

429274

HARBORSIDE CONDOMINIUM TRUST
Grant of Limited Common Area Easement
With Conditions and Modification Agreement
Units C-6 and C-7



429274 (0023 045+) Btch:164339
Southern Essex District Registry
10/30/2003 12:47 PM EMNT

This Grant of Limited Common Area With Conditions and Modification Agreement (hereinafter the "Agreement") made this 13th day of May, 2003 by and between Howland B. Jones, III, James McLune and Donald E. Newland, being *the Trustees of the Harborside Condominium Trust* (the "Trustees"), the organization of unit owners of the Harborside Condominium (the "Condominium") created by master deed registered with the Land Registration Office for the Southern District of Essex County (the "Registry") as Document No. 191062 with Certificate No. C-23, as amended, and declaration of trust registered with said Registry as Document No. 191063 with Certificate No. C-23, as amended (the "Trust"), and *James Walters and Catherine Walters*, the record owners of both Unit C-6 and Unit C-7 at the Condominium by deeds registered with said Registry as Document No. 373137 and noted on Certificate of Title No. 0023045 and Document No. 396147 and noted on Certificate of Title No. 0023047, respectively.

WITNESSETH:

That the said Trustees ("Grantor"), in consideration of a sum of Twenty-Six Thousand One Hundred Six Dollars and 00/100 (\$26,106.00) the receipt of which is hereby acknowledged, and in further consideration of the stipulations, conditions, terms and covenants contained herein pursuant to Massachusetts General Laws Chapter 183A section 5(b)(2)(ii), having first received: (a) the consent of all owners and first mortgagees of units shown on the recorded Condominium plans as immediately adjoining the Units, and (b) the consent of fifty-one (51%) per cent of all mortgagees holding first mortgages on units within the Condominium who have given written notice to the Trustees of their desire to be notified of such matters, all in accordance with M.G.L. Chapter 183A, Section 5(b)(ii);

do hereby GRANT unto the above-referenced James Walters and Catherine Walters and their successors in title ("Grantee") as an appurtenance to both Unit C-6 and Unit C-7 (the "Units") the exclusive right to use the Limited Common Area as shown as the common area between the Units and the portions of the balcony appurtenant to unit #C-7, all as more particularly shown on the sketch attached hereto and made a part hereof as Exhibit "A" and hereby authorize Grantee full authority to make certain modifications within or to the common areas and facilities of the Condominium which relate specifically to connecting the above-referenced Units and the enclosure of the 54.5 sq. ft. portion of the balcony appurtenant to Unit #C-7 (hereinafter collectively referred to as the "Modifications"). The plan(s) and specifications for the approved Modifications are attached hereto and made a part hereof as Exhibit "B", respectively.

This Grant and Authorization is subject to the following conditions:

1. This Agreement shall be binding on all successors in interest to the subject Units.
2. The Grantee shall submit to the Trustees appropriate plans signed and stamped by both a Massachusetts licensed architect and a Massachusetts licensed structural engineer before commencing any work.
3. The Grantee agrees to undertake any and all work with respect to the approved Modifications, which shall be done:
 - (a) by and at the Grantee's sole and separate expense and responsibility;

- (b) in a good and workmanlike manner using first class materials free from defects, in a fashion that will not impair the structural or architectural integrity of any part of the Units, the building or any other part of the Condominium premises, or interfere with the use or enjoyment of any of the other Units or the common elements and facilities by others entitled thereto;
 - (c) pursuant to all applicable laws and regulations of governmental bodies having jurisdiction thereof, including without limitation, zoning, building, health, environmental, sanitation and fire protection laws and regulations, and pursuant to a building permit therefor. The Grantee shall be responsible for all costs to obtain same and shall submit evidence of compliance to the Trustees; and
 - (d) with insurance in kinds and amounts satisfactory to the Trustees and naming the Trustees and its managing agent as additional named insureds. Evidence of insurance satisfactory to the Trustees shall be provided to the Trustees prior to the commencement of any work. The evidence of insurance shall specify that such policy may not be canceled without at least 30 days prior written notice to the Trustees.
4. Upon the completion of the Modifications, the Grantee shall be responsible for the assessment of a monthly charge attributable to the use of the enclosed balcony appurtenant to Unit C-7 to be determined by the Board of Trustees on an annual basis. Such monthly charge shall be based upon the calculation of the square footage of 54.5 sq. ft. attributable to that portion of the enclosed balcony appurtenant to Unit #C-7, in relation to annual budget for the Condominium as it is quantified on a square footage basis. Such assessments shall be collectible as a common expense for unit #C-7 and in accordance with the provisions of M.G.L.c. 183A, §6(c).
5. The Grantee shall indemnify, defend and hold the Trust, the Trustees, their managing agent and the unit owners of the Condominium harmless from and against any and all damage, injury, loss, cost, expense (including, without limitation, reasonable attorneys' fees) and liability incurred or suffered by any of said unit owners, the Trust, the Trustees and/or the Condominium's unit owners both individually and collectively, in connection with this Grant or in connection with the Modifications including, without limitation, the location, inspection, maintenance, repair and removal of the Modifications, and/or the exercise of any of the rights granted hereby or related to any action brought by any party against the Trust, the Trustees, their managing agent or any Condominium unit owner relating in any way to or arising in connection with the Grant and Modifications including any claims relating to the validity of the Grant and the consent of all appropriate parties.
6. If the Grantee defaults in the performance of any obligations contained herein and shall not cure such default within ten (10) days (or sooner if necessary in the discretion of the Trustees to protect the Condominium or any Unit therein, or to prevent injury or damage to persons or property or to make full use of the Condominium after delivery of written notice thereof), the Trustees shall have the right, but not the obligation, to perform such obligations, in which event such Grantee shall pay to the Trustees, on demand, all costs, including reasonable attorneys' fees, incurred in connection therewith and said amounts shall be a lien against the Unit and shall be a personal liability of the unit owner.
7. The Trustees in their discretion, may upon thirty (30) days written notice to Grantee, *with cause*, revoke this Agreement and the Grant made herein. Such notice shall be delivered

via first class mail and certified, return receipt mail. Upon revocation, the Grantee or their successors and assigns shall be responsible for restoring the premises to the condition they were in prior to the renovations being made. Such restoration shall be completed in good and workmanlike manner, satisfactory to the Trustees, within sixty (60) days of the revocation.

8. The Grantee is taking this Grant to the extent of the interest of the Grantor in said premises, if any, with the benefit of, and subject to, the provisions of chapter 183A of the General Laws of Massachusetts relating to Condominiums, as that Statute is written as of the date hereof and as it may in the future be amended.
9. The Trustees shall have the right to impose additional conditions relating to the Modifications including, but not limited to, conditions relating to removal of debris, hours when work may be performed and a timetable for completion of the renovations and the Grantee agrees to abide by the Additional Terms and Conditions attached hereto and made a part hereof as Exhibit C.
10. Grantee agrees that they and their heirs, successors and assigns, including but not limited to, subsequent owners shall be solely responsible for the cost to maintain, repair and replace said renovations.
11. All contractors performing work shall be approved by the Trustees and insured to the Trustees' satisfaction and shall be properly licensed pursuant to Massachusetts law.
12. If legal action is required to enforce this Agreement, then the Grantee shall be responsible for all costs, expenses, and reasonable attorneys' fees incurred by the Trustees.
13. This Grant shall become effective thirty days following the recording of this Agreement.
14. The parties hereby certify that they have complied with all requirements of M.G.L. Chapter 183A section 5(b)(ii).

Executed under seal this 26th day of June, 2003.

MAJORITY OF THE TRUSTEES
OF THE HARBORSIDE
CONDOMINIUM TRUST,
AND NOT INDIVIDUALLY,
PURSUANT TO THEIR POWERS
UNDER M.G.L. CHAPTER 183A
SECTION 5(b)(2)(ii)

[Signature]
6/19/03, Trustee

J. J. [Signature]
6/19/03, Trustee

[Signature]
25 Jun 03, Trustee

GRANTEE/UNIT OWNER(S):

[Signature]
James Walters

[Signature]
Katharine Walters

[Signature]
2/10/06

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

Then personally appeared the above-named, June 26, 2003
Dorald E. Newland and Howard B. Jones III James W. Lane
foregoing to be their free act and deed as Trustees of the Harborside Condominium Trust, before
me,

Dolores Joseph
Notary Public,
My commission expires: 2/10/06

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

May 13, 2003

Then personally appeared the above-named, James Walters, Katharine Walters
— and —, Trustees as aforesaid and acknowledged the
foregoing to be their free act and deed as Trustees of the Harborside Condominium Trust, before
me,

Cynthia L. Latham
Notary Public,
My commission expires: 7-12-07

COMMONWEALTH OF MASSACHUSETTS

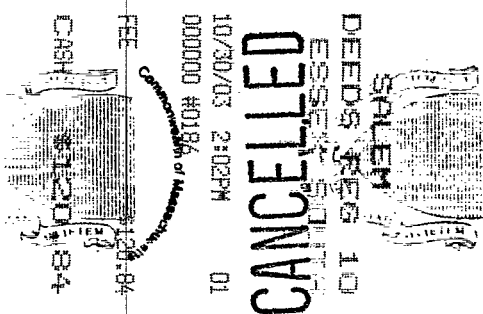
ESSEX, ss.

May 13, 2003

Then personally appeared the above-named, James Walters and Catherine Walters, being
the record owner of the above-referenced Units, and acknowledged the foregoing to be their free
act and deed, before me.

Cynthia L. Latham
Notary Public
My commission expires: 7-12-07

CYNTHIA L. LATHAM
NOTARY PUBLIC
Commonwealth of Massachusetts
My Commission Expires
July 12, 2007



429274 (Page 5 of 10)
Southern Essex District Registry
10/30/2003 12:47 PM EMNT

EXHIBIT A
SKETCH OF LIMITED COMMON AREA

429274 (Page 6 of 10)
Southern Essex District Registry
10/30/2003 12:47 PM EMNT

EXHIBIT B
MODIFICATION PLANS & SPECIFICATIONS

429274 (Page 7 of 10)
Southern Essex District Registry
10/30/2003 12:47 PM EMNT

EXHIBIT C
ADDITIONAL TERMS AND CONDITIONS

429274 (Page 8 of 10)
Southern Essex District Registry
10/30/2003 12:47 PM EMNT

1. No work may be commenced prior to the receipt by the Trustees of all applicable building permits and insurance policies and until 30 days after the Agreement is registered with the Registry.
2. All construction debris must be removed promptly from the common areas. It may not be stored nor disposed of within the common areas. Compactor chutes and Building rubbish dumpsters may not be used for the transport or disposal of construction debris.
3. Any debris in the common areas resulting from work in Units must be cleaned up immediately.
4. Work which will create such noise as to disturb other residents will be carried on only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, and not at all on either Saturdays or Sundays.
5. Damage to the common areas or the building arising from such work must be repaired promptly and to the satisfaction of the Trustees. If not, the Trustee will have the necessary repairs made and will charge 110% of the direct cost of such repairs to the responsible unit owner.
6. For violation of this Agreement, the Trustees may take such action as they deem appropriate, which may include, without limitation, the following:
 - a. levying fines and assessing all costs and reasonable attorneys' fees incurred on responsible unit owners.
 - b. prohibiting contractors who violate these rules and regulations from performing further work in the Condominium.
7. Any work which may affect the structure of the building must be approved by the Trustees before commencement of the work.
8. The Grantee acknowledges that the Modification is located within a residential condominium community and that no unreasonable noise or vibration that interferes with the use and enjoyment of any residential or commercial condominium units is acceptable.
9. Upon completion of all Modifications, the Trustees may cause the Grantee to make any and all Modifications that the Trustees, in their sole discretion, deem reasonable or appropriate so as to conform with the rest of the Condominium. If the Modifications are not complete within 30 days of written notice, the Trustees shall be entitled to have the work performed for the account of the Grantee and to enter upon and to have access to such Unit for that purpose. The reasonable cost of such work shall constitute a lien upon such Unit and the unit owner shall be personally liable therefore.

10. Prior to construction and upon completion of all Modifications, the Grantee shall cause a registered architect to stamp and certify in writing to the Trustees that the construction and installation of the Modifications have not and will not in any manner cause structural damage to the Unit or Harborside Condominium and that the work will not and has not jeopardized the soundness and safety of the Building. The Grantee shall make no other Modifications to the Unit of any nature whatsoever except as identified in this Agreement, except with the prior written approval of the Trustees.
11. The Grantee shall pay all of the Trustees' costs attendant to the foregoing including, without limitation, legal fees and costs to draft and register this easement, costs to oversee and/or inspect the Modification work, etc.
12. At such time as the Units are no longer in common ownership, the Grantee shall promptly restore the common wall between the Units to substantially the same condition in which the same existed prior to the Modification, at the Grantee's sole cost and expense. Upon the failure of the Grantee to do so, the Trustees may perform, or cause to be performed, such work, in which event the Grantee shall be personally liable for all such costs and expenses which, if not paid in full when due, shall constitute a lien upon both Units and may be enforced and collected as a common expense against either, or both, Units or unit owners.
13. If, at any time, the Grantee (or the Trustees, in order to repair) removes any or all of the Modifications, the Grantee shall promptly repair in a workmanlike manner any damage resulting from such and shall do whatever is necessary so as to leave the common areas undefaced in appearance and not in any state of depreciation as a result of such removal.

DOCUMENT NO. HJ9271

ESSEX SOUTH REGISTRY DISTRICT
OCT 30 2003
RECEIVED <u>12</u> O'CLOCK <u>47</u> M
REGISTRATION BK <u>623-45</u>
<u>C2347</u>