENTS PROHIBITED.**

There shall be no partition of the common elements and facilities and limited common elements through judicial proceedings or otherwise until this Declaration is terminated and the property is withdrawn from its terms or from the terms of the applicable statutes regarding unit ownership or condominium ownership; provided however, that if any unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing contained herein shall be deemed to prohibit a voluntary or judicial partition of said single unit as between such co-owners. No unit may be subdivided or separated.

#### **17. CONVEYANCE TO INCLUDE INTERESTS IN COMMON ELEMENTS AND FACILITIES AND LIMITED COMMON ELEMENTS.**

The percentage of undivided interests in the common and limited common elements and facilities shall not be separated from the unit to which it appertains. No unit owner shall execute any deed, mortgage, lease, or other instrument affecting title to such unit ownership without including therein both his/her/their interest in the unit and his/her/their corresponding percentage of ownership in the common and limited common elements and facilities, being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease, or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

#### **18. EASEMENTS, RESERVATIONS, AND ENCROACHMENTS.**





18.1 WELL AGREEMENT. Said premises are hereby subject to an existing Well Agreement as set forth in Volume 1960 of Records, pages 529/31 and recorded on March 19, 2004 at 12:36 P.M. as Document No. 962907.

18.2 Utilities. Easements are hereby declared and granted for the benefit of the unit owners and the Association and reserved for the benefit of the Declarant for utility purposes, including the right to install, lay, maintain, repair, and replace water mains and pipes, sewer lines, septic system and related pipes and equipment, gas mains, telephone wires and equipment, master television antenna system wires and equipment, electrical conduits, wires and equipment, including power transformers, over, under, along and on any part of the common elements and facilities to service the condominium property.

18.3 Encroachments. In the event that by reason of the construction, reconstruction, settlement, or shifting of any building, or the design or construction of any unit, any part of the common elements and facilities, or limited common elements, encroaches or shall hereafter encroach upon any part of any unit, or any part of any unit encroaches or shall hereafter encroach upon any part of the common elements and facilities, or limited common elements, or any portion of any unit encroaches upon any part or any part of any other unit, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit so long as all or any part of the building containing such unit shall remain standing, and unit and common element boundaries shall be as provided in the Act. Provided, however that in no event shall a valid easement for any encroachment be created in favor of the owner of any unit or in favor of the owner or owners of the common elements or facilities, or limited common elements, if such encroachment occurred due to the willful and knowing conduct of said owner or owners.

18.4 Binding Effect. All easements and rights described in this Section 18 are easements appurtenant, running with the land, and are subject to the reasonable control of the Association. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on, the undersigned, their successors and assigns, and on all unit owners, purchasers, and mortgagees, and their heirs, personal representatives, successors and assigns. The Association or the Declarant shall have the authority to execute and record all documents necessary to carry out the intent of this Section 18.

**19. FAILURE OF ASSOCIATION TO INSIST ON STRICT PERFORMANCE NOT WAIVER.**

The failure of the Association to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment of the future of such term, covenant, condition, or restriction, but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Association of payment of any assessment from a unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to



have been made unless expressed in writing and signed by the Association.

#### 20. AMENDMENTS TO DECLARATION.

Except as otherwise provided by the Act with respect to termination of the condominium form of ownership, this Declaration may be amended by an affirmative unanimous vote and written consent of all votes entitled to be cast by members of the Association and written consent of their respective mortgages. Copies of amendments shall be certified by the President and Secretary of the Association in a form suitable for recording. The amendment shall be recorded with the Register of Deeds for Sheboygan County, and a copy of the amendment shall also be mailed or personally delivered to each unit owner at his/her/their address on file with the Association.

#### 21. ARBITRATION CLAUSE.

In the event of a deadlock between the two unit owners, after such a deadlock has been appropriately reconsidered by the Directors (the two unit owners) in accordance with Section 703.365(6)(b) of the Act, or any amendments to the Act subsequent hereto, then such decision shall be submitted for an arbitration proceeding as provided in Section 703.365.

#### 22. NOTICES.

All notices and other documents required to be given by this Declaration or the By-Laws of the Association shall be sufficient if given to one (1) registered owner of a unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the Agent specified for receipt of process herein. All owners shall provide the Secretary of the Association with an address for the mailing or service of any notice or other documents and the Secretary shall be deemed to have discharged his/her duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him/her.

#### 23. RESIDENT AGENT.

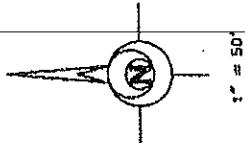
The Resident Agent for the Condominium shall be the occupant of Unit One (14826 South Cedar Lake Road, Kiel, Wisconsin 53042), or such other person or party as may be designated from time to time by the Board of Directors of the Association, which designation shall be filed with the Secretary of State of the State of Wisconsin. The Association may designate successors to the Resident Agent by affirmative vote of a majority vote of the unit owners.

#### 24. NUMBER AND GENDER.

Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular and the use of any gender shall include all genders.



EXHIBIT "A"

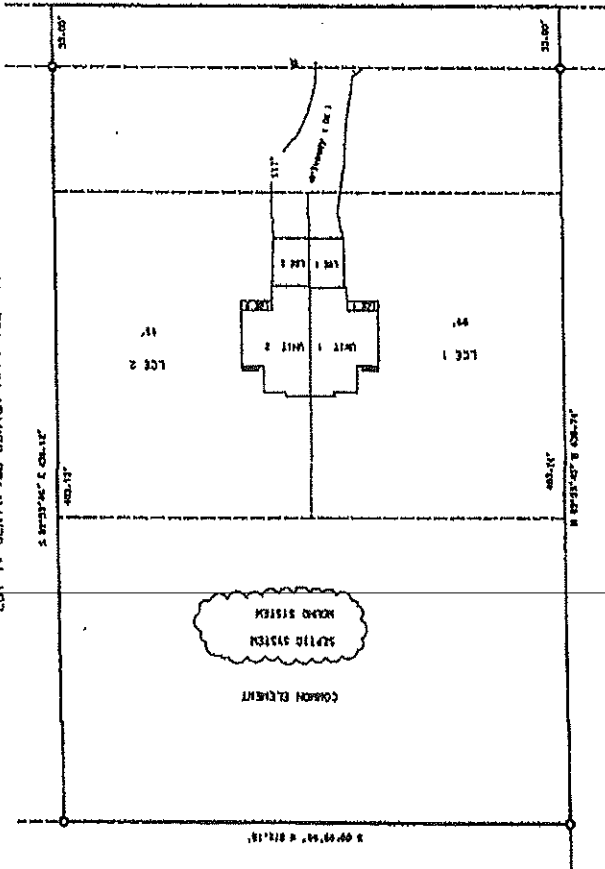


○ = 1" IRON PIPE  
LCE = LIMITED COMMON ELEMENT  
CE = COMMON ELEMENT



Surveyor's Certificate  
I hereby certify that this Condominium Plot is a correct representation of the condominium described and that the identification and location of each unit and the common elements and limited common elements can be determined from this plot.  
*[Signature]* March 4, 2004  
Derry M. Hanson  
Wisconsin Registered Land Surveyor S-1099

LOT 1. CERTIFIED SURVEY MAP, VOL. 16, PG. 15



LOT 1. CERTIFIED SURVEY MAP, VOL. 11, PG. 43

Owner's Certificate

As owners, we hereby certify that we caused the condominium described to be surveyed and mapped as represented on this Condominium Plot.

PHILIP FOX \_\_\_\_\_ MARY FOX \_\_\_\_\_

CEDARVIEW SOUTH CONDOMINIUM

LOT 2 OF THE CERTIFIED SURVEY MAP RECORDED IN VOLUME 16 ON PAGE 15, LOCATED IN THE NE 1/4 OF SECTION 26, T.17N, R.21E., TOWN OF SCHLESNIG, MANITOWOC COUNTY, WISCONSIN.



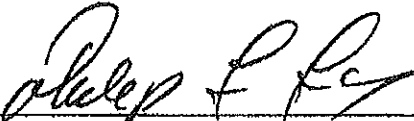
25. CAPTIONS.

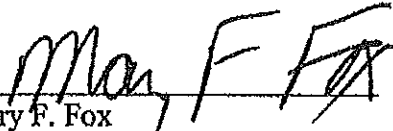
The captions and section heading headings herein are inserted only as matters of convenience and for reference, and in no way define nor limit the scope or intent of the various positions hereof.

26. SEVERABILITY.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not effect the validity or enforceability of the remaining portion of said provision or of any other provision hereof.

IN WITNESS WHEREOF, the said Philip F. Fox and Mary F. Fox, Declarant, have caused this document to be executed at Sheboygan, Wisconsin as of the date first set forth above.

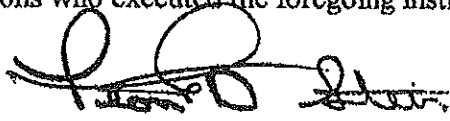
  
Philip F. Fox

  
Mary F. Fox

ACKNOWLEDGMENT

STATE OF WISCONSIN )  
                                  ) ss.  
SHEBOYGAN COUNTY )

Personally came before me this 8 day of April, 2004, the above-named Philip F. Fox and Mary F. Fox, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

  
Notary Public, State of Wisconsin  
My Commission (Is) (Expires) 4/25/04  
Leon O. Stein

THIS INSTRUMENT WAS DRAFTED BY:

Atty. Pam Kahn-Stein