

THIS PLAN HAS BEEN AMENDED. SEE INSIDE COVER.

BECAUSE THE SPONSOR IS RETAINING THE UNCONDITIONAL RIGHT TO RENT RATHER THAN SELL UNITS, THIS PLAN MAY NOT RESULT IN THE CREATION OF A CONDOMINIUM IN WHICH A MAJORITY OF THE UNITS ARE OWNED BY OWNER-OCCUPANTS OR INVESTORS UNRELATED TO THE SPONSOR. (SEE SPECIAL RISKS SECTION OF THE PLAN.)

PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN (SEE SPECIAL RISKS SECTION OF THE PLAN.)

THIS IS A NON-EVICTION PLAN. NO NON-PURCHASING TENANT WILL BE EVICTED BY REASON OF CONVERSION TO CONDOMINIUM OWNERSHIP.

CONDOMINIUM OFFERING PLAN
FOR
THE 1438 THIRD AVENUE CONDOMINIUM
Premises:
1438 Third Avenue
New York, New York 10028

	Price to Tenants Offerees	Price to Non-Tenant Offerees
Total Offering Price for 147 Residential Units.....	\$123,269,425	\$136,771,569
Capital Reserve Fund (See Page 87 for Adjustments).....	\$ 3,698,083	\$ 3,698,083

Working Capital Fund: two (2) months estimated common charges. See page 88. This fund may be diminished for closing adjustments. See page 89.

The Condominium will have 147 Residential Units and 1 Commercial Unit. The Commercial Unit is not being offered for sale at this time. 147 Residential Units are being offered for sale hereby.

Sponsor:
81ST AND 3RD OWNER LLC
61 Broadway, Suite 1407
New York, New York 10006
Tel: (212) 609-3700

Selling Agent:
DOUGLAS ELLIMAN, LLC
575 Madison Avenue, 4th Floor
New York, New York 10022
Tel: (212) 702-4060
Fax: (646) 497-5459
agerringer@elliman.com

Date of Acceptance for Filing: August 25, 2006

This term of the initial offering of this Plan commenced on August 25, 2006 and expires on August 24, 2007, unless the said date is extended in a duly filed amendment.

SEE PAGE (v) FOR SPECIAL RISKS TO PURCHASERS.

THIS OFFERING PLAN IS THE ENTIRE OFFER TO SELL THESE CONDOMINIUM UNITS. NEW YORK LAW REQUIRES THE SPONSOR TO DISCLOSE ALL MATERIAL INFORMATION IN THIS PLAN AND TO FILE THIS PLAN WITH THE NEW YORK STATE DEPARTMENT OF LAW PRIOR TO SELLING OR OFFERING TO SELL ANY CONDOMINIUM UNIT. FILING WITH THE DEPARTMENT OF LAW DOES NOT MEAN THAT THE DEPARTMENT OR ANY OTHER GOVERNMENTAL AGENCY HAS APPROVED THIS OFFERING.

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THE
1438 THIRD AVENUE
CONDOMINIUM

PLAN OF CONDOMINIUM OWNERSHIP

PART I

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SPECIAL RISK FACTORS

1. Because the Sponsor is not limiting the conditions under which it will rent rather than sell units, there is no commitment to sell more units than the 15 percent necessary to declare the plan effective and owner-occupants may never gain effective control and management of the Condominium.
2. Purchasers for their own occupancy may never gain control of the Board of Managers under the terms of this Plan. Owner-occupants and non-resident owners, including the Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment.
3. The Commercial Unit consists of the retail space on the first floor and portions of the sub-cellar, cellar and a stairwell to and portion of the roof on the second floor. Sponsor and any subsequent owner of the Commercial Unit has the right to subdivide and combine portions of the Commercial Unit, subject to the provisions of the Declaration and By-Laws. The Commercial Unit may be used for any lawful purposes. The use of the Commercial Unit may generate noise, traffic, fumes or other disturbances over which the remaining Unit Owners will have no control. At this time, the Commercial Unit is not being offered for sale, but Sponsor reserves the right to do so pursuant to a future appropriately filed amendment to the Plan.
4. Downpayments in excess of \$100,000 placed in the escrow account will not be federally insured for any amount in excess of \$100,000.
5. Purchasers will be given at least thirty (30) days written notice of the date, time and place of closing and for the payment of the balance of the purchase price. Upon Purchaser's failure to pay the balance of the purchase price or upon Purchaser's other default, Sponsor may elect to cancel the Purchase Agreement by thirty (30) days written notice to Purchaser. If Sponsor elects to cancel the Purchase Agreement, Purchaser shall have said thirty (30) days from the giving of the cancellation notice to cure the specified default. TIME IS OF THE ESSENCE TO REMEDY SUCH DEFAULT WITHIN SAID THIRTY DAY PERIOD (see "Procedure to Purchase" for these and other consequences of a Purchaser's default.)
6. The Purchase Agreement for the Units offered hereby is not contingent upon the Purchaser obtaining financing. If a Purchaser is unable to obtain bank financing or is unable to close, for any reason pursuant to an issued bank commitment, purchaser will lose their Down Payment unless Purchaser can otherwise pay the balance of the Purchase Price.
7. Purchasers shall be obligated to pay the NYC Real Property Transfer Tax and the NYS Real Property Transfer Tax (Deed Stamps) which by law are the primary obligation of the seller. For purposes of calculating the taxes payable, the amounts of such taxes will be included in the consideration subject to such tax. If the Purchase Price of a Residential Unit, including the NYC Real Property Transfer Tax and the NYS Real Property Transfer Tax paid by Purchaser, is \$1,000,000 or more, Purchaser shall also be obligated to pay the New York State Additional Tax pursuant to Article 31 of the Tax Law, commonly referred to as the "Mansion Tax," which is currently one (1%) percent of the purchase price and which by law is the primary obligation of the Purchaser. (See Section entitled "Unit Closing Costs and Adjustments" for further details about these and other closing obligations of Purchasers.)
8. Sponsor shall not be obligated to correct, repair, or replace any or all defects relating to construction of the Units, the Common Elements, or to the installation or operation of any appliances, fixtures, or equipment therein, except as expressly provided in this Plan. Sponsor will not warrant the materials or workmanship of any Unit or of the Common Elements. The Housing Merchant Implied

Warranty Law (General Business Law Article 36-B) is not applicable to this offering.

9. The estimated \$3,698,083 Capital Reserve Fund (before adjustment) disclosed on the cover of the Plan and the net Working Capital Fund, if any, should be sufficient to pay for the major capital improvements and replacements that are reasonably foreseeable within three years of the first residential closing but no guarantee can be provided that the Capital Reserve Fund will be \$3,698,083 or that it will be sufficient for the aforementioned purposes. If the Capital Reserve Fund is not sufficient the Condominium may have to borrow money, increase Common Charges and/or institute assessment(s) to the Unit Owners and is therefore to be considered a special risk.

10. Sponsor has made no representation with respect to any obligation to sell, or to endeavor to sell, any Residential Units to purchasers for personal occupancy other than those necessary to declare this Plan effective, and Sponsor has reserved the right to hold and/or rent unsold Residential Units. Prospective Purchasers should be aware that they potentially may be living with transient tenants in Residential Units for an indefinite period, while Sponsor determines, in its sole discretion, whether to rent or sell Units. See the Section of the Plan entitled "Rights and Obligations of Sponsor."

11. At the First Closing, Sponsor will sell Unit 3A, a one bedroom unit, to the Board of Managers to be used as the Resident Manager's residence. The Board shall be responsible for the payment of all unit closing costs, including transfer taxes, recording charges and title insurance costs and apportionments (but not Sponsor's legal fees and with no contribution to the Working Capital Fund) due in connection with the purchase of the Unit. All Charges, including the cost of utilities, real estate taxes, repairs, alterations and improvements undertaken by the Board attributable to the Resident Manager's apartment shall be born by all Unit Owners as a Common Expense. The purchase price of Unit 3A is \$796,138. At the closing of title to Unit 3A, the Board, on behalf of all Unit Owners will pay the purchase price plus the unit closing costs, which are estimated to be \$17,630, with the amount of the purchase price and costs for Unit 3A to be funded by all Unit Owners who have closed at the First Closing paying their portion of the purchase price (as set forth on Schedule A) with the Sponsor paying the portion of the purchase price for all unsold Residential Units and the Commercial Unit. At each sale of a Unit by Sponsor thereafter, the purchaser shall reimburse Sponsor for the portion of the purchase price of Unit 3A paid by Sponsor for that Unit.

12. This Plan contains extracts and summaries of the provisions of numerous statutes, regulations, rules and ordinances (hereinafter defined as the "Rent Laws") applicable to this Offering. Although every effort has been made to assure that extracts and summaries are full and complete, prospective purchasers are urged in every case to examine the full text of the Rent Laws, and to consult with their own attorney as to the legal effect thereof. Where any right, privilege, term or condition of this Offering is required or mandated by any Rule, no right is granted, created or conveyed under the terms of this Plan greater than those required.

THE
1438 THIRD AVENUE
CONDOMINIUM

PLAN OF CONDOMINIUM OWNERSHIP

INTRODUCTION

The Plan

The purpose of the Plan is to set forth all the material terms of the offer to convert to condominium ownership the land and building known as 1438 Third Avenue, New York, NY 10028. The Plan may be amended from time to time when an amendment is filed with the New York State Department of Law. Amendments will be served on all offerees as defined below.

The condominium is subject to and complies with the New York Condominium Act.

Sponsor is 81st And 3rd Owner LLC, a Delaware Limited Liability Company, having its principal office at 61 Broadway, Suite 1407, New York, NY 10006. Sponsor acquired the property by deed dated September 7, 2005, recorded on October 20, 2005 at CRFN 2005000586547 made by Columbia 1438 Third, LLC.

When it acquired the subject property, the Sponsor also acquired and currently owns the adjacent property at 1430-1432 Third Avenue, Block 1510, Lot 33 (the "Adjacent Property") which was owned by an affiliate of the Sponsor's predecessor in interest. The Property and the Adjacent Property are subject to, and the Sponsor as owner of both properties, and its predecessor in interest, have joined in, waived or subordinated their interest to the Declaration of Zoning Lot Restrictions and certain Zoning Lot Development Agreements and addenda thereto by their predecessors in interest and recorded against the properties in 1983 (collectively, the "ZLDA") binding upon all parties in interest as defined under Section 12-10(d) of the Zoning Resolution of the City of New York

The ZLDA contains, among other things, perpetual easements for light and air over the Adjacent Property, for the use of casement or similar windows so that they may open over the Adjacent Property, for the right to cantilever over the Adjacent Property, as well as restrictions against the owner of the Adjacent Property restricting its ability to construct or allow to exist on that property buildings or other improvements at a height greater than the top of the parapet on the roof of the Adjacent Property building as it now exists except for present or future installations on the roof of the Adjacent Property building such as skylights, elevator housing, water towers or other equipment required for the operation of the that building. The ZLDA also contains a perpetual easement and right of way to occupy certain air space above Adjacent Property building (the land immediately beneath and up to the lowest limit of such air space, hereinafter, the "Adjacent Owner's Building Zone Envelope") that is presently occupied by the cantilever and certain structural and non-structural appurtenances and attachments to the subject building, and that such perpetual easement and right of way includes, without limitation, the right to construct portions of subject building within the air space above the Adjacent Owner's Building Zone Envelope and to maintain, build or rebuild such portions of subject building or other appurtenances thereto including the cantilever in perpetuity, provided, however, that owner of the subject building may not use Adjacent Owner's land or any of the improvements now or hereafter erected thereon as support of the subject building pursuant to the terms of the ZLDA. The owners of the subject building and the Adjacent Property further covenant in the ZLDA that no portion of any building or other structure hereafter erected on the subject land or in the Adjacent Owner's

Building Zone Envelope, respectively, shall encroach into or upon the Adjacent Owner's Building Zone Envelope or the subject land, respectively, except as otherwise expressly provided in the ZLDA.

The Property is also subject to and benefitted by a grant by the owner of the Adjacent Property of a right of way to use a below-grade corridor running in a north-south direction through the Adjacent Property for the purpose of providing emergency fire egress to persons occupying the subject Property.

The Property is also subject to and benefitted by a Zoning Lot Development Agreement with the owner of 1442 Third Avenue, the property to the north of the subject Property which, among other things, grants the owner of the subject Property a perpetual easement for light and air over and above the existing improvements on 1442 Third Avenue.

Sponsor reserves the unconditional right to sell or otherwise transfer the Adjacent Property and to cause to be recorded, whether in connection with such a sale or transfer or otherwise, amended and restated indentures and addenda to the ZLDA to further document and provide greater particularity with respect thereto. After the First Closing, the Board of Managers of the Condominium shall have the right and obligation to enforce and otherwise deal with the ZLDA as a Common Element. Sponsor makes no representations about the scope or effect of the ZLDA, but the title insurance policies that may be obtained by purchasers will insure that the ZLDAs, as same may hereafter be modified, amended or restated, are valid agreements as of the date of date of such policies in accordance with and subject to their terms, covenants and conditions, binding upon all Parties in Interest as defined under Section 12-10(d) of the Zoning Resolution of the City of New York as amended to date of such policy, and on the premises described therein.

Sponsor retains the unconditional right to rent rather than sell units as they become available. Sponsor does not represent that it will endeavor in good faith to sell units rather than rent as units become vacant.

The Offer

The Building contains one hundred forty-seven (147) residential apartments, including an apartment that is reserved to be the Resident Manager's apartment (3A) and two (2) retail stores. Unit 3A will be sold by the Sponsor to the Board of Managers to be used as the Resident Manager's apartment. The Resident Manager will occupy his apartment rent free. Each purchaser of a Unit from Sponsor will pay to Sponsor the portion of the purchase price for Unit 3A attributable to that Unit, and the Unit Owners will pay, as part of their Common Charges, the Common Charges for Unit 3A as well as the expenses of maintaining it. Sponsor hereby offers one hundred forty-seven (147) Residential Units for sale under this Plan. The purchase prices (including each Unit's share of the purchase price for the Resident Manager's apartment) and estimated Common Charges for each of these Units are listed below in Schedule A - "Offering Prices and Related Information". The Commercial Unit, which consists of the retail stores on first floor and portions of the sub-cellar, cellar and a stairwell to and portion of the roof on the second floor levels, is not offered for sale and fee title to that Unit will be retained by Sponsor. (See "Commercial Unit.")

Basic Aspects of Condominium Ownership

Each Purchaser owns his Unit outright and is entitled to exclusive possession of his Unit (unless it is purchased subject to the rights of a non-purchasing tenant) together with an undivided percentage interest in and right to use all parts of the Property other than the Units themselves (the "Common Elements,") and exclusive right to use Residential Limited Common Elements, if any. General Common Elements are Common Elements, such as the Building's foundations, for the benefit of all Unit Owners. Residential

Common Elements are Common Elements, such as the elevators and residential hallways, for the benefit of the Residential Unit Owners. The Residential Limited Common Elements are Common Elements, such as terraces to certain apartments, that are limited and restricted in use to specific Unit Owners.

Each Unit Owner must pay Common Charges in accordance with the Condominium Act, Sections 339(i) and (m).

Each Unit Owner is obligated to comply with the Declaration, the By-Laws, Rules and Regulations and any other requirements of the Condominium Board.

The Units may be used only for the following purposes: (a) the Commercial Unit may be used for any legal purpose, and (b) the Residential Units shall be used for residential and other lawful purposes as provided and restricted in the By-Laws. Units other than Unsold Units and the Commercial Unit are subject to a right of first refusal in favor of the Condominium Board in the event of sale or leasing. Unit Owners may freely mortgage their Units subject only to compliance with certain filing requirements contained in the Condominium's By-Laws (see "Rights and Obligations of the Unit Owners and the Condominium Board").

The authority to manage the affairs of the Condominium is vested in the Condominium Board. Unit Owners may vote for members of the Condominium Board.

Each Unit will be taxed as a separate tax lot for real estate tax and assessment purposes, and each individual Unit Owner will be solely responsible for the payment of all real estate taxes and assessments on his Unit. An estimate of the real estate taxes and assessments that will be payable for each of the Residential Units during the first year of condominium operation of the Property is listed in Schedule A. No Unit Owner will be liable for the payment of, and no Unit will be subject to any lien arising out of the non-payment of, real estate taxes or assessments levied against any other Unit.

Each Unit Owner may decorate the interior of this Unit in any manner that he desires, subject to compliance with the Condominium's By-Laws and the Rules and Regulations promulgated pursuant thereto, and will be solely responsible for the cost and expense of maintaining, repairing and painting his Unit and for the cost of any insurance he purchases to cover his personal property in the Unit and his liability to others for personal injury or property damage as a result of occurrences in his Unit. (See "Rights and Obligations of the Unit Owners and the Condominium Board" for further discussion.)

No apartments are presently rent stabilized, one hundred eleven (111) apartments are decontrolled and are rented at fair market rentals, thirty-five (35) are presently vacant, and one (1) is occupied by and/or reserved for the Resident Manager.

See Schedule A for price information. Each Tenant-Offeree (as defined in "Rights of Existing Tenants") on the date the Plan was accepted for filing by the Department of Law has the exclusive right during the first 90 days after the Presentation Date of this Plan to purchase the Residential Unit occupied by such tenant. There will be no increase in prices to such tenants during such exclusive purchase period. Sponsor will not accept Purchase Agreements from non-tenant purchasers for occupied Units during any exclusive period.

This is a non-eviction plan. Non-purchasing tenants may not be evicted pursuant to the provisions of General Business Law Section 352-eeee (see "Rights of Existing Tenants").

The prices set forth in Schedule A are not subject to approval by the Department of Law or any other government agency.

The condominium board does not have the right to approve or disapprove purchasers. There is no limit on the number of owners who may purchase for investment rather than for personal occupancy and there may always be a substantial percentage of owners who are non-residents.

Because the plan can be declared effective based on sales of 15 per cent of the units to tenants or bona fide purchasers for their own occupancy, purchasers may be living in a mixed rental/owner-occupied building for an indeterminate period of time. The by-laws do not include a provision that a majority of the board of managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the sponsor and its principals after the end of an initial sponsor control period. Rather, as provided in Section 2.1 of the by-laws, except for members designated or elected by Sponsor or its designee or the Commercial Unit Owner, all members of the Board of Managers shall be either: (i) individual Unit Owners; (ii) individual Permitted Mortgagees; (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Unit Owners or Permitted Mortgagees; or (iv) adult Family Members of any of the foregoing. Since the by-laws permit individuals other than owner-occupants to be nominated or elected to the Board of Managers, owner-occupants may not control the board or operation of the property during such transition or ever. Owner-occupants and non-resident owners, including the Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment. If Sponsor makes a bulk sale of all or some of its Units, the transferee successor sponsor is bound by Sponsor's representations in this Plan regarding its commitment and reservation of rights with respect to whether it will sell or rent its Units.

The property is currently encumbered by a mortgage loan held by SunAmerica Life Insurance Company ("Sponsor's Lender"). Pursuant to its loan documents, Sponsor has the right to market the Units for sale pursuant to this Plan and to obtain releases of Units from the lien of the mortgage. The loan documents require that 15% of the Units must be under contract before the plan can be declared effective and that an applicable release price be paid to the Lender in order for the Sponsor's Lender to release its lien from the Unit being sold. The loan documents do not limit the Sponsor's right to rent Units provided the leases are at market rental rates.

The Plan delivered to tenants and prospective purchasers contains all of the material terms of the transaction. Copies of the Plan, all documents referred to in the Plan and all Exhibits submitted to the Department of Law in connection with the filing of the Plan will be available for inspection without charge and for copying at a reasonable charge to prospective purchasers and their attorneys at the office of the selling agent or Sponsor.

This offering is made only in the State of New York to individuals over the age of 18 years, subject to the limitations set forth in the "Rights of Existing Tenants" section of the Plan, and to all other legal entities ("Offerees"). Offerees include "Tenant-Offerees" (as defined in "Rights of Existing Tenants") and "Non-tenant Offerees".

THE PURCHASE OF A CONDOMINIUM UNIT HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES. THE ATTORNEY GENERAL STRONGLY URGES YOU TO READ THIS PLAN CAREFULLY AND TO CONSULT WITH AN ATTORNEY BEFORE SIGNING A PURCHASE AGREEMENT.

Definitions

Certain words used in this Plan have special meanings for Unit Owners. They are used in accordance with their definitions found in Section 339-e of the New York Condominium Act, with occasional

modifications necessary to conform to this Plan. They including the following:

"Building" means the land and building known as 1438 Third Avenue, New York, NY 10028.

"Commercial Unit" means the areas in the Building designated as such in the Declaration, together with its appurtenant Common Interest.

"Condominium Act" means Article 9-B of the Real Property Law of the State of New York.

"Condominium Documents" mean the Declaration, together with the By-Laws and the Floor Plans, each of which will be recorded or filed simultaneously with the recording of the Declaration, and the Rules and Regulations.

"First Closing" means the first date upon which title to a Residential Unit is conveyed to a Purchaser under this Plan.

"Initial Control Period" means the period ending on the earlier of: (i) the closing of title with purchasers under the Plan to Residential Units having more than fifty percent of the aggregate Common Interests appertaining to all Residential Units or (ii) five years after the First Closing.

"Managing Agent" means mean a Person employed by the Condominium Board pursuant to the By-Laws, who shall undertake to perform the duties and services that the Condominium Board shall direct and who shall have whatever powers the Condominium shall delegate, subject to the limitations contained in of the By-Laws. As provided in the "Management Agreement, Contracts and Leases" section of the Plan, the initial Managing Agent shall be Douglas Elliman Property Management, 675 Third Avenue, New York, NY 10017

The terms "Presentation Date", "presentation", "presented" and words of similar import mean the date delivery of a copy of this Plan to all tenants of the Building is completed or five (5) days after it is mailed to those tenants who were not personally served, whichever is later.

"Purchaser" means a purchaser of a Residential Unit under a Purchase Agreement.

"Rent Laws" or "Applicable Rent Laws" refers to the Rent, Eviction and Rehabilitation Regulations of the City Housing and Development Administration, the New York City Rent Stabilization Law of 1969, the Code adopted pursuant thereto, the Emergency Tenant Protection Act of 1974, the Omnibus Housing Act of 1983, the Rent Regulation Reform Act of 1997, all as amended, and regulations promulgated thereunder, and Section 352-eeee of the General Business Law, singly or collectively as the context may require.

"Residential Unit" means any of the one hundred forty-seven (147) residential apartments in the Building being offered for sale under this Plan and designated as such in the Declaration, together with its appurtenant Common Interest.

"Shared Expenses" mean all expenses of the Condominium which are shared by the Residential and Commercial Units in accordance with the terms of the Condominium Documents.

"Sponsor" means 81st And 3rd Owner LLC, a Delaware Limited Liability Company.

"Tenant-Offerees" means lessees on the date the Plan was accepted for filing by the Department of Law, as defined in the "Rights of Existing Tenants" section of the Plan.

"Units" means, collectively, the Commercial Unit and the Residential Units. However, where the context so requires, the term "Units" shall be deemed to refer only to the Residential Units.

"Unit Owners" means, collectively, the respective owners of the Commercial Unit and the Residential Units. However, where the context so requires, the term "Unit Owners" shall be deemed to refer only to the Residential Unit Owners.

"Unsold Units" means the Residential Units owned by Sponsor or its designee at the time in question.

See Exhibit C to the Declaration of Condominium for a complete list of definitions applicable to the Condominium Documents.

LOCATION AND AREA INFORMATION

New York City is the most populous city in the United States, as well as one of the principal urban centers of the world. Manhattan is the economic and recreational hub of New York City, containing numerous businesses, transportation facilities, cultural activities, park areas, educational facilities, medical centers and restaurants.

New York City is the nation's principal financial center. It is the home of the New York Stock Exchange, the American Stock Exchange and the National Over-the-Counter Stock Market. Manhattan is the corporate headquarters for a number of the largest banks. Many of the country's "Fortune 500" industrial corporations have their headquarters in Manhattan as do major law and accounting firms. Manhattan is also recognized as the national center of the advertising, communications, broadcasting, publishing and garment industries. In the last several years, there has been substantial growth in the number of foreign banks and corporations that have offices in Manhattan.

The Condominium is located at 1438 Third Avenue, on the Upper Eastside of Manhattan, on the west side of the street between East 81st Street and East 82nd Street. The Condominium is served by a variety of transportation facilities. Taxi and limousine service is readily available throughout the city. Municipal bus service for the Condominium area is available on Third Avenue and Lexington Avenue as well as cross town routes conveniently located to the Condominium. Entrances to subway service in the vicinity of the Condominium are located on Lexington Avenue for the 4, 5 and 6 lines. By automobile, the East Side is serviced by the FDR Drive and the West Side Highway is connected to Interstate 95 and the Henry Hudson Parkway, both of which are major regional arteries. New York City is serviced by three major airports located within fifteen miles of the Condominium. Kennedy International and LaGuardia Airports are located in New York City and Newark International is located in Newark, New Jersey.

Excellent shopping facilities are also conveniently located. In addition to the many stores on Madison Avenue, the Condominium is situated nearby to such retail stores as Barneys, Bloomingdales, Gracious Homes, Hermes, Bergdorf Goodman and Saks Fifth Avenue and Bendels.

Numerous museums are located within easy access to the Condominium. Among them are the world famous Metropolitan Museum of Art, the Guggenheim Museum, the Whitney Museum of American Art, the Museum of Modern Art, Museum of Natural History and the New York Historical Society.

Excellent educational facilities are located in New York City. Public schools servicing the Condominium include elementary school P.S. 6 located at 45 East 81st Street, J.H.S (Robert F. Wagner) #167

located at 220 East 76th Street, and Julia Richmond High School at 317 East 67th Street. Private schools in the greater New York City area for the grade and high school levels included Trinity, Collegiate, Ethical Culture, Chapin, Columbia Grammar, Dalton, St. Bernard's, Spence Girls' School, the Stevenson School, Brearly, Ramaz, and Elysee Francais. The Juilliard School is at Lincoln Center. New York University, Columbia University, Fordham University and Hunter College are among the outstanding educational facilities in New York City.

The Condominium is also within easy access to some of the best medical facilities in the New York area, including the New York Hospital-Cornell Medical Center (located at 68th Street and York Avenue), Lenox Hill Hospital (located at East 77th Street and Park Avenue) and Mount Sinai Medical Center (located at 100th Street and Fifth Avenue).

Police, fire, water, sanitation and snow removal are provided by the City of New York. The Property is in the 19th Police Precinct with headquarters located at 153 East 67th Street, New York, New York and primary fire protection is provided by N.Y.F.D. Engine 44 located at 221 East 75th Street, New York, New York 10021.

There is no guaranty that any of the foregoing services or amenities will continue to be available to Unit Owners or residents in the future or that any change in the foregoing will not adversely impact upon the value of the Units. Sponsor makes no representations that the character of the neighborhood, the businesses and other institutions which operate there or the qualitative nature of the surroundings will not change.

The property is located in a C1-9 zoning district and the permitted use is the residential and commercial uses normally found in the east side area of Manhattan. The building is not located in an historic district.

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THE 1438 THIRD AVENUE CONDOMINIUM

SCHEDULE A

Projected First Year: January 1, 2007 - December 31, 2007

		(1)	(1)	(1)	(2)	(3)	(4)	(5)	(4)	(5)	(6)			
					Total Projected Monthly Charges				Projected Annual Charges				Portion of Purchase Price of Resident Manager's Unit Applicable to Each Unit	
Unit	Status	Bed-rooms	Baths	Total Approximate Square Foot Area	Price to Non Tenant-Offerees	Price to Tenant-Offerees	Percentage of Interest in the Common Elements	Projected Monthly Common Charges	Projected Monthly Real Estate Taxes	Projected Total Monthly Carrying Charges	Projected Annual Common Charges	Projected Annual Real Estate Taxes	Projected Total Annual Carrying Charges	
2A	FM T	1.0	1.5	1,143.0	\$879,127	\$791,214	0.8253%	\$636.83	\$1,291.78	\$1,928.61	\$7,641.90	\$15,501.41	\$23,143.31	\$6,756.90
3A	super	1.0	1.5	779.0	\$796,138	\$796,138	0.5625%	\$434.02	\$880.40	\$1,314.42	\$5,208.26	\$10,564.83	\$15,773.09	\$0.00
4A	FM	1.0	1.5	779.0	\$801,591	\$721,432	0.5625%	\$434.02	\$880.40	\$1,314.42	\$5,208.26	\$10,564.83	\$15,773.09	\$4,605.09
5A	FM	1.0	1.5	773.0	\$800,055	\$720,050	0.5582%	\$430.68	\$873.62	\$1,304.30	\$5,168.14	\$10,483.46	\$15,651.60	\$4,569.62
6A	FM	1.0	1.5	773.0	\$805,466	\$724,919	0.5582%	\$430.68	\$873.62	\$1,304.30	\$5,168.14	\$10,483.46	\$15,651.60	\$4,569.62
7A	FM	1.0	1.5	773.0	\$810,104	\$729,094	0.5582%	\$430.68	\$873.62	\$1,304.30	\$5,168.14	\$10,483.46	\$15,651.60	\$4,569.62
8A	V	1.0	1.5	773.0	\$815,515	\$733,964	0.5582%	\$430.68	\$873.62	\$1,304.30	\$5,168.14	\$10,483.46	\$15,651.60	\$4,569.62
9A	FM B	1.0	1.5	832.0	\$858,848	\$772,963	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
10A	FM B	1.0	1.5	832.0	\$863,474	\$777,127	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
11A	FM B	1.0	1.5	832.0	\$868,871	\$781,984	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
12A	FM B	1.0	1.5	832.0	\$873,497	\$786,147	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
13A	FM B	1.0	1.5	832.0	\$878,894	\$791,005	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
14A	V B	1.0	1.5	832.0	\$884,291	\$795,862	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
15A	FM B	1.0	1.5	832.0	\$888,917	\$800,025	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
16A	V B	1.0	1.5	832.0	\$894,314	\$804,883	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
17A	FM B	1.0	1.5	832.0	\$898,940	\$809,046	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
18A	FM B	1.0	1.5	832.0	\$904,337	\$813,903	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
19A	FM B	1.0	1.5	832.0	\$908,963	\$818,067	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
20A	FM B	1.0	1.5	832.0	\$914,360	\$822,924	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
21A	FM B	1.0	1.5	832.0	\$918,986	\$827,087	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
22A	FM B	1.0	1.5	832.0	\$924,383	\$831,945	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
23A	FM B	1.0	1.5	832.0	\$929,780	\$836,802	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
24A	V B	1.0	1.5	832.0	\$934,406	\$840,965	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
25A	FM B	1.0	1.5	832.0	\$939,803	\$845,823	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
26A	V B	1.0	1.5	832.0	\$944,429	\$849,986	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
27A	FM B	1.0	1.5	832.0	\$949,826	\$854,843	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
28A	V B	1.0	1.5	832.0	\$954,452	\$859,007	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
29A	V B	1.0	1.5	832.0	\$924,383	\$831,945	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
30A	V B	1.0	1.5	832.0	\$929,780	\$836,802	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
31A	V B	1.0	1.5	832.0	\$934,406	\$840,965	0.6008%	\$463.55	\$940.30	\$1,403.85	\$5,562.61	\$11,283.62	\$16,846.22	\$4,918.41
2B	FM T	1.0	1.0	1,258.0	\$780,500	\$702,450	0.9084%	\$700.90	\$1,421.75	\$2,122.65	\$8,410.77	\$17,061.04	\$25,471.82	\$7,436.72
3B	FM	0.0	1.0	650.0	\$635,700	\$572,130	0.4694%	\$362.15	\$734.61	\$1,096.76	\$4,345.79	\$8,815.32	\$13,161.11	\$3,842.50
4B	FM	0.0	1.0	650.0	\$640,900	\$576,810	0.4694%	\$362.15	\$734.61	\$1,096.76	\$4,345.79	\$8,815.32	\$13,161.11	\$3,842.50
5B	FM	0.0	1.5	783.0	\$789,264	\$710,338	0.5654%	\$436.25	\$884.92	\$1,321.17	\$5,235.00	\$10,619.08	\$15,854.08	\$4,628.74
6B	FM	0.0	1.5	783.0	\$793,962	\$714,566	0.5654%	\$436.25	\$884.92	\$1,321.17	\$5,235.00	\$10,619.08	\$15,854.08	\$4,628.74
7B	FM	0.0	1.5	783.0	\$798,660	\$718,794	0.5654%	\$436.25	\$884.92	\$1,321.17	\$5,235.00	\$10,619.08	\$15,854.08	\$4,628.74
8B	FM	0.0	1.5	783.0	\$804,141	\$723,727	0.5654%	\$436.25	\$884.92	\$1,321.17	\$5,235.00	\$10,619.08	\$15,854.08	\$4,628.74
9B	V B	1.0	1.5	851.0	\$832,120	\$748,908	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
10B	V B	1.0	1.5	851.0	\$836,860	\$753,174	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73

B=balconied units; T=terraced units; FM=fair market tenant; V=vacant unit;
L=legal proceeding; tenant may not be "Tenant-Offeree"

THE 1438 THIRD AVENUE CONDOMINIUM

SCHEDULE A

Projected First Year: January 1, 2007 - December 31, 2007

(1)		(1)		(1)		(2)		(3)		(4)		(5)		(6)	
								Total Projected Monthly Charges		Projected Annual Charges				Portion of Purchase Price of Resident	
				Total Approximate Square Foot Area		Price to Non Tenant-Offerees		Percentage of Interest in the Common Elements		Projected Total Monthly Carrying Charges		Projected Annual Common Charges		Projected Total Annual Carrying Charges	
Unit	Status	Bed-rooms	Baths		Price to Tenant-Offerees		Common Elements	Projected Monthly Common Charges	Projected Monthly Real Estate Taxes					Manager's Unit Applicable to Each Unit	
11B	FM	B	1.0	1.5	851.0	\$841,600	\$757,440	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
12B	V	B	1.0	1.5	851.0	\$847,130	\$762,417	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
13B	FM	B	1.0	1.5	851.0	\$851,870	\$766,683	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
14B	V	B	1.0	1.5	851.0	\$856,610	\$770,949	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
15B	FM	B	1.0	1.5	851.0	\$862,140	\$775,926	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
16B	FM	B	1.0	1.5	851.0	\$866,880	\$780,192	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
17B	FM	B	1.0	1.5	851.0	\$871,620	\$784,458	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
18B	FM	B	1.0	1.5	851.0	\$876,360	\$788,724	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
19B	FM	B	1.0	1.5	851.0	\$881,890	\$793,701	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
20B	V	B	1.0	1.5	851.0	\$886,630	\$797,967	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
21B	FM	B	1.0	1.5	851.0	\$891,370	\$802,233	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
22B	FM	B	1.0	1.5	851.0	\$896,900	\$807,210	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
23B	FM	B	1.0	1.5	851.0	\$901,640	\$811,476	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
24B	FM	B	1.0	1.5	851.0	\$906,380	\$815,742	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
25B	FM	B	1.0	1.5	851.0	\$911,910	\$820,719	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
26B	FM	B	1.0	1.5	851.0	\$916,650	\$824,985	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
27B	FM	B	1.0	1.5	851.0	\$921,390	\$829,251	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
28B	FM	B	1.0	1.5	851.0	\$926,920	\$834,228	0.6145%	\$474.14	\$961.77	\$1,435.91	\$5,689.64	\$11,541.29	\$17,230.93	\$5,030.73
29B	FM	B	2.0	2.0	1,212.0	\$1,259,324	\$1,133,392	0.8752%	\$675.27	\$1,369.77	\$2,045.04	\$8,103.22	\$16,437.19	\$24,540.41	\$7,164.79
30B	V	B	2.0	2.0	1,212.0	\$1,309,802	\$1,178,822	0.8752%	\$675.27	\$1,369.77	\$2,045.04	\$8,103.22	\$16,437.19	\$24,540.41	\$7,164.79
31B	V	B	2.0	2.0	1,212.0	\$1,360,280	\$1,224,252	0.8752%	\$675.27	\$1,369.77	\$2,045.04	\$8,103.22	\$16,437.19	\$24,540.41	\$7,164.79
2C	FM	T	1.0	1.0	898.0	\$782,849	\$704,564	0.6484%	\$500.32	\$1,014.89	\$1,515.21	\$6,003.87	\$12,178.71	\$18,182.58	\$5,308.57
3C	V		1.0	1.0	741.0	\$738,036	\$664,232	0.5351%	\$412.85	\$837.46	\$1,250.31	\$4,954.20	\$10,049.47	\$15,003.67	\$4,380.46
4C	FM		1.0	1.0	741.0	\$743,223	\$668,901	0.5351%	\$412.85	\$837.46	\$1,250.31	\$4,954.20	\$10,049.47	\$15,003.67	\$4,380.46
5C	FM		1.0	1.5	849.0	\$884,658	\$796,192	0.6130%	\$473.02	\$959.51	\$1,432.53	\$5,676.27	\$11,514.17	\$17,190.44	\$5,018.90
6C	FM		1.0	1.5	849.0	\$889,752	\$800,777	0.6130%	\$473.02	\$959.51	\$1,432.53	\$5,676.27	\$11,514.17	\$17,190.44	\$5,018.90
7C	FM		1.0	1.5	849.0	\$894,846	\$805,361	0.6130%	\$473.02	\$959.51	\$1,432.53	\$5,676.27	\$11,514.17	\$17,190.44	\$5,018.90
8C	FM		1.0	1.5	849.0	\$899,940	\$809,946	0.6130%	\$473.02	\$959.51	\$1,432.53	\$5,676.27	\$11,514.17	\$17,190.44	\$5,018.90
9C	FM		1.0	1.5	815.0	\$903,835	\$813,452	0.5885%	\$454.08	\$921.09	\$1,375.17	\$5,448.95	\$11,053.06	\$16,502.01	\$4,817.91
10C	FM	B	1.0	1.5	868.0	\$928,725	\$835,853	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
11C	V	B	1.0	1.5	868.0	\$933,615	\$840,254	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
12C	V	B	1.0	1.5	868.0	\$938,505	\$844,655	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
13C	FM	B	1.0	1.5	868.0	\$944,210	\$849,789	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
14C	V	B	1.0	1.5	868.0	\$949,100	\$854,190	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
15C	FM	B	1.0	1.5	868.0	\$953,990	\$953,990	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
16C	FM	B	1.0	1.5	868.0	\$958,880	\$862,992	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
17C	FM	B	1.0	1.5	868.0	\$963,770	\$867,393	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
18C	FM	B	1.0	1.5	868.0	\$968,660	\$871,794	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
19C	FM	B	1.0	1.5	868.0	\$973,550	\$876,195	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22

THE 1438 THIRD AVENUE CONDOMINIUM

SCHEDULE A

Projected First Year: January 1, 2007 - December 31, 2007

		(1)		(1)	(1)	(2)	(3)	(4)	(5)	(4)	(5)	(6)			
								Total Projected Monthly Charges			Projected Annual Charges				
					Total Approximate Square Foot Area	Price to Non Tenant-Offerees	Price to Tenant-Offerees	Percentage of Interest in the Common Elements	Projected Monthly Common Charges	Projected Monthly Real Estate Taxes	Projected Total Monthly Carrying Charges	Projected Annual Common Charges	Projected Annual Real Estate Taxes	Projected Total Annual Carrying Charges	Portion of Purchase Price of Resident Manager's Unit Applicable to Each Unit
Unit	Status	Bed-rooms	Baths												
20C	FM	B	1.0	1.5	868.0	\$978,440	\$880,596	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
21C	V	B	1.0	1.5	868.0	\$984,145	\$885,731	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
22C	FM	B	1.0	1.5	868.0	\$989,035	\$890,132	0.6268%	\$483.61	\$980.99	\$1,464.60	\$5,803.30	\$11,771.85	\$17,575.15	\$5,131.22
23C	FM	B	1.0	1.5	931.0	\$1,018,925	\$917,033	0.6723%	\$518.71	\$1,052.19	\$1,570.90	\$6,224.51	\$12,626.26	\$18,850.76	\$5,503.65
24C	FM	B	1.0	1.5	931.0	\$1,023,815	\$921,434	0.6723%	\$518.71	\$1,052.19	\$1,570.90	\$6,224.51	\$12,626.26	\$18,850.76	\$5,503.65
25C	FM	B	1.0	1.5	931.0	\$1,028,705	\$925,835	0.6723%	\$518.71	\$1,052.19	\$1,570.90	\$6,224.51	\$12,626.26	\$18,850.76	\$5,503.65
26C	FM	B	1.0	1.5	931.0	\$1,033,595	\$930,236	0.6723%	\$518.71	\$1,052.19	\$1,570.90	\$6,224.51	\$12,626.26	\$18,850.76	\$5,503.65
27C	FM	B	1.0	1.5	931.0	\$1,038,485	\$934,637	0.6723%	\$518.71	\$1,052.19	\$1,570.90	\$6,224.51	\$12,626.26	\$18,850.76	\$5,503.65
28C	FM	B	1.0	1.5	931.0	\$1,043,375	\$939,038	0.6723%	\$518.71	\$1,052.19	\$1,570.90	\$6,224.51	\$12,626.26	\$18,850.76	\$5,503.65
29C	V	B	1.0	2.0	1,138.0	\$1,260,100	\$1,134,090	0.8217%	\$634.04	\$1,286.13	\$1,920.17	\$7,608.47	\$15,433.60	\$23,042.07	\$6,727.34
30C	V	B	1.0	2.0	1,138.0	\$1,309,504	\$1,178,554	0.8217%	\$634.04	\$1,286.13	\$1,920.17	\$7,608.47	\$15,433.60	\$23,042.07	\$6,727.34
31C	V	B	1.0	2.0	1,132.0	\$1,352,524	\$1,217,272	0.8174%	\$630.70	\$1,279.35	\$1,910.05	\$7,568.36	\$15,352.23	\$22,920.58	\$6,691.87
2D	FM		1.0	1.0	743.0	\$756,374	\$680,737	0.5365%	\$413.96	\$839.72	\$1,253.68	\$4,967.57	\$10,076.59	\$15,044.16	\$4,392.28
3D	FM		1.0	1.0	739.0	\$753,780	\$678,402	0.5336%	\$411.74	\$835.20	\$1,246.94	\$4,940.83	\$10,022.35	\$14,963.17	\$4,368.63
4D	FM		1.0	1.0	752.0	\$761,024	\$684,922	0.5430%	\$418.98	\$849.89	\$1,268.87	\$5,027.74	\$10,198.65	\$15,226.40	\$4,445.48
5D	FM		1.0	1.0	752.0	\$766,288	\$689,659	0.5430%	\$418.98	\$849.89	\$1,268.87	\$5,027.74	\$10,198.65	\$15,226.40	\$4,445.48
6D	FM		1.0	1.0	739.0	\$770,038	\$693,034	0.5336%	\$411.74	\$835.20	\$1,246.94	\$4,940.83	\$10,022.35	\$14,963.17	\$4,368.63
7D	FM		1.0	1.0	752.0	\$776,064	\$698,458	0.5430%	\$418.98	\$849.89	\$1,268.87	\$5,027.74	\$10,198.65	\$15,226.40	\$4,445.48
8D	FM		1.0	1.0	752.0	\$781,328	\$703,195	0.5430%	\$418.98	\$849.89	\$1,268.87	\$5,027.74	\$10,198.65	\$15,226.40	\$4,445.48
9D	FM	T	1.0	1.5	1,007.0	\$820,633	\$738,570	0.7271%	\$561.05	\$1,138.08	\$1,699.13	\$6,732.63	\$13,656.97	\$20,389.60	\$5,952.93
10D	FM	B	1.0	1.5	801.0	\$771,756	\$694,580	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
11D	V	B	1.0	1.5	790.0	\$780,860	\$702,774	0.5704%	\$440.15	\$892.83	\$1,332.98	\$5,281.80	\$10,714.01	\$15,995.81	\$4,670.12
12D	FM	B	1.0	1.5	786.0	\$781,935	\$703,742	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47
13D	FM	B	1.0	1.5	801.0	\$786,876	\$708,188	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
14D	FM	B	1.0	1.5	801.0	\$792,168	\$712,951	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
15D	FM	B	1.0	1.5	786.0	\$796,755	\$717,080	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47
16D	FM	B	1.0	1.5	790.0	\$806,190	\$725,571	0.5704%	\$440.15	\$892.83	\$1,332.98	\$5,281.80	\$10,714.01	\$15,995.81	\$4,670.12
17D	V	B	1.0	1.5	790.0	\$811,405	\$730,265	0.5704%	\$440.15	\$892.83	\$1,332.98	\$5,281.80	\$10,714.01	\$15,995.81	\$4,670.12
18D	FM	B	1.0	1.5	786.0	\$811,575	\$730,418	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47
19D	FM	B	1.0	1.5	801.0	\$817,116	\$735,404	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
20D	FM	B	1.0	1.5	801.0	\$821,652	\$739,487	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
21D	FM	B	1.0	1.5	786.0	\$826,395	\$743,756	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47
22D	FM	B	1.0	1.5	790.0	\$835,990	\$752,391	0.5704%	\$440.15	\$892.83	\$1,332.98	\$5,281.80	\$10,714.01	\$15,995.81	\$4,670.12
23D	FM	B	1.0	1.5	801.0	\$836,772	\$753,095	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
24D	V	B	1.0	1.5	786.0	\$841,956	\$757,760	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47
25D	V	B	1.0	1.5	801.0	\$846,600	\$761,940	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
26D	FM	B	1.0	1.5	801.0	\$851,892	\$766,703	0.5784%	\$446.28	\$905.27	\$1,351.55	\$5,355.35	\$10,863.19	\$16,218.54	\$4,735.15
27D	V	B	1.0	1.5	786.0	\$856,776	\$771,098	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47
28D	FM	B	1.0	1.5	786.0	\$861,222	\$775,100	0.5676%	\$437.92	\$888.31	\$1,326.23	\$5,255.06	\$10,659.76	\$15,914.82	\$4,646.47

B=balconied units; T=terraced units; FM=fair market tenant; V=vacant unit;
L=legal proceeding; tenant may not be "Tenant-Offeree"

THE 1438 THIRD AVENUE CONDOMINIUM

SCHEDULE A

Projected First Year: January 1, 2007 - December 31, 2007

Projected First Year: January 1, 2007 - December 31, 2007															
(1)		(1)		(1)		(2)		(3)		(4)		(5)		(6)	
										Total Projected Monthly Charges		Projected Annual Charges			
Unit	Status	Bed-rooms	Baths	Total Approximate Square Foot Area	Price to Non Tenant-Offerees	Price to Tenant-Offerees	Percentage of Interest in the Common Elements	Projected Monthly Common Charges	Projected Monthly Real Estate Taxes	Projected Total Monthly Carrying Charges	Projected Annual Common Charges	Projected Annual Real Estate Taxes	Projected Total Annual Carrying Charges	Portion of Purchase Price of Resident Manager's Unit Applicable to Each Unit	
2E	FM	T	2.0	2.0	1,153.0	\$1,044,804	\$940,324	0.8326%	\$642.40	\$1,303.09	\$1,945.49	\$7,708.76	\$15,637.03	\$23,345.79	\$6,816.01
3E	FM		2.0	2.0	1,014.0	\$1,009,944	\$908,950	0.7322%	\$564.95	\$1,145.99	\$1,710.94	\$6,779.43	\$13,751.91	\$20,531.34	\$5,994.31
4E	V		2.0	2.0	1,014.0	\$1,020,084	\$918,076	0.7322%	\$564.95	\$1,145.99	\$1,710.94	\$6,779.43	\$13,751.91	\$20,531.34	\$5,994.31
5E	FM		2.0	2.0	1,014.0	\$1,030,224	\$927,202	0.7322%	\$564.95	\$1,145.99	\$1,710.94	\$6,779.43	\$13,751.91	\$20,531.34	\$5,994.31
6E	FM		2.0	2.0	1,014.0	\$1,040,364	\$936,328	0.7322%	\$564.95	\$1,145.99	\$1,710.94	\$6,779.43	\$13,751.91	\$20,531.34	\$5,994.31
7E	FM		2.0	2.0	1,014.0	\$1,050,504	\$945,454	0.7322%	\$564.95	\$1,145.99	\$1,710.94	\$6,779.43	\$13,751.91	\$20,531.34	\$5,994.31
8E	FM		2.0	2.0	1,014.0	\$1,060,644	\$954,580	0.7322%	\$564.95	\$1,145.99	\$1,710.94	\$6,779.43	\$13,751.91	\$20,531.34	\$5,994.31
9E	V		1.0	1.5	903.0	\$970,725	\$873,653	0.6520%	\$503.11	\$1,020.54	\$1,523.65	\$6,037.30	\$12,246.52	\$18,283.82	\$5,338.13
10E	FM	B	1.0	1.5	958.0	\$995,240	\$895,716	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
11E	FM	B	1.0	1.5	958.0	\$1,000,658	\$900,592	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
12E	FM	B	1.0	1.5	958.0	\$1,005,173	\$904,656	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
13E	FM	B	1.0	1.5	958.0	\$1,010,591	\$909,532	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
14E	FM	B	1.0	1.5	958.0	\$1,015,106	\$913,595	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
15E	FM	B	1.0	1.5	958.0	\$1,020,524	\$918,472	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
16E	FM	B	1.0	1.5	958.0	\$1,025,942	\$923,348	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
17E	V	B	1.0	1.5	958.0	\$1,030,457	\$927,411	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
18E	FM	B	1.0	1.5	958.0	\$1,035,875	\$932,288	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
19E	V	B	1.0	1.5	958.0	\$1,040,390	\$936,351	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
20E	FM	B	1.0	1.5	958.0	\$1,045,808	\$941,227	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
21E	FM	B	1.0	1.5	958.0	\$1,050,323	\$945,291	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
22E	FM	B	1.0	1.5	958.0	\$1,055,741	\$950,167	0.6918%	\$533.75	\$1,082.70	\$1,616.45	\$6,405.02	\$12,992.43	\$19,397.46	\$5,663.26
23E	FM	B	1.0	1.5	1,019.0	\$1,086,159	\$977,543	0.7358%	\$567.74	\$1,151.64	\$1,719.38	\$6,812.86	\$13,819.72	\$20,632.58	\$6,023.86
24E	FM	B	1.0	1.5	1,019.0	\$1,090,674	\$981,607	0.7358%	\$567.74	\$1,151.64	\$1,719.38	\$6,812.86	\$13,819.72	\$20,632.58	\$6,023.86
25E	FM	B	1.0	1.5	1,019.0	\$1,096,092	\$986,483	0.7358%	\$567.74	\$1,151.64	\$1,719.38	\$6,812.86	\$13,819.72	\$20,632.58	\$6,023.86
26E	V	B	1.0	1.5	1,019.0	\$1,100,607	\$990,546	0.7358%	\$567.74	\$1,151.64	\$1,719.38	\$6,812.86	\$13,819.72	\$20,632.58	\$6,023.86
27E	FM	B	1.0	1.5	1,019.0	\$1,106,025	\$995,423	0.7358%	\$567.74	\$1,151.64	\$1,719.38	\$6,812.86	\$13,819.72	\$20,632.58	\$6,023.86
28E	FM	B	1.0	1.5	1,019.0	\$1,110,540	\$999,486	0.7358%	\$567.74	\$1,151.64	\$1,719.38	\$6,812.86	\$13,819.72	\$20,632.58	\$6,023.86
29E ¹	FM	B	2.0	2.0	1,241.0	\$1,352,400	\$1,217,160	0.8961%	\$691.43	\$1,402.54	\$2,093.97	\$8,297.11	\$16,830.49	\$25,127.60	\$7,336.23
30E ¹	FM	B	2.0	2.0	1,241.0	\$1,400,800	\$1,260,720	0.8961%	\$691.43	\$1,402.54	\$2,093.97	\$8,297.11	\$16,830.49	\$25,127.60	\$7,336.23
31E	V	B	2.0	2.0	1,241.0	\$1,449,200	\$1,304,280	0.8961%	\$691.43	\$1,402.54	\$2,093.97	\$8,297.11	\$16,830.49	\$25,127.60	\$7,336.23
147		154.0	222.0	129,881.0	\$136,771,569	\$123,269,425	93.7850%	\$72,363.58	\$146,787.42	\$219,151.00	\$868,362.00	\$1,761,451.11	\$2,629,813.11	\$763,192.32	
Commercial Unit				8,607.0	\$0	\$0	6.2150%	\$2,233.50	\$9,727.41	\$11,960.91	\$26,802.00	\$116,728.89	\$143,530.89	\$50,575.68	
147		154.0	222.0	138,488.0	\$136,771,569	\$123,269,425	100.0000%	\$74,597.08	\$156,514.83	\$231,111.91	\$895,164.00	\$1,878,180.00	\$2,773,344.00	\$813,768.00	

B=balconied units; T=terraced units; FM=fair market tenant; V=vacant unit;
L=legal proceeding; tenant may not be "Tenant-Offeree"

FOOTNOTES TO SCHEDULE A

1. Floor plans depicting the layouts of typical units are contained in Part II of this Plan. All dimensions shown on such plans are approximate and subject to construction variances. Plans and dimensions may also contain minor variations from floor to floor. Since the Residential Units are measured from the exterior surface of the exterior walls of the Building to the exterior side of the finished surface of the walls and partitions separating such Unit from stairs, elevators, corridors and other mechanical equipment spaces and the centerline of walls and partitions separating such Units from other Units, the square footages exceed the usable floor area of the Units. The notation "B" refers to a Unit which has an adjoining balcony and the notation "T" refers to a Unit which has an adjoining terrace. Each Unit should be inspected prior to purchase to determine its actual dimensions, layout and physical condition.

The square footages are based on plans drawn by CMA Design Studio, P.C. These dimensions include the area of any balconies and terraces, which are listed in Schedule A. The 14,192 square foot area of the Commercial Unit includes 6,141 square feet at the first floor level, 4,275 square feet at the cellar level and 2,813 square feet at the sub-cellar level plus 104 square feet of stairwell area at the second floor level and 859 square feet of mechanical equipment roof area at the second floor level. These areas are included and adjusted for purposes of calculation percentage interests in common elements at 100% of the area on the first floor level (6,141 adjusted square feet), 40% of the 3,358 square foot area on the cellar level on the health club side (1,343 adjusted square feet), 20% of the 917 square foot area on the cellar level on the vacant restaurant side (183 adjusted square feet), 30% of the area on the sub-cellar level (884 adjusted square feet), 10% of the 104 square feet of stairwell area at the second floor level (10 adjusted square feet) and 10% of the 859 square feet of mechanical equipment roof area at the second floor level (86 adjusted square feet) for an adjusted total of 8,607 square feet for the Commercial Unit. These square footage adjustments are based on the opinion of Douglas Elliman, LLC, the Selling Agent.

The tenants whose leases read "Apt. 29D" and "Apt. 30D" are in fact the Tenant-Offerees of the apartments shown on Schedule A as now correctly-designated "Apt. 29E" and "Apt. 30E" respectively.

Apartment 3A, which is presently vacant, is reserved to be the Resident Manager's apartment.

2. These prices have been set by Sponsor. Prices are not subject to the approval of any governmental agencies. Tenant-Offerees on the filing date of this Plan will have an exclusive right to purchase their Residential Units for ninety (90) days after the Plan is presented. Purchase prices to be paid by Tenant-Offerees will not be increased during the ninety-day exclusive period. Prior to the filing of an effectiveness amendment, this Plan may not contain different prices for different classes of tenants in occupancy on the filing date. See the section of this Plan entitled "Rights of Existing Tenants." For an explanation of conditions affecting these prices, see the section of this Plan entitled "Changes in Prices and Units".

For closing costs payable by Purchaser (in addition to the price) and adjustments at closing, see the section of this Plan entitled "Unit Closing Costs and Adjustments".

Under the terms of the Plan, Purchasers are responsible for the payment at the Closing of the New York State Real Estate Transfer Tax and the New York City Real Property Transfer Tax (collectively, the "Real Property Transfer Taxes") and the \$75.00 filing fee for the New York City Equalization and Assessment Form due on the transfer of Units to the Purchasers by Sponsor. THESE ARE STATUTORY OBLIGATIONS OF A SELLER OF REAL PROPERTY, AND THE SHIFTING OF THE OBLIGATIONS FROM SPONSOR AS SELLER TO THE PURCHASER IS DEEMED ADDITIONAL

TAXABLE CONSIDERATION TO THE SELLER. Purchasers shall execute the required transfer tax returns and related forms in connection with the payment of the foregoing taxes.

The amounts shown for Units do not include the New York State Mansion Tax, which is imposed upon purchasers of residential property where the purchase price exceeds \$1,000,000. For these units, the 1% tax is calculated based upon the sum of the purchase price and the additional consideration deemed received by Sponsor by reason of the Purchaser's payment of the Real Property Transfer Taxes.

3. The respective percentage interest of each Unit in the Common Elements has been determined based upon method (iv) contained in Section 339(i)(1) of the Condominium Act, that is, upon floor space subject to location of such space and additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for the exclusive or shared use and the overall dimensions of the particular Unit.

4. The Projected Common Charges are based upon the "Projected Schedule of Receipts and Expenses for the First Year of Condominium Operation" (Schedule B) on the assumption that the first year of condominium operation will be from January 1, 2007 to December 31, 2007. The actual first year of operation may be earlier or later than that year. The figures shown do not include the cost of gas for cooking, the cost of telephone or cable television service or the costs to maintain the interior of the Unit. A Unit Owner who obtains a mortgage loan to purchase a Unit will also pay the debt service on that mortgage.

The aggregate of the monthly rents currently payable from tenants of all occupied units is \$311,737.50.

5. Projected real estate taxes for the Units are based upon the following 2004/2005, 2005/2006 and 2006/2007 transitional assessed valuations and tax rates for the Building and projected transitional assessed valuation and tax rate for 2007/2008:

	Actual <u>Assessed Valuation</u>	Transitional <u>Assessed Valuation</u>	<u>Tax Rate</u>	<u>Annual Taxes</u>
2004/2005	\$14,085,000	\$13,230,000	12.216%	\$1,616,176.80
2005/2006	\$17,415,000	\$14,409,000	12.396%	\$1,786,139.64
2006/2007	\$15,300,000	\$14,877,000	12.396%	\$1,844,152.92
2007/2008 (projected)	\$16,065,000	\$15,426,000	12.396%	\$1,912,206.96

The 2007/2008 projection is based on a projected 5% increase in the actual assessed valuation for the property for that year, applied to an estimated class 2 tax rate of 12.396%. The estimated taxes for each unit in the Building were then multiplied by each Unit's percentage interest in the Common Elements.

Starting with the tax year for which assessments are fixed after the recording of the Declaration, each Unit will be taxed as a separate tax lot for real estate purposes. A Unit Owner will not be responsible for the payment of real estate taxes assessed against other Units, nor will a Unit be subject to a lien arising out of the non-payment of real estate taxes assessed against other Units.

The full amount of real estate taxes payable by Unit Owners with respect to their Units is deductible for income tax purposes but may vary due to changes in the assessed value, the tax rate or the method of assessing real property.

For further information, see the Section of the Plan entitled "Real Estate Taxes".

6. Unit 3A will be sold by the Sponsor to the Board of Managers to be used as the Resident Manager's apartment. The Resident Manager will occupy his apartment rent free. Each purchaser of a Unit from Sponsor will pay to Sponsor the portion of the purchase price for Unit 3A attributable to that Unit, and the Unit Owners will pay, as part of their Common Charges, the Common Charges for Unit 3A as well as the expenses of maintaining it.

1438 THIRD AVENUE CONDOMINIUM
SCHEDULE B

BUDGET FOR THE FIRST YEAR OF CONDOMINIUM OPERATION
(January 1, 2007 to December 31, 2007)

ESTIMATED INCOME:

Residential Units Common Charges (Note 1)	\$ 868,362.00
Commercial Unit Common Charges (Note 2)	26,802.00
Laundry (Residential Units Only) (Note 3)	<u>0.00</u>

TOTAL	<u>\$ 895,164.00</u>
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ESTIMATED EXPENSES:

Labor and Related Expenses (Note 4)	\$ 301,367.00
Gas for Cooking and Heating (Note 5)	5,142.00
Heat and Hot Water (Note 6)	161,069.00
Electricity (Note 7)	54,429.00
Water & Sewer Charges (Note 8)	67,624.00
Repairs, Maintenance & Supplies (Note 9)	71,500.00
Service Contracts (Note 10)	26,579.00
Insurance (Note 11)	70,685.00
Management Fees (Note 12)	60,000.00
Legal & Accounting (Note 13)	13,000.00
Resident Manager's Unit Costs (Note 14)	18,773.00
Administration and Reserve for Contingencies (Note 15)	<u>44,996.00</u>

TOTAL	<u>\$ 895,164.00</u>
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NOTES TO SCHEDULE B
1438 THIRD AVENUE CONDOMINIUM

NOTE 1: Residential Common Charges **\$ 868,362.00**

This amount represents the estimated total Common Charges to be levied against the Residential Units and collected from Residential Unit Owners during the first year of condominium operation. The Condominium's projected expenses for the first year of operation pertaining to the Residential Units were allocated among the Residential Units in accordance with their respective percentage interests in the Common Elements. The total area of all Residential Units is 129,881 square feet. The Residential Units therefore are responsible for 93.785% of all Shared Expenses.

NOTE 2: Commercial Unit Common Charges **\$ 26,802.00**

This amount represents the estimated total Common Charges to be levied against the Commercial Unit and collected from the Commercial Unit Owner during the first year of condominium operation. The total adjusted area of the Commercial Unit is 8,607 square feet. The Commercial Unit therefore is responsible for 6.215% of all Shared Expenses. Reference should be made to the pertinent footnotes below for an explanation of how the allocation of each Shared Expense was derived.

NOTE 3: Laundry \$ 0.00

It is the present intention of the Sponsor to phase out the existing communal laundry rooms in the building and to allow laundry machines to be installed in the apartments subject to compliance with the terms of the Condominium Documents. Accordingly, no income is projected from laundry facilities.

NOTE 4:	Labor and Related Expenses	\$ 301,367.00
	Residential Units	\$ 297,681.00
	Commercial Unit	\$ 3,686.00

The amount budgeted is based on the cost of one full-time Resident Manager, one concierge, four doormen and two porters, the current staffing of the building. It is the Sponsor's opinion that this level of staffing complies with all applicable housing and labor laws and the full-time lobby attendant will provide service and security for the Residential Unit owners. All staff members are non-union. The salaries and costs are based on the current rates of pay with projected increases of 4% on January 1, 2007. All wages meet State minimum wage laws.

Salaries, taxes and fringe benefits of the Resident Manager is a shared expense of the Commercial and Residential Units. Duties of the Resident Manager include cleaning, maintenance, performing certain repairs, removing garbage and/or trash for collection and keeping the sidewalk free of snow, ice and dirt. Salary and wage costs for the Resident Manager annually are projected to be as follows:

Salary for the Resident Manager	\$ 39,176.00
Overtime and Vacation Relief	2,938.00
Holiday Pay	1,356.00
FICA (employer share) and Unemployment	3,745.00
Workers' Compensation and Disability Insurance	2,435.00
Medical and Dental Benefits	9,274.00

Payroll and Processing Costs	140.00
Uniforms	<u>250.00</u>

Total Shared Labor Expense \$ 59,314.00

The Commercial Unit will pay 6.215% of this amount (\$3,686.00), and the Residential Units will pay 93.785% (\$55,628.00).

Since only part of the Resident Manager's services relate to maintenance of the General Common Elements, and part to maintenance of Residential Common Elements and Residential Units, this allocation represents an excess payment by the Commercial Unit Owner, in part in consideration of the Commercial Unit bearing no share of any of the expense for other employees of the Condominium, even if such employees perform certain de minimus services that benefit the Commercial Unit.

At the sole expense of the Residential Unit owners will be the projected annual salaries of \$24,639.00 for the one concierge and the two porters and \$22,670.00 for the four doormen. Annually, the payroll expense attributable solely to the Residential Unit owners will be as follows:

Salaries, including overtime, vacation relief & holiday pay	\$188,972.00
FICA (employer share) and Unemployment	17,726.00
Workers' Compensation and Disability Insurance	10,715.00
Medical and Dental Benefits	21,910.00
Payroll and Processing Costs	980.00
Uniforms	<u>1,750.00</u>

Total Solely Residential Unit Labor \$242,053.00

Total Labor, Including Taxes & Benefits \$301,367.00

NOTE 5:	Gas for Cooking	\$ 5,142.00
	Residential Units	\$ 5,142.00
	Commercial Unit	\$ 0.00

The cost of gas for cooking, \$5,142.00 (including sales tax), is budgeted based the actual cost of cooking gas, adjusted for an estimated increase for increased occupancy, at the building for the past three years as follows: actual consumption for the two full years ended September 30, 2005 plus actual consumption for the period October 1, 2005 - June 22, 2006 and projected consumption at the same consumption rate for the period June 23, 2006 - September 30, 2006, plus an inflation factor of 5%, and is allocated exclusively to the Residential Units. This is not a Shared Expense. The projected usage and cost is as follows:

	<u>Usage (CCF)</u>	<u>Avg. Cost/ CCF</u>	<u>Amount</u>
Year ended September 30, 2004	3,088	\$1.1454	\$ 3,537.00
Year ended September 30, 2005	2,907	\$1.4094	\$ 4,097.00
Year ended September 30, 2006	<u>2,596</u>	<u>\$1.6510</u>	<u>\$ 4,286.00</u>
Total (3 years)	8,591		\$11,920.00
Average (3 years)	2,864	\$1.3872	\$3,973.00

Current price (including 8.75% sales tax)		\$1.6313	
Budget	3,007	\$1.7100	\$ 5,142.00

NOTE 6:	Heat and Hot Water	\$ 161,069.00
	Residential Units	\$ 151,555.00
	Commercial Unit	\$ 9,514.00

The building uses a dual heating system that can be operated on either gas or #2 oil for heat and hot water. The consumption numbers of gas and oil are broken down into therms, with 1 gallon of oil equal to 1.4 therms.

Over the last three years (the periods ending September 30, 2004, September 30, 2005 and June 22, 2006 with projected consumption for the period June 23, 2006 - September 30, 2006), the consumption has been a combination of gas and oil as follows:

	<u>Therms</u>	<u>Gallons/ Therm (1.4)</u>	<u>Projected Cost/ Therm</u>	<u>Total</u>
<u>Heating</u>				
Year ended September 30, 2004 (Gas)	10,010	7,150	\$1.5695	\$11,415.00
Year ended September 30, 2004 (Oil)		60,367	\$1.0391	\$62,729.00
Total Y/E September 30, 2004		67,517		\$74,144.00
Year ended September 30, 2005 (Gas)	28,548	20,391	\$1.7625	\$35,939.00
Year ended September 30, 2005 (Oil)		51,594	\$1.5046	\$77,627.00
Total Y/E September 30, 2005		71,985		\$113,566.00
Year ended September 30, 2006 (Gas)	2,584	1,846	\$2.5856	\$4,773.00
Year ended September 30, 2006 (Oil)		61,479	\$2.0491	\$125,978.00
Total Y/E September 30, 2006		63,325		\$130,751.00
Total (3 years)		202,827		
Average (3 years)		67,609		

Assuming a projected 10% increase above the average consumption over the past three years, the total consumption for heat and hot water would be 71,586 gallons. This estimate does not include hot water consumption for the restaurant in the Commercial Unit, which has historically produced its own hot water through separate hot water heaters. In addition, the Sponsor has estimated that 69% of the historic fuel consumption has been for heat and 31% for hot water.

Heat: Assuming consumption of 51,310 gallons (69% of the 67,609 gallon average consumption for the past three years with a projected 10% increase in consumption and a price of \$2.25 per gallon (which represents a 10% increase above the recent price of \$2.05 per gallon) including sales tax, the total estimated heating cost for the building is \$115,459. Heating cost is a Shared Expense, but is specially allocated among the Residential Units and the Commercial Unit based on square footage, but excluding exterior space such as terraces, balconies and roof areas. Accordingly, the Commercial Unit will pay 8.24% of the heating cost and the Residential Units will share the remaining 91.76% of heating costs.

Hot Water: Assuming consumption of 23,055 gallons (31% of the 67,609 gallon average consumption for the past three years with a projected 5% increase in consumption) with the same projected price of \$2.25 per gallon, the total estimated hot water cost for the building would be \$51,874.00. This estimate does not include hot water consumption for the restaurant in the Commercial Unit, which has historically produced its own hot water through separate hot water heaters. In addition, the health club portion of the Commercial Unit will produce its own hot water prior to the First Closing, and the Sponsor has estimated that 88% of the historic usage for hot water relates to the residential sections of the building. Accordingly, the projected cost for hot water consumption to the residential section of the building is \$45,610.00, which is not a Shared Expense, but is shared by the Residential Unit Owners.

It is not possible to predict how closely the budgeted figure will reflect the actual expense for gas to be incurred during the first year of Condominium operation, in part because such expenses will vary with the level of consumption and the applicable utility rates. Many factors affect the cost of gas, (which has in the past been highly volatile and unpredictable), including world events in the Middle East and the effects of Hurricane Katrina. Historically, gas rates have been steadily increasing and the cost of gas is likely to increase, although it is not possible to forecast with certainty the amount or timing of such increases.

NOTE 7:	Electricity	\$54,429.00
	Residential Units	\$ 54,150.00
	Commercial Unit	\$ 279.00

Electricity is individually metered to each apartment and to the stores in the Commercial Unit by Con Edison. Notwithstanding the foregoing, the Condominium Board shall have the right to change the manner in which electricity is provided to residential units, whether through sub-metering or other manner of measuring electrical consumption within residential units, and in that event the Condominium Board may either continue to pay electricity charges, specifically allocating the cost of electricity to unit owners based on such method of measuring consumption, or require the unit owners to pay electricity charges to the utility company.

The cost of electricity (including sales tax) for the Common Elements is budgeted based on the cost and consumption of electricity at the building for the recent past three years as follows: actual consumption for the two full years ended September 30, 2005 plus actual consumption for the period October 1, 2005 - April 24, 2006 and projected consumption at the same consumption rate for the period April 25, 2006 - September 30, 2006. The computation is as follows:

	<u>Usage (KWH)</u>	<u>Avg. Cost/ KWH</u>	<u>Amount</u>
Year ended September 30, 2004	269,040	\$0.1437	\$38,656.00
Year ended September 30, 2005	278,320	\$0.1621	\$45,121.00
Year ended September 30, 2006	<u>269,074</u>	<u>\$0.1681</u>	<u>\$45,223.00</u>
Total (3 years)	816,434		\$129,000.00
Average (3 years)	272,145	\$0.1580	\$43,000.00
Budget	272,145	\$0.2000	\$54,429.00

The Sponsor has estimated that 8.24% of the electrical consumption (the same ratio of square footage excluding exterior space such as terraces, balconies and roof areas, as used for heating costs, or approximately 22,425 kWh per year) is used to light the general common areas of the cellar and sub-cellar

and to provide energy for the oil burner and the pumps used in connection with the standpipe and domestic water supply. Accordingly, 8.24% of the electrical consumption, or \$4,485.00, is a Shared Expense, and the balance of the cost of electricity, for residential lobby, hallways, elevators and other uses, will be shared by the Residential Unit Owners. As a result, the Commercial Unit will pay 0.51% of the total electricity costs and the Residential Unit Owners will pay 99.49% of the total electricity costs.

It is not possible to predict how closely the budgeted figure will reflect the actual expense for electricity to be incurred during the first year of Condominium Operation, in part because such expenses will vary with the level of consumption and the applicable utility rates. Many factors affect the cost of electricity, (which has in the past been highly volatile and unpredictable), including world events in the Middle East and the effects of Hurricane Katrina. Historically, electric rates have been steadily increasing and the cost of electricity is likely to increase, although it is not possible to forecast with certainty the amount or timing of such increases.

NOTE 8:	Water Charges and Sewer Rents	\$67,624.00
	Residential Units	\$ 67,624.00
	Commercial Unit	\$ 0.00

Costs will be determined based on actual usage. The cost of water is budgeted based the actual consumption at the building for the recent past three years as follows: actual consumption for the two full years ended September 30, 2005 plus actual consumption for the period October 1, 2005 - July 4, 2006 and projected consumption at the same consumption rate for the period July 5, 2006 - September 30, 2006. The New York City rate for water and sewer service for the year starting July 1, 2006 is \$4.69 per CCF. For purposes of this budget it is assumed that consumption will increase by 5% and that the rate will increase by 5% on July 1, 2007 to \$4.92 per CCF, and that the average rate for the projected first year of condominium operation will therefore be \$4.81 per CCF. The projected usage and cost is as follows:

	<u>Usage (CCF)</u>	<u>Avg. Cost/ CCF</u>	<u>Amount</u>
Year ended September 30, 2004	14,712	\$3.8728	\$ 56,977.00
Year ended September 30, 2005	14,897	\$4.3178	\$ 64,322.00
Year ended September 30, 2006	<u>16,036</u>	<u>\$4.2734</u>	<u>\$ 68,529.00</u>
Total (3 years)	45,645		\$189,827.00
Average (3 years)	15,215	\$4.1588	\$ 63,276.00
Budgeted to include estimated increase	15,976	\$4.8100	\$ 76,845.00

The restaurant in the Commercial Unit was historically separately metered for water usage, and accordingly, the above consumption did not include that store. The health club portion of the Commercial Unit will be separately metered for water usage prior to the First Closing, and the Sponsor has estimated that 88% of the historic usage relates to the residential sections of the building. Accordingly, the projected cost for water consumption to the residential section of the building is \$67,624.00, which is not a Shared Expense, but is shared by the Residential Unit Owners.

It is not possible to predict how closely the budgeted figure will reflect the actual expense for water and sewer to be incurred during the first year of Condominium operation, in part because such expenses will vary with the level of consumption and the applicable rates.

NOTE 9:	Repairs, Maintenance and Supplies	\$ 71,500.00
	Residential Units	\$ 71,228.00
	Commercial Unit	\$ 272.00
	Repairs and Maintenance to Residential Units and Residential Common Elements, including painting, decorating and miscellaneous repairs (Residential Only)	\$ 43,000.00
	Building Supplies (Residential Only)	<u>\$ 20,000.00</u>
	Subtotal (Residential Only)	\$ 63,000.00
	Shared Boiler Repairs & Maintenance	\$ 4,000.00
	Shared Electrical Repairs & Maintenance	\$ 2,000.00
	Shared Electrical Supplies	<u>\$ 2,500.00</u>
	Total Repairs, Maintenance & Supplies	<u>\$ 71,500.00</u>

The budget for these items includes the cost of normal repairs, maintenance, and supplies for the General Common Elements of the building. The Unit Owners will be responsible for the cost of interior maintenance, repairs, decoration, and painting of their respective units, including appliances. The Commercial Unit Owner will contribute only to the repairs, maintenance and supplies for the General Common Elements. Shared electrical repairs, maintenance for the boiler will be specially allocated and shared in the same proportion, 99.49% to the Residential Units and 0.51% to the Commercial Unit, as for electrical consumption. Repairs, maintenance and supplies to Residential Common Elements, including things like elevators, lobby, public halls and laundry room or Residential Units, including certain plumbing supplies, door locks, etc., will be paid exclusively by Residential Unit Owners, either as part of Residential Common Expenses or as charged back to individual Unit Owners, and the Commercial Unit Owner will pay no share of such expenses.

Since the building will be substantially improved by the work to the windows, roofs and terraces, HVAC and electrical systems and elevators, there is no reliable operating history upon which to project future costs for repairs, maintenance and supplies for these systems. The budget is based on the experience of the Sponsor and the Managing Agent in recently renovated buildings of comparable size, quality and amenities. No major capital repairs are included in the budget since most systems and equipment will be upgraded. Future major capital repairs to the General Common Elements or Residential Common Elements will be borne by all Unit Owners or only the Residential Unit Owners, respectively.

It is expected that if minor operating equipment is required to be purchased, the funds for the acquisition will be provided from the Working Capital Fund. No amount is included for items stated as the responsibility of the Sponsor, those items newly constructed or acquired covered by warranties or for the cost of any major capital expenditure in the Building. The budgeted number does not include repairs, painting, maintenance or supplies for individual Residential Units or the Commercial Units, which are the responsibility of the individual Unit Owners.

Based upon the anticipated expenses and methods of allocation projected herein, the Commercial Unit's share is projected to be 0.38% for the first year and the Residential Units' share is projected to be 99.62% for the first year, which is reasonable, in the opinion of the Managing Agent. If the actual expenses or the items that make up these expenses differs in the first year or later year, these percentages of the total repairs, maintenance and supplies expenses will vary.

NOTE 10:	Service Contracts	\$ 26,579.00
	Residential Units	\$ 26,422.00
	Commercial Unit	\$ 157.00

The following service contracts will be a Shared Expense:

Isseks Bros Inc. (Water Tank Maintenance)	\$ 894.00
Elite Service Systems Inc. (Water Treatment for boiler)	<u>1,626.00</u>
Subtotal (Shared Expenses)	\$ 2,520.00

The following service contracts will be paid by the Residential Unit Owners only:

Dynamic Elevator Corp. (Elevator Maintenance)	\$ 18,207.00
Dynamite Pest Control Inc. (Extermination)	<u>5,852.00</u>
Subtotal (Residential Units Only)	\$ 24,059.00

Annual amounts, all of which include sales tax and an inflation adjustment factor, are based on proposals effective January 1, 2007. All such contracts shall be for a term of one year from their commencement, which is anticipated to be on or about the date of the First Closing. No contracts have been entered into for the services described in this footnote. The Sponsor has reserved the right, prior to the First Closing, to enter into other service contracts which will be binding on the Condominium Boards, provided such contracts do not materially increase the estimated Common Charges for the first year of Condominium operation nor bind the Condominium Board for a period of more than two years from the date of the First Closing, unless it is customary for such type of contract to be for more than two years.

Other or new service contracts will be allocated as Shared Expenses only to the extent they relate to the maintenance of General Common Elements and will be specially allocated to the Residential Unit Owners to the extent they relate to Residential Units or Residential Common Elements.

NOTE 11:	Insurance	\$ 70,685.00
	Residential Units	\$ 66,292.00
	Commercial Unit	\$ 4,393.00

Based on a proposal obtained by Parks & Associates Insurance Brokerage, LLC, 900 Route Nine, Woodridge, New Jersey 07095, the following insurance coverage and premiums are projected:

<u>Nature of Risk</u>	<u>Coverage</u>
Building & Building Income	\$ 41,600,000
All Risk/Agreed Amount/Replacement Cost	Included
Increased Cost of Construction & Demolition	\$ 5,000,000
Flood (deductible \$25,000)	\$ 5,000,000
Earthquake (deductible \$50,000)	\$ 5,000,000
Underground Water & Sewer Backup	\$ 5,000,000
Commercial General Liability	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Fire Legal Liability	\$ 500,000

Premises Medical Payments	\$ 5,000
Crime (deductible \$1,000)	
Employee Dishonesty	\$ 300,000
Managing Agent's Rider	\$ 300,000
Depositors Forgery	\$ 300,000
Computer Fraud	\$ 50,000
Directors & Officers Liability (deductible \$2,500)	\$ 1,000,000
Umbrella	\$100,000,000
Boiler & Machinery (deductible \$1,000)	\$ 50,000,000 (subject to building limit)

The all risk property insurance policy is subject to a \$5,000 deductible per occurrence. The property coverage will include an Agreed Amount Endorsement and a Replacement Cost Valuation provision. As a result of these clauses, the insurer will agree to waive any co-insurance that might exist and to settle all losses on a replacement cost basis. The fire, casualty and comprehensive general liability insurance coverage shall provide: (a) that each unit owner is an additional insured party, (b) that there will be no cancellation without notice to the Condominium Board, (c) a waiver of subrogation, (d) a waiver of invalidity because of acts of the insured and unit owners, and (e) a waiver of pro-rata reduction if unit owners obtain additional coverage. The insurance coverage listed above includes officers' and director's liability; rent insurance; water damage; elevator collision; boiler and machinery; excess (umbrella) liability; non-owned and hired auto liability; fidelity bond (crime) coverage. The Budget does not include coverage for garage keeper's liability since there is no garage at the Property. The cost of workers compensation and NYS Disability is not reflected above; as this amount is included in the cost projections for labor.

The premium quotation is an indication of insurance premiums at current rates. Because conditions in the insurance marketplace are so volatile, including the possible impact of Hurricane Katrina on insurance premiums generally, it is not possible to predict what the premiums will be at the time the Plan is declared effective. Purchasers should be aware of the possibility of significant rate increases.

No coverage is provided for risks such as fire and casualty losses to the contents of each individual unit, nor does the coverage take into account any future replacements or additions to either the units or the fixtures and improvements contained therein. Furthermore, no liability coverage for individual unit owners is included. Prospective purchasers should consult their attorney or insurance agent to determine the advisability and desirability of obtaining additional insurance at their own cost to cover their own risk of fire and casualty losses to unit contents, replacements, additions, fixtures and improvements, and liability coverage for occurrences within the unit or, where applicable, on limited common elements.

The Sponsor represents that it will purchase fire and casualty insurance, effective at the First Closing, in amounts as set forth, on behalf of the Condominium at the Condominium's expense.

Insurance is a Shared Expense. However in the future, if any insurance premiums for the building are increased as a direct result of an unusual use or change in the use of any of the tenants of the Units, that Unit's Owner will pay 100% of any such increase in premium attributed to such use or change in use.

NOTE 12:	Management Fees	\$ 60,000.00
	Residential Units	\$ 56,271.00
	Commercial Unit	\$ 3,729.00

At the first closing, the Condominium Board will enter into a management agreement with

Residential Management Group, LLC d/b/a Douglas Elliman Property Management. The agreement will be for an initial term of three (3) years, but may be canceled by the Condominium, with cause, upon thirty days prior written notice. The Managing Agent shall have the right to cancel the agreement at any time by the giving of thirty days prior written notice. The Managing Agent will receive an annual fee of \$60,000.00 payable in equal monthly installments for the first year, increasing 4% per year for the second and third years. This is a Shared Expense, but the Managing Agent will charge individual Unit Owners for services required in the processing of each application for the sale or lease of a Unit.

NOTE 13:	Legal and Accounting	\$ 13,000.00
	Residential Units	\$ 12,192.00
	Commercial Unit	\$ 808.00

The budget includes \$8,000.00 for accounting services in connection with preparation of the Condominium's tax returns and audited financial statements for the Condominium's first year of operation. The budget also includes \$5,000.00 for miscellaneous legal services. This is a Shared Expense. To the extent legal services or special accounting services are obtained in connection with Residential Units or Residential Common Elements, such expenses shall be specially allocated to Residential Unit Owners, and the Commercial Unit Owner shall pay no share of such expenses.

NOTE 14:	Resident Manager's Unit Costs	\$ 18,773.00
	Residential Units	\$ 17,606.00
	Commercial Unit	\$ 1,167.00

Annual costs are estimated to be:

Common Charges	\$ 5,208.00
Real Estate Taxes	10,565.00
Cooking Gas and Miscellaneous	<u>3,000.00</u>
Total	\$ 18,773.00

This is a Shared Expense.

NOTE 15:	Administration and Reserve for Contingencies	\$ 44,996.00
	Residential Units	\$ 42,199.00
	Commercial Unit	\$ 2,797.00

This item includes anticipated expenses for telephone, municipal permits, city licenses and filing fees, filing Federal (if taxable income exists) State and City tax returns, costs of printing and postage for notices and information from the Board of Managers, office supplies, holiday decorations, fees to the Managing Agent to prepare the needed filings and follow up with respect to the real estate tax rebate program, fire safety notices and window guard and lead based paint compliance, if applicable and miscellaneous office expenses and provides for unanticipated expenses or increases in the budgeted expenses of the Condominium.

This item also includes a contingency fund intended to provide for any unanticipated expenses and is to be used at the discretion of the Board of Managers. The reserve for contingencies has been calculated on the basis of approximately 5% of the sum of all operating expenses to cover unanticipated cost increases and possible omitted items. It is not intended to be a reserve for capital improvements. If additional funds are required over and above this amount, it may be necessary to increase Common Charges or separately assess all unit owners. The Sponsor has attempted to make accurate estimates. However, due to inflation,

changes in the economy and unforeseen factors, it is likely that actual expenditures will differ from estimates set forth herein.

In the opinion of the Managing Agent, estimated Income is adequate to meet the estimated expenses for the first year of Condominium operation, assuming the first year is the twelve-month period commencing January 1, 2007. However, the foregoing budget is not intended and should not be taken as a guarantee by anyone that the annual Common Charges for the first or any subsequent year of operation of the building will be as set forth in said budget.

At the First Closing, the Sponsor and the Condominium Board will adjust various items of income and expenses in accordance with the period that each owned or operated the building. If the net closing adjustments are in favor of the Condominium, the amount of Sponsor's contribution to the Working Capital Fund will be increased by the amount of such net credit. If the net adjustments are in favor of the Sponsor, the amount of Sponsor's contributions to the working capital will be decreased by the amount of such net credit, unless this would reduce the Working Capital Fund below \$10,000.00. In such an event the Working Capital Fund would be reduced to \$10,000.00 and the amount of any uncredited closing adjustments will be paid without interest by the Condominium Board to the Sponsor in twelve consecutive monthly installments pursuant to the terms of twelve negotiable serial promissory notes to be executed by the Condominium Board at the first closing. Although these installments are not directly included in this budget, payment of the note (but not interest thereon) represents, in effect, payment of expenses reflected in the budget that have been prepaid by the Sponsor. (See the section of the Plan entitled "Working Capital Fund" for a full discussion.)

If the actual or anticipated date of commencement of condominium operation is to be delayed more than six (6) months from the budget year projected in the Plan, the Plan will be amended to include a revised budget disclosing current projections. If such amended projections exceed the original projections by twenty-five (25) percent or more, Sponsor will offer all Purchasers the right to rescind their Purchase Agreements within fifteen (15) days of the presentation date of such amendment and have their downpayments refunded, whether or not Sponsor offers to guarantee the previous budget projections. Sponsor will return any deposit or downpayment to Purchasers who rescind within a reasonable period of time. Sponsor shall not declare the Plan effective where there are any material changes to the projected budget if these changes have not been disclosed is an amendment to the Plan.

It is likely that the actual common expenses for the first year of Condominium operations will vary from the amounts shown in the schedule.

NOTE 16: Note Regarding Real Estate Taxes

As provided in the section of the Plan entitled "Real Estate Taxes", in the event that the Units have not been separately assessed for real estate tax purposes prior to the First Closing, real estate taxes on the Property, until such time as the Units are separately assessed, shall be included as part of the Common Expenses of the Condominium. Accordingly, the Condominium Board will pay all real estate taxes with respect to the Condominium and will allocate the entire cost thereof among all Unit Owners in the proportion of each Unit's Common Interest and the Board will have a lien on each Unit for non-payment thereof, as if such charges were Common Charges. No separate provision has been made in Schedule B for real estate taxes for this transitional period since provision is made in Schedule A for payment by each Unit Owner of the attributable estimated real estate taxes and such amounts shall be paid by each Unit Owner to the Board until the Units are separately assessed.

Douglas Elliman

DEVELOPMENT MARKETING GROUP

December 8, 2005

New York State Department of Law
120 Broadway, 23rd Floor
New York, NY 10271
Attn: Real Estate Financing Bureau

Re: The 1438 Third Avenue Condominium
1438 Third Avenue
New York, NY 10028

Ladies and Gentlemen:

81st And 3rd Owner LLC, the Sponsor of the Condominium Offering Plan for the Property, retained our firm to certify the percentage of Common Interest to be assigned to each Unit as set forth in Schedule A of the Plan. We are a licensed real estate broker who has been engaged in the real estate brokerage business for more than 50 years including experience with the marketing and sale of cooperatives and condominiums. We are also the Selling Agent for the Property.

Pursuant to Section 339-i(1)(iv) of the Condominium Act, the Common Interest of each Unit has been determined based upon floor space, subject to the location of such space and additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit. The aggregate Common Interest of all of the Units equals one hundred percent(100%).

Based on the size of the Units and whether the Units are a Residential Unit or a Commercial Unit, the Common Interest of the Residential Units and Commercial Unit were calculated as follows:

Unit	Percent Interest In Common Elements
147 Residential Units	93.785%
1 Commercial Unit	6.215%
Total All Units	100.0000%

In our opinion, this method of determining percentage of interest in the Common Elements is reasonable and equitable.

The undersigned is an independent company and is not affiliated with the Sponsor or any affiliate of Sponsor, and has no interest in the proceeds to be realized on the sale of Units under the Plan other than our fee for services in connection with the preparation of Schedules A in the offering Plan and as Managing Agent. The services performed and compensation to be received by the undersigned in connection with the Plan has not affected the undersigned's work or statements made in connection with this letter and its compensation for preparing the aforementioned Schedule and acting as Selling Agent and its affiliate acting as Managing Agent is not contingent upon the profitability of the offering.

We hereby consent to the reproduction of this letter in Part I of the Plan.

Very truly yours,

DOUGLAS ELLIMAN, LLC

By: Andrew J. Fey
Managing Director

COMMERCIAL UNIT

The Condominium will contain one (1) non-residential unit that will belong to Sponsor. This non-residential unit is referred to as the Commercial Unit which is currently used for retail stores. The respective percentage interest of the Commercial Unit in the Common Elements has been determined based upon method (iv) contained in Section 339-i(1) of the Condominium Act, that is, upon floor space subject to location of such space and additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for the exclusive or shared use and the overall dimensions of the particular Unit. Common charges and special allocations payable by the owner of the Commercial Unit are sufficient to cover the expenses fairly attributable to such units.

Since no special method is provided in the By-Laws for resolving disputes between the Commercial Unit Owner and the Board of Managers concerning any special allocations, any such dispute that cannot be resolved through the consensual agreement of the parties will be resolved through litigation.

The Condominium Documents require that certain expenses shall be specially allocated and apportioned based on special or exclusive use or availability or exclusive control of the common areas by particular Units to the Unit Owners thereof and Schedule B - Budget for the First Year of Operations provides which expenses have been specially allocated and apportioned. Therefore, certain expenses, such as maintenance of Residential Common Elements that exclusively service the Residential Units (elevators, residential lobby and hallways, etc.) shall be allocated exclusively among the Residential Unit Owners and the Commercial Unit Owner shall pay no share of such expenses.

Although the Commercial Unit is presently used for retail stores, no representation is made with respect to either: (a) the uses to which the Commercial Unit or any part thereof will be put at any time; or (b) who will operate or tenant the Commercial Unit or any part thereof at any time. The Board of Managers will have no right to restrict or limit the method of operation, any uses or appearance of the Commercial Unit which are permitted by law and/or applicable zoning ordinances. Except as provided herein, the Condominium Board and the Residential Unit Owners do not have the right to approve either any change in the use of the Commercial Unit or any part thereof or any amendment to the Building's Certificate of Occupancy to authorize a different use.

The current uses of the Commercial Unit (which are subject to change at any time) are:

<u>Store No.</u>	<u>Tenant</u>	<u>Use</u>
1	Synergy Fitness ¹	Health Club
2	[Vacant]	Restaurant (last use)

Except as provided herein, Sponsor has the right freely to sell or lease the Commercial Unit, without the Condominium Board having any right of first refusal to sell or lease, or to procure a third party to sell or lease, the same (see "Rights and Obligations of the Unit Owners and the Condominium Board" for further discussion). If Sponsor elects to sell the Commercial Unit, or any unit created by the subdivision or construction of such unit, it will amend the Plan to disclose that such sale has occurred. The Residential Unit Owners will have no interest in the rents, profits, or revenues from the rental or use of any space in the Commercial Unit.

¹ The Sponsor has leased the space occupied by Synergy Fitness, which space includes both portions of the subject building and portions of the Adjacent Property at 1430 Third Avenue, to 38 Gold Street Inc. as its tenant. 38 Gold Street Inc., which is not related to the Sponsor, has subleased that space to Synergy Fitness.

The Commercial Unit Owner may make alterations in the Commercial Unit without the consent of the Condominium Board or other Unit Owners provided such alterations are made in compliance with the laws and regulations relevant to such alterations. The Commercial Unit Owner shall have the right, without the consent of the Board of Managers, and at its sole costs and expense to alter, modify, restore or construct the exterior facade and storefronts of the Building provided that such alterations, modifications, restoration or construction are in compliance with applicable law and do not affect the structural integrity of the Building.

The Commercial Unit Owner also has easements, without permission of the Board of Managers: (1) to use the sidewalks surrounding portions of the Building for purposes permitted by law, (2) to erect upon the Common Elements and maintain a chimney or exhaust flue from any store within the Commercial Unit which may be necessary or desirable in connection with any lawful use of the Commercial Unit, and (3) to maintain, erect, alter, repair or replace from time to time, at its sole discretion, exterior signage in the customary form used for such commercial establishments, and neither the Board of Managers nor any Residential Unit Owner shall have any interest in any rent or other compensation that the Commercial Unit Owner may receive in connection therewith. All such uses by the Commercial Unit Owner must comply with all applicable laws and municipal regulations, and the costs for uses and any necessary permits therefore shall be the responsibility of the Commercial Unit Owner.

The foregoing may have a material adverse impact on the Residential Units in the Condominium.

CHANGES IN PRICES AND UNITS

The offering price to be paid by Tenant-Offerees which is applicable during any exclusive purchase period will not be increased during such exclusive purchase period.

The offering price as set forth in Schedule A must be changed by a duly filed amendment to the Plan when the change in price is an across the board increase or decrease affecting one or more lines of Units or Unit models, or is to be advertised, or is a price increase for an individual Purchaser. Unless it would constitute a prohibited discriminatory inducement, Sponsor may enter into an agreement with an individual Purchaser to sell one or more Units at prices lower than those set forth in Schedule A without filing an amendment. Prices are negotiable.

No change will be made in the size or number of Units, their respective percentages of Common Interest or in the size or quality of Common Elements except by amendment to the Plan and when applicable to the Declaration.

Unless an affected Purchaser consents, no material change will be made in Unit size, layout, or percentage of Common Interest if a purchase agreement has been executed and delivered to Sponsor for that Unit and accepted by Sponsor and the Purchaser is not in default. No material change will be made in the size or quality of Common Elements unless Purchasers not in default receive a right to rescind contained in an amendment and a reasonable period of time that is not less than fifteen days after the date of presentation of such amendment to exercise the right. Sponsor will return any deposit or down payment promptly to Purchasers who rescind.

Sponsor reserves the right to change: (a) the layout of, or number of rooms in, Unsold Units and (b) the size and/or number of Unsold Units by subdividing one or more Unsold Units into two or more separate Units, by combining two or more separate Unsold Units into one or more Unsold Units, by altering the boundary walls of any Unsold Unit(s), or otherwise, including, without limitation, the use of any portion(s)

of the Common Elements adjacent to such Unsold Units to the extent that such portion(s) are not required to be maintained as Common Elements pursuant to the terms of the By-Laws. Subject to the terms of the following paragraphs of this section, such right may be exercised by Sponsor from time to time, both before and after the First Closing, by amendment to this Plan without the Consent or approval of the Selling Agent, the Managing Agent, the Condominium Board, any Unit Owner or any mortgagee.

In the event that Sponsor shall change the size and/or number of Unsold Units, Sponsor shall increase or decrease the Common Interests appurtenant thereto accordingly; however, the aggregate amount of the Common Interests of all of the Units shall always remain at 100%. As a result of such reapportionment, the amount of the Common Charges and the real estate taxes and assessments payable by the owners of the Unsold Units affected thereby will be increased or decreased proportionately, but the amount of the Common Charges and the real estate taxes and assessments payable by the owners of Units unaffected thereby will not be varied.

Once the Declaration is recorded, no change may be made in the number of Units or number of rooms within a Unit, nor may the size of any Unit be changed by subdivision or combination or alteration of boundary walls as aforesaid, or otherwise, nor may the Common Interest of any Unit be changed, unless the Declaration is amended and such amendment is duly recorded. As more particularly provided in the Declaration, Sponsor or its designee, as the owner of an Unsold Unit, will have the right itself to so amend the Declaration to effectuate such change, without the Condominium Board, the other Unit Owners, or any mortgagee consenting to, or executing, such amendment. However, no change of a Unit's Common Interest will be made without obtaining the prior consent of the owner of such Unit. In addition, no change will be made in the Common Interest of any Unit for which a Purchase Agreement is in effect without obtaining the prior written consent of the Purchaser thereof.

To the extent permitted by law, if the size or configuration of a Unit is changed in compliance with this Plan and the Condominium Documents and, in connection therewith, a wall, space, or other area forming a part of the Common Elements servicing and benefitting only such Unit is razed or incorporated in the Unit, then such Common Element shall be deemed for the exclusive use and benefit of the owner of such Unit and the Unit's Common Interest will remain unchanged.

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COLUMBIA 1438 THIRD AVENUE, LLC
SCHEDULE OF INCOME AND EXPENSES
DECEMBER 31, 2003

LARRY D. LIBERFARB, P.C.

CERTIFIED PUBLIC ACCOUNTANTS
AND FINANCIAL ADVISORS

11 Vanderbilt Avenue, Suite 220, Norwood, Massachusetts 02062
Tel. (781) 255-8800 Fax (781) 255-9217
E-Mail: info@Liberfarb.com

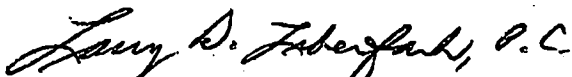
Independent Auditor's Report

To the Members of
Columbia 1438 Third Avenue, LLC
Boston, MA

We have audited the accompanying schedule of income and expenses of Columbia 1438 Third Avenue, LLC for the year ended December 31, 2003. The schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this schedule based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule is free from material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents fairly, in all material respects the income and expenses of Columbia 1438 Third Avenue, LLC for the year then ended in conformity with accounting principles generally accepted in the United States of America.



Norwood, Massachusetts
August 10, 2005

Columbia 1438 Third Avenue, LLC

Schedule of Income and Expenses

For The Year Ending December 31, 2003

Borough	Block	Lot
Manhattan	1510	35

Revenues:

Residential Rental	\$ 4,287,338
Commercial Rental	438,484
Real Estate Tax Escalation	6,482
Other	105,793
Total Revenue	4,838,097

Operating Expenses:

Real Estate Taxes	1,502,032
Utilities	188,877
Repairs and Maintenance	224,747
Insurance	150,579
Advertising	5,989
Wages and Payroll	250,181
Management and Administration	180,250
Other	115,119
Total Operating Expenses	2,617,774

Non-Operating Expenses:

Asset Management Fees	234,076
Mortgage Interest	1,981,095
Legal and Accounting	9,766
Other	10,441
Total Non-Operating Expenses	2,235,378

\$ (15,055)

COLUMBIA 1438 THIRD AVENUE, LLC
SCHEDULE OF INCOME AND EXPENSES
DECEMBER 31, 2004

LARRY D. LIBERFARB, P.C.

CERTIFIED PUBLIC ACCOUNTANTS
AND FINANCIAL ADVISORS

11 Vanderbilt Avenue, Suite 220, Norwood, Massachusetts 02062
Tel. (781) 255-8800 Fax (781) 255-9217
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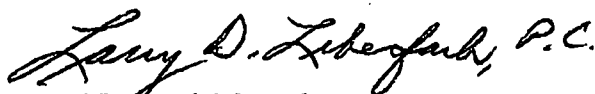
Independent Auditor's Report

To the Members of
Columbia 1438 Third Avenue, LLC
Boston, MA

We have audited the accompanying schedule of income and expenses of Columbia 1438 Third Avenue, LLC for the year ended December 31, 2004. The schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this schedule based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule is free from material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents fairly, in all material respects the income and expenses of Columbia 1438 Third Avenue, LLC for the year then ended in conformity with accounting principles generally accepted in the United States of America.


Norwood, Massachusetts
August 10, 2005

Columbia 1438 Third Avenue, LLC

Schedule of Income and Expenses

For The Year Ending December 31, 2004

Borough	Block	Lot
Manhattan	1510	35

Revenues:

Residential Rental	\$ 4,430,608
Commercial Rental	168,362
Other	12,504
Total Revenue	4,611,474

Operating Expenses:

Real Estate Taxes	1,626,629
Utilities	196,800
Repairs and Maintenance	78,718
Insurance	117,075
Advertising	3,446
Wages and Payroll	311,573
Management and Administration	239,143
Other	289,483
Total Operating Expenses	2,862,867

Non-Operating Expenses:

Asset Management Fees	247,657
Mortgage Interest	1,660,592
Legal and Accounting	33,428
Other	35,464
Total Non-Operating Expenses	1,977,141

\$ (228,534)

COLUMBIA 1438 THIRD AVENUE, LLC
SCHEDULE OF INCOME AND EXPENSES
SEPTEMBER 5, 2005

LARRY D. LIBERFARB, P.C.

CERTIFIED PUBLIC ACCOUNTANTS
AND FINANCIAL ADVISORS

11 Vanderbilt Avenue, Suite 220, Norwood, Massachusetts 02062

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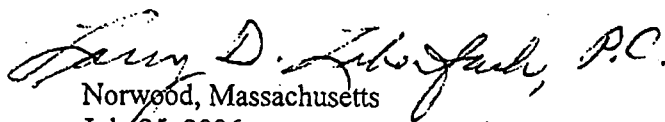
Independent Auditor's Report

To the Members of
Columbia 1438 Third Avenue, LLC
Boston, MA

We have audited the accompanying schedule of income and expenses of Columbia 1438 Third Avenue, LLC for the period ended September 5, 2005. The schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this schedule based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule is free from material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents fairly, in all material respects the income and expenses of Columbia 1438 Third Avenue, LLC for the period then ended in conformity with accounting principles generally accepted in the United States of America.


Norwood, Massachusetts
July 25, 2006

Columbia 1438 Third Avenue, LLC

Schedule of Income and Expenses

For The Period Ending September 5, 2005

Borough	Block	Lot
Manhattan	1510	35

Revenues:

Residential Rental	\$ 3,102,822
Commercial Rental	124,091
Other	49,173
Total Revenue	<u>3,276,086</u>

Operating Expenses:

Real Estate Taxes	1,111,402
Utilities	156,735
Repairs and Maintenance	62,311
Insurance	34,826
Advertising	685
Wages and Payroll	288,866
Management and Administration	92,852
Other	-
Total Operating Expenses	<u>1,747,677</u>

Non-Operating Expenses:

Asset Management Fees	225,678
Mortgage Interest	1,090,570
Legal and Accounting	54,390
Other	140,309
Total Non-Operating Expenses	<u>1,510,947</u>

\$ 17,462

**81ST AND 3RD INVESTORS LLC
WITH RESPECT TO 1438 THIRD AVENUE**

**SCHEDULE OF REVENUE AND
OPERATING EXPENSES**

**FOR THE PERIOD FROM SEPTEMBER 7, 2005
(DATE OF ACQUISITION)
TO DECEMBER 31, 2005**

81ST AND 3RD INVESTORS LLC
WITH RESPECT TO 1438 THIRD AVENUE

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FOR THE PERIOD FROM SEPTEMBER 7, 2005 (DATE OF ACQUISITION)
TO DECEMBER 31, 2005

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NOTES TO THE SCHEDULE	3



Established 1923

Anchin, Block & Anchin LLP
Accountants and Consultants

1375 Broadway
New York, New York 10018
(212) 840-3456
FAX (212) 840-7066

INDEPENDENT AUDITORS' REPORT

TO THE MEMBERS OF 81ST AND 3RD INVESTORS LLC

We have audited the accompanying schedule of revenue and operating expenses of 81st and 3rd Investors LLC with respect to 1438 Third Avenue for the period from September 7, 2005 (date of acquisition) to December 31, 2005. This schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on the schedule based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

The accompanying schedule of revenue and operating expenses was prepared for the purpose of inclusion in a proposed offering plan to convert the building at 1438 Third Avenue to a condominium and is not intended to be a complete presentation of the building's revenue and expenses.

In our opinion, the schedule referred to above presents fairly, in all material respects, the revenue and operating expenses of 81st and 3rd Investors LLC with respect to 1438 Third Avenue for the period from September 7, 2005 (date of acquisition) to December 31, 2005, in conformity with accounting principles generally accepted in the United States of America.

Anchin, Block & Anchin LLP

New York, New York
January 27, 2006

81ST AND 3RD INVESTORS LLC

SCHEDULE OF REVENUE AND OPERATING EXPENSES -

OF 1438 THIRD AVENUE

FOR THE PERIOD FROM SEPTEMBER 7, 2005 (DATE OF ACQUISITION)
TO DECEMBER 31, 2005

REVENUE:

Residential rents	\$ 1,452,671
Commercial rents	45,769
Other income	2,647
Total Revenue	<u>1,501,087</u>

OPERATING EXPENSES:

Real estate taxes	542,525
Utilities	48,346
Repairs and maintenance	53,463
Insurance	49,660
Payroll and employee benefits	100,020
Management fees	66,622
Professional fees	16,421
Other	6,807
Total Operating Expenses	<u>883,864</u>

EXCESS OF REVENUE OVER OPERATING EXPENSES	<u>\$ 617,223</u>
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See the accompanying Notes to the Schedule.

81ST AND 3RD INVESTORS LLC

NOTES TO FINANCIAL STATEMENTS

NOTE 1 - ACQUISITION OF BUSINESS:

Organization and Business:

81st and 3rd Investors LLC (the "Company") was organized on August 12, 2005 as a Delaware limited liability company for the purpose of acquiring, owning, operating, developing and selling the residential and commercial/retail premises at 1438 Third Avenue, New York, New York (the "Property"). The Company will continue until December 31, 2030 unless sooner terminated as provided for in the operation agreement. On September 7, 2005 the Company acquired the Property. The Company intends to convert the premises into a condominium and to sell the units.

The residential premises are leased on a short-term basis.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Basis of Presentation:

The schedule of revenue and operating expenses includes only those expenses incurred in operating the Property and excludes depreciation and amortization and interest expense.

Use of Estimates:

The preparation of the schedule in conformity with the generally accepted accounting principles require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the schedule and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

NOTE 3 - RELATED PARTY TRANSACTIONS:

The Company has a management and development agreement with an affiliate. The agreement provides for a management fee of \$175,000 per year, payable monthly. The agreement also provides for a development fee equal to 4% of the renovation costs to the property payable 1.5% when fee incurred and 2.5% when building loan repaid. Management and development fees paid to the affiliate were \$54,777 for the period ended December 31, 2005.

RIGHTS OF EXISTING TENANTS

In accordance with General Business Law §352-eeee, a copy of which is set forth in Part II of the Plan,

(a) All bona fide tenants in occupancy on the filing date of the Plan shall have the exclusive right to purchase their Residential Unit for ninety (90) days after the Plan is presented, during which time a tenant's dwelling unit shall not be shown to a third party unless he has, in writing, waived his right to purchase.

(b) Any bona fide tenant with the right to a renewal lease or the right to continued occupancy on the filing date of the Plan has the right to purchase as a tenant during the exclusive period. For the purpose of determining who has the right to purchase during the exclusive period, a bona fide tenant of record with an unexpired lease on the filing date of the Plan shall be presumed to be a tenant in occupancy, even though that tenant has sublet his dwelling unit or the dwelling unit is not occupied as the tenant's primary residence. A bona fide sublessee in occupancy on the filing date of the Plan has the right to purchase during the exclusive period if he (i) sublets from a non-bona fide tenant, or (ii) has obtained written permission to purchase the Unit from the bona fide tenant of record. Nothing herein shall be construed to deprive an owner of any legal remedy for an illegal occupancy.

All of the foregoing shall be referred to herein as "Tenant-Offerees". Notwithstanding the above, the term "Tenant-Offeree" does not include (i) the heirs, successors, assigns or representative of a tenant who died prior to the Filing Date or of a tenant who died on or after the Filing Date and who did not enter into a Purchase Agreement prior to his or her death, or (ii) a person occupying a Unit pursuant to a stay of the execution of a warrant of eviction, with a stipulation as to the date by which he or she will surrender possession of the Unit, if the warrant was issued prior to the Filing Date (or prior to a subsequently reinstated exclusive period, if applicable). In a case where the warrant of eviction was issued after the Filing Date (or after a subsequently reinstated exclusive purchase period, if applicable) and the tenant thus has the right to purchase the Unit, the right to purchase shall expire on the later of the surrender date provided for in the stipulation or thirty (30) days after the start of the applicable exclusive period, or earlier if the tenant has vacated the Unit. Except as above provided, occupancy of the Unit subsequent to the date possession is to be surrendered pursuant to the stipulation shall not be deemed to give the occupant any right to purchase or any right to continue to occupy the Unit.

(c) The Plan may not be declared effective until written Purchase Agreements have been executed and delivered for at least fifteen (15) percent of all dwelling units in the building subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family intend to occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the Attorney General accepting the Plan for filing, the Purchase Agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements.

(d) No eviction proceedings will be commenced at any time against non-purchasing tenants for failure to purchase or any other reason applicable to expiration of tenancy which is protected by the "Rent Laws," as herein defined, provided that such proceedings may be commenced for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant who is protected by the Rent Laws on the grounds that he seeks the dwelling unit for use and occupancy of himself or his family. Non-purchasing tenants who

reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to the conversion of the building to condominium ownership shall continue to be subject thereto. The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the Plan has been accepted for filing by the Attorney General shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses. Complaints of unconscionable rent increases proscribed by law may be referred to the New York State Department of Law, Bureau of Real Estate Financing, 120 Broadway, 23rd Floor, New York, New York 10271.

(e) The rights granted under the Plan to Purchasers under the Plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to, General Business Law §352-eeee.

(f) All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the Building. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. Sponsor shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as Sponsor surrenders control of the Condominium Board (see "Obligations of Owners of Dwelling Units Occupied by Non-Purchasing Tenants").

(g) It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities related thereto. The Attorney General may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining Sponsor from selling the Unit or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief.

(h) Assignment or transfer of Purchase Agreements are not permitted without the prior written consent of Sponsor which may be granted or withheld in Sponsor's sole discretion for any reason or no reason.

(i) If, prior to the expiration of any exclusive period which commences prior to the First Closing, the terms of this Plan are amended so as to be more favorable to tenant purchasers, a Tenant-Offeree who executed and submitted a Purchase Agreement before the amendment was presented shall benefit from the more favorable terms and conditions, even though such Purchase Agreement was entered into before Sponsor amended the terms. This provision shall not apply to any such tenant purchasing a Unit other than his own, and shall not apply to permitted assignees of Purchase Agreements.

(j) Bona fide tenants in occupancy shall not have any rights to purchase any vacant Unit or other Unit not occupied by such bona fide tenant, but may submit purchase agreements therefor in the same manner, and subject to the same provisions, as a non-occupant of the Building, and in all events subject to the prior sale of such a Unit to the tenant thereof or a non-occupant and the right of Sponsor to accept or reject such a submitted Purchase Agreement.

(k) Sponsor shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth days after the date of presentation of the Plan and at least once every thirty days until the Plan is declared effective or abandoned,

as the case may be, and on the second day before the expiration date and on the expiration date of any exclusive purchase period provided in a substantial amendment to the Plan, (1) file with the Department of Law a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the Building on the date the Plan was accepted for filing who have executed and delivered written agreements to purchase under the Plan as of a specified time on the date of such statement and (2) before noon on the day such statement is filed, post a copy of such statement in a prominent place accessible to all tenants in the Building. The statement shall include the following:

- (i) The date and time of the statement.
- (ii) The date the Plan was filed with the Department of Law.
- (iii) The date of presentation of the Plan (and the current amendment).
- (iv) The last day of the exclusive period.
- (v) The number of bona fide tenants as of the date the Plan was filed with the Department of Law who have signed Purchase Agreements as of a specified time on the date of the statement.
- (vi) The number of bona fide non-tenant purchasers who have represented that they or member(s) of their immediate family intend to occupy the Unit when it becomes vacant.
- (vii) The number of Units counted in the base.
- (viii) The percentage obtained by dividing the number of Purchasers to be counted towards effectiveness given in subparagraphs (v) and (vi) by the number of Units counted in the base given in subparagraph (vii).
- (ix) The number of Purchasers not included, if any, because of relationship to Sponsor or selling agent, but who may be sought to be included in the future.

(l) Tenants or their representatives may physically inspect the premises at any time subsequent to the submission of the Plan to the Department of Law, during normal business hours, upon written request made by them to the offeror, provided such representatives are registered architects or professional engineers licensed to practice in the State of New York.

(m) Local Law 70 of 1982 permits Sponsor to claim a credit against the initial contribution to the Reserve Fund for certain major capital improvements begun after the Plan is submitted for filing and before the Plan is declared effective. Non-purchasing tenants, pursuant to law, will be subject to rent increases as a result of any major capital improvements ("MCI's") made by Sponsor, the Condominium Board or Unit Owners. To qualify as an MCI, the improvement or installation must meet the requirements set forth in the Applicable Rent Laws, including the requirements that an application be filed with DHCR, that DHCR notify tenants and give them an opportunity to submit objections to the application, and that DHCR issue an order either granting an increase in whole or in part or denying the increase. DHCR computes the rent increase for a rent stabilized or rent controlled apartment based upon a seven-year period of amortization (*i.e.* 1/84th) of the verified costs of the MCI, subject to certain limitations. The rent increase is a permanent addition to the legal regulated rent and does not drop off after the seven-year period. The tenant's increase is based upon a per room amount. No increase may be charged or collected unless and until DHCR issues an order approving the increase. See the "Capital Reserve Fund and Working Capital Fund" Section of the Plan for a description of the work that may be performed.

(n) The By-Laws provide that non-purchasing tenants will be notified of changes in ownership of dwelling units they occupy (see Section 7.13 of the By-Laws).

(o) A Purchase Agreement from a tenant in occupancy executed during an exclusive purchase period shall have priority over and preempt any Purchase Agreement from non-tenants.

The rights granted hereunder summarize the provisions of General Business Law Section 352-eeee, and the Regulations promulgated by the Attorney General. No right is created, granted or conveyed hereunder greater than those created, granted or conveyed by such law or regulations. In the event of any conflict between this summary and the laws and regulations, such laws and regulations shall control.

OBLIGATIONS OF OWNERS OF DWELLING UNITS OCCUPIED BY NON-PURCHASING TENANTS

Obtaining Possession of Occupied Residential Units

None of the Residential Units offered hereby are covered by either the Rent Control Law or the Rent Stabilization Law and Code and the Emergency Tenant Protection Act of 1974, as amended and The Omnibus Housing Act of 1983; accordingly, none of the tenants in occupancy of the Residential Units are either "rent-controlled" or "rent-stabilized" tenants. A Purchaser of a Residential Unit occupied by a tenant will acquire title to said Residential Unit subject to (a) the lease for the Residential Unit in effect on the date on which Purchaser's executed Purchase Agreement is delivered to Sponsor and any renewal of the terms thereof effected thereafter pursuant to the tenant's right under such lease, if any, (b) any existing occupancy of the Residential Unit, (c) the right of any existing tenant (who has not purchased his Residential Unit) to remain in possession of the Residential Unit in accordance with the Rent Laws, if relevant, including his right to a renewal lease and (d) all other rights of any existing tenant under the Rent Laws.

If a tenant or other person occupying a Residential Unit does not voluntarily vacate such Residential Unit by the date on which his lease (as the same may be renewed) expires or the date when his right to continued occupancy under the Rent Laws terminates, whichever is later, a Purchaser, in order to gain occupancy of the Residential Unit, may be required, at his own expense, to institute a summary dispossess proceeding or other action in court. No representation or warranty is made as to the length of time which may elapse before actual possession of any Residential Unit may be obtained.

No representation or warranty is made as to the length of time that may elapse before a final court order of eviction is granted and made effective, that such a court order will be granted, or that possession of a rent-stabilized or rent-controlled Residential Unit occupied by another will be obtained.

Rights and Duties of Non-Occupant Purchasers

Upon acquiring title to a Residential Unit occupied by another, the Purchaser will become the landlord of the tenant or occupant thereof and the latter will become such Purchaser's tenant. The relationship between the two parties will be governed primarily by the terms, covenants and conditions contained in the lease or other occupancy agreement then in effect with respect to the Unit. Consequently, such Purchaser will succeed to, among other things, Sponsor's right to receive the rents reserved in the lease or occupancy agreement and Sponsor's obligation to perform all of the duties of the landlord under such lease or occupancy agreement, which duties may include, but may not be limited to, painting, repairs of interior plumbing and wiring, replacement of fixtures and appliances, doors and hardware, equipment and appliances in such Unit and to paint the same periodically. The Purchaser will be obligated to perform these duties as the landlord of such tenant or occupant even though the rents reserved under the lease may be

insufficient to pay for the cost of such performance. In addition, such Purchaser will be required to pay all Common Charges and special assessments assessed against him by the Condominium Board as well as real estate taxes, regardless of whether such costs are more or less than the rent payable by the tenant or occupant and regardless of whether such rent is received.

The Purchaser of an occupied Residential Unit agrees irrevocably to appoint the Managing Agent of the Condominium (or the Condominium Board if no managing agent is employed by the Condominium) as his agent to perform for the account and at the expense of the Purchaser all services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws, including interior repairs and painting of the Unit. The Purchaser of a Residential Unit (other than Sponsor or its designee) shall agree to deposit with the managing agent (or the Condominium Board of the Condominium if no managing agent is to be employed) at the closing, an amount equal to not less than the greater of two months common charges or 2 months rent to be used as working capital to furnish services required under the non-purchasing tenant's lease and the laws and regulations specified above. Upon notice by the Managing Agent (or the Condominium Board) that the deposit has been diminished, the fund shall be replenished by the Unit Owner within a specified period of time. The failure of the Unit Owner to replenish the fund in a timely fashion shall result in the Condominium Board, on behalf of the Unit Owners having a lien against the dwelling Unit. Interest, if any, earned on the fund shall be the property of the Unit Owner. Sponsor or its designee shall not be required to use the Condominium Board or the Managing Agent of the Condominium as its agent to deal with its tenants, including as to billing and collection of rents, granting or renewing of leases or to perform any services other than services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws, and neither the Condominium Board nor the Managing Agent of the Condominium shall have any power to bind or create any obligations for Sponsor or its designee except as expressly set forth herein. Any services provided to such tenant over and above what a Unit Owner is entitled to receive from the Condominium Board and approved by the owner of the Unsold Unit, which approval shall not be unreasonably withheld, will be billed by the Managing Agent at the actual cost of providing such services to the owner of the Unsold Unit, but as to Sponsor or its designee, the Condominium shall be obligated to provide, and to cause the Managing Agent of the Condominium to provide, to Sponsor and its designees all such services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws without fee or charge of any kind except for such cost of providing such services actually incurred and paid to third parties, and not to the Condominium or the Managing Agent.

All costs and expenses incurred in connection with the ownership of a Unit occupied by a non-purchasing tenant (including, without limitation, legal fees and litigation expenses for enforcing the lease and obtaining possession of such Unit) will be borne entirely by the owner of such Unit.

A person interested in purchasing an occupied Residential Unit in which he does not reside is advised to examine any lease, if any, for such Unit to ascertain the rent, the expiration date and the obligations imposed upon the landlord. These leases, if any, are on file at the office of the Managing Agent. It is further recommended that such person consult with his attorney in order to become fully apprized of the effect of such lease, if any, as well as of the Rent Laws (with respect to Residential Units), on his rights as a Purchaser and his obligations to any existing tenant or occupant.

Upon the closing of title to a Residential Unit subject to a lease or other occupancy agreement, Sponsor will deliver to the non-occupant Purchaser the unapplied balance of any security deposit held by Sponsor pursuant to the terms of such lease or occupancy agreement. With respect to an occupied Residential Unit, any such balance must be held by such Purchaser in trust in an interest bearing account in

accordance with the terms of Section 7-103 of the New York General Obligations Law. Upon delivery of the unapplied security deposit, the Purchaser will be required to execute, acknowledge and deliver an agreement to Sponsor, both acknowledging the amount so received and indemnifying Sponsor against all claims and liabilities in connection therewith.

If the applicable unit is subject to the Rent Laws, the Purchaser is required, upon closing title, to register the Unit with the New York State Division of Housing and Community Renewal.

INTERIM LEASES

Sponsor reserves the right to rent or lease vacant Units (including any Units that become vacant after the date of filing of this Plan) to Purchasers and non-purchasers at any time, both before and after the First Closing. However, once a Purchase Agreement is signed and accepted for a vacant Unit, and for so long as such Purchase Agreement is in effect, such Unit may only be leased to the Purchaser thereof. The lease will be for such rent (but not to exceed the maximum rent legally collectible) and upon such other terms as may be mutually agreed upon. The term of such lease shall be for a period which will expire on the date of closing or two years after the date of execution of such lease if this Plan is not declared effective in accordance with its terms. Tenants under Interim Leases shall be entitled to all of the protections available to them under rent stabilization and rules of the Department of Housing and Community Renewal except that the Interim Lease may not be renewed or assigned, and the apartment may not be sublet unless the Plan is abandoned. If this Plan is abandoned, the Purchaser, as tenant, shall be subject to the relevant Rent Laws which affect the Apartment, and may, at any time, at his sole option, cancel such lease and vacate the premises upon 90 days' prior written notice to Sponsor sent to the address set forth on the cover page of this Plan. Such lease will also provide that an uncured default by the Purchaser under his Purchase Agreement will constitute a default under the lease entitling the landlord, at its sole option, to immediately terminate such lease. It shall be an event of default entitling Sponsor to cancel the Purchase Agreement in the event that the Purchaser fails to cure a default under his lease within the applicable grace period (if any).

The Purchaser shall be required to vacate the apartment within thirty (30) days after notice of cancellation of the Purchase Agreement is sent to him. If the Purchaser defaults under the Interim Lease, an order of eviction or other judgment or order from a court or agency of competent jurisdiction against the Purchaser must be obtained or the Purchaser must have vacated the apartment before Sponsor may declare the Down Payment under the Purchase Agreement forfeited.

No portion of the rent paid under such Interim Lease will be credited towards the Unit's purchase price.

Sponsor's right to rent or lease any Unit will not be subject to any right of first refusal in favor of the Condominium Board to lease such Unit from Sponsor on the same terms offered to the prospective tenant or occupant.

Sponsor does not presently offer the right to rescind the Purchase Agreement or the Interim Lease. However, should such right be offered in the future, and exercised by Purchaser, then the Purchaser's right to rescind will be conditioned upon his surrendering the Interim Lease and possession of the Unit and leaving the same vacant, in good condition and broom clean within thirty (30) days after he elects to rescind. He must also pay any rent due under his Interim Lease. Nothing contained herein shall relieve any Purchaser of liability for damage caused to the Unit.

PROCEDURE TO PURCHASE

A person desiring to purchase a Unit will be required to execute in duplicate a Purchase Agreement in the form contained in Part II of this Plan and return it to Sponsor or Selling Agent at the address set forth on the cover of the Plan together with an unendorsed bank or certified check for ten (10%) percent of the purchase price (the "Down Payment") drawn to the order of: Wachtel & Masyr, LLP, as Escrow Agent.

Sponsor will comply with the escrow and trust fund requirements of General Business Law Sections 352-e(2-b) and 352-h and the Attorney General's regulations promulgated pursuant thereto. Sponsor will hold, or cause to be held, all monies received by it directly or through its agents, employees or attorneys in a segregated special escrow account pending delivery of the deed or the Purchase Agreement is cancelled in accordance with its terms. Said funds shall be held in an interest-bearing account. The funds so deposited will be disbursed only in accordance with the provisions of the Purchase Agreement and this Plan.

All deposits, Down Payments, or advances made by Purchasers prior to closing of each individual transaction will be placed, within five business days after the agreement is signed by all necessary parties in a segregated special escrow account of Wachtel & Masyr, LLP, the Escrow Agent, whose address is 110 East 59th Street, New York, NY 10022, and whose telephone number is (212) 909-9507. Said funds shall be held in an interest-bearing account entitled "Wachtel & Masyr, LLP, 1438 Third Avenue Escrow Account" or similar name, or a sub-account of that account, and will be located in an account maintained with Citibank, N.A., 153 East 53rd Street, New York, NY 10022. This bank is covered by federal bank deposit insurance to a maximum of \$100,000 per individual deposit. IF AN INDIVIDUAL MAKES A DOWN PAYMENT IN EXCESS OF \$100,000 FOR THE PURCHASE OF A UNIT, IT IS A SPECIAL RISK OF THIS OFFER THAT SUCH DEPOSIT WILL NOT BE FEDERALLY INSURED IN EXCESS OF \$100,000. The signature of an attorney in the firm Wachtel & Masyr, LLP will be required before any funds held in trust may be released. The signatories on this account authorized to withdraw funds are Eli D. Dweck, Morris Missry, Eric Zipkowitz and Lauren Durbal. The interest rate to be earned will be at the prevailing rate paid by Citibank, N.A. for such accounts from time to time; although no representation or guarantee is made as to the actual rate of interest that will be earned on such funds, Citibank, N.A. currently pays a prevailing rate of approximately 2.0% per annum for deposits under \$100,000 and approximately 2.4% for accounts in excess of \$100,000.

There is a copy of the Escrow Agreement which includes the terms of the Attorney General's regulations in Part II of the Plan. Pursuant to the Escrow Agreement, Sponsor has agreed to indemnify and hold Escrow Agent harmless from any liability, obligation, damage, claim, penalty, cost and expense, including reasonable attorneys fees (either paid to retain attorneys or representing the fair value of legal services rendered by Escrow Agent to itself) and disbursements, incurred by it by reason of this Agreement and the actions contemplated herein, except for Escrow Agent's gross negligence or willful misconduct.

Within ten business days after tender of the deposit submitted with the purchase agreement, the Escrow Agent will notify the Purchaser that such funds have been deposited into the escrow account. If the Purchaser does not receive notice of such deposit within fifteen business days after tender of the deposit, the Purchaser may cancel the purchase and rescind so long as the right to rescind is exercised within ninety days after tender of the deposit or may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited and the requisite notice was timely mailed to the Purchaser in conformity with the Attorney General's regulations. The deposit of the Down Payment check does not constitute an acceptance of the purchase by Sponsor or Escrow Agent and the check will so state. The Purchase Agreement shall only be deemed accepted when countersigned by Sponsor or its authorized agent.

Before funds are transferred to a new escrow account, or if the Escrow Agent is replaced, the plan must be amended to provide the same full disclosure with respect to the new account, the Escrow Agent and the escrow agreement as was originally provided. In lieu of depositing the Down Payment into an Attorney Escrow Account, Sponsor reserves the right to post a bond issued by a licensed bonding company securing repayment of the aforementioned funds together with interest earned and collected thereon, in the event a Purchaser is entitled to repayment of same. If Sponsor elects to post a bond, it will submit the form of the bond to the Department of Law for its approval and will notify all affected Purchasers by filing an amendment to the Plan.

Under no circumstances shall Sponsor apply for release of the escrowed funds of a defaulting Purchaser until after consummation of the plan. Consummation of the plan does not relieve Sponsor of its obligations pursuant to General Business Law Section 352-h.

The Escrow Agent will hold funds in escrow until otherwise directed in

- a. a writing signed by both Sponsor and Purchaser; or
- b. a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or
- c. a judgment or order of a court of competent jurisdiction; or
- d. If there is no written agreement between the parties to release the escrowed funds, the Escrow Agent will not pay the funds to Sponsor until the Escrow Agent has given the Purchaser written notice of not fewer than ten business days. Thereafter, the funds may be paid to Sponsor unless the Purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the Attorney General regulations and has so notified the Escrow Agent in accordance with such provisions.

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

- a. A Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan;
- b. all Purchasers after an amendment abandoning the plan is accepted for filing by the Department of Law.

In the event of a dispute, Sponsor shall apply and the Purchaser or the Escrow Agent holding the Down Payments in escrow may apply to the Attorney General for a determination on the disposition of the deposit and any interest earned thereon. Forms for this purpose will be available from the Department of Law. The party making such application shall contemporaneously send to all other parties a copy of such application. Pending the determination of the Attorney General to grant or deny the application, Sponsor, the Purchaser and the Escrow Agent shall abide by any interim directive issued by the Attorney General. If the application permitting release of funds is granted, the deposit and any interest earned thereon shall be disposed of in accordance with the determination of the Attorney General, subject to any court action in which preliminary relief is granted. The Attorney General shall act upon the application within thirty (30) days after its submission to the Department of Law, by either making a determination or notifying the parties that an extension of time in which to do so is necessary for stated reasons. If the application seeking release of funds is denied, the Escrow Agent shall continue to hold the deposit and any interest earned thereon until: (1) both Sponsor and Purchaser direct payment to a specified party in accordance with a written direction

signed by both Sponsor and Purchaser or (2) a judgment or order of a court of competent jurisdiction is served on the Escrow Agent or (3) the Escrow Agent deposits the disputed amount into court.

In the event the Plan is abandoned or withdrawn, or if a Purchase Agreement is canceled pursuant to its terms through no fault of the Purchaser, all funds held in trust will be returned to Purchaser with interest, if any, earned and collected thereon, within (30) days after the date of the abandonment or withdrawal, except as otherwise provided therein. If at the time the Plan is abandoned or withdrawn, the Purchaser shall be in default under a Purchase Agreement and shall have failed to cure said default within the applicable grace period, if any, or if a Purchase Agreement had been previously cancelled due to Purchaser's uncured default, then Sponsor shall retain as and for liquidated damages, the Down Payment plus any additional cost or expenses incurred by Sponsor on account of any special work in the Unit ordered by Purchaser, together with any interest earned and collected thereon (collectively called the "Liquidated Sum"), and any sums in excess thereof, together with any interest earned and collected thereon, shall be returned to Purchaser within thirty (30) days after the date of abandonment or withdrawal.

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

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

Upon the payment of the Balance and performance by Purchaser of all of Purchaser's obligations under a Purchase Agreement and the transfer to Purchaser of title to a Unit, Sponsor will instruct the depository to pay to Purchaser any and all interest earned and collected on the funds deposited thereunder. Sponsor and Selling Agents will not be liable to Purchaser for the amount of said interest or the payment thereof, except to the extent of any amount received from the depository. All funds due to Sponsor and received under this Agreement will be handled in accordance with Sections 352-e(2-b) and 352-h of the New York General Business Law.

After the amendment declaring the Plan effective has been accepted for filing, Sponsor will fix dates for closing title to all Units for which Purchase Agreements have been executed by serving notice on all Purchasers and tenants stating the date of the First Closing and setting each closing date. Such notice will be served in compliance with the Attorney General's regulations no less than thirty (30) days before the date set for the closing of the units. Sponsor may permit Purchasers to waive this thirty (30) day provision by including such waiver in the Plan or in an amendment thereto.

Sponsor must make a written demand for payment after default thirty (30) days before forfeiture of the deposit shall be declared.

At the closing title, and simultaneously with the delivery of the deed conveying a Unit to Purchaser, Purchaser shall execute, acknowledge and deliver for recording in the Office of the City Register New York County, a Power of Attorney in favor of the Board of Managers relative to purchasing or leasing of Units and in favor of Sponsor relative to amending the Condominium Documents to the extent permitted in the Power of Attorney. The Power of Attorney shall be substantially in the form provided in Part II of the Plan. Purchaser's failure to duly complete and sign before a notary public and deliver at closing the power of attorney will constitute an event of default under the Purchase Agreement, in which case Sponsor may, at

its option, cancel such Purchase Agreement and retain the Down Payment made by Purchaser, together with any interest earned thereon, as liquidated damages, in which event all rights, obligations and liabilities of Sponsor and Purchaser shall wholly cease and terminate. In addition, Sponsor shall also be entitled to retain (i) any costs or expenses incurred by Sponsor for special work requested by Purchaser and (ii) the reasonable cost to restore the Residential Unit to its condition prior to such special work being performed. Sponsor will be entitled to maintain an action against Purchaser for such additional costs.

At the option of Sponsor, non-tenant Purchasers shall either (i) have the Plan and amendments thereto available for review at least three (3) business days prior to executing a Purchase Agreement or (ii) have the right to rescind their Purchase Agreements and receive a full refund of their Down Payment by personally delivering a written notice of rescission to Sponsor or Selling Agent within seven (7) days after delivering an executed Purchase Agreement together with the required deposit or mailing such written notice and having the mailing postmarked within the seven (7) day period. Tenant Purchasers shall have the Plan and amendments thereto available for review at least three (3) business days prior to executing a Purchase Agreement.

The Purchase Agreement for the Units offered hereby is not contingent upon the Purchaser obtaining financing. If a Purchaser is unable to obtain bank financing or is unable to close, for any reason pursuant to an issued bank commitment, Purchaser will lose their Down Payment unless Purchaser can otherwise pay the balance of the Purchase Price.

Conflicts between the Purchase Agreement and the Plan shall be resolved in favor of the Plan.

Properly executed Purchase Agreements and Down Payments tendered by non-tenant Purchasers will be accepted or rejected within twenty (20) days of their submission to Sponsor or Selling Agent. If the Purchase Agreement is accepted, a fully executed copy will be returned to the Purchaser. If a Purchase Agreement tendered by a non-tenant Purchaser is rejected, the Down Payment will be refunded in full. If no action is taken by Sponsor or Selling Agent within the aforementioned twenty (20) day period, the Purchase Agreement shall be deemed rejected.

The Purchase Agreement may not contain or be modified to contain a provision waiving Purchaser's rights or abrogating Sponsor's obligations under Article 23-A of the General Business Law, or in any case be changed or any of its provisions be waived orally. When the Purchase Agreement set forth in Part II of the Plan is used by tenant Purchasers who purchase during the exclusive period, it may not be modified except by a duly filed amendment to the Plan.

Any offering to a non-tenant Purchaser of a Unit which has a tenant-in-occupancy is made subject to the right of such tenant to purchase during any exclusive period or any other period prescribed by law or by amendment to the Plan. (see "Rights of Existing Tenants"). If during the exclusive period, a Purchase Agreement is submitted for the Unit by such tenant, the Purchase Agreement shall be deemed cancelled, and, within twenty (20) days after the occurrence of such event, the non-tenant purchaser's Down Payment shall be refunded to him with interest earned thereon, if any, and all parties shall be released from any further obligation under the Purchase Agreement.

ASSIGNMENT OF PURCHASE AGREEMENTS

The Purchase Agreement to be signed by Purchasers under this Plan is not assignable without the prior written consent of Sponsor, which may be granted or withheld by Sponsor in its sole discretion for any reason or for no reason.

EFFECTIVE DATE

The offer to sell the Units in the Building is contingent upon the Plan being declared effective and in compliance with the conditions and time periods set forth in the Plan.

The Plan may be declared effective when Purchase Agreements are executed and accepted for 15% or more of all Residential Units in the Building by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more specified members of their immediate family occupy the Unit when it becomes vacant. As to tenants who were in occupancy on the date the letter was issued by the attorney general accepting the Plan for filing, the Purchase Agreement shall be executed and delivered pursuant to an offering made in good faith without fraud or discriminatory repurchase agreements or other discriminatory inducements.

The Plan will not be declared effective based on Purchase Agreements (a) signed by Purchasers who have been granted a right of rescission that has not yet expired or been waived; (b) assigned or transferred otherwise than in compliance with this Plan and applicable law and regulations; (c) if the Purchaser was not given (i) seven (7) days after delivering an executed Purchase Agreement together with the required deposit to rescind the Purchase Agreement and have the full deposit refunded promptly, or (ii) three (3) business days to review this Plan as amended prior to executing the Purchase Agreement (see "Procedure to Purchase"); or (d) with any Purchaser who is Sponsor, the Selling Agent or the Managing Agent, or is a principal of Sponsor, the Selling Agent or the Managing Agent, or is related to Sponsor, the Selling Agent or the Managing Agent, or to any principal of Sponsor, the Selling Agent or the Managing Agent, by blood, marriage or adoption or as a business associate, employee, shareholder or limited partner, except that such a Purchaser other than Sponsor or a principal of Sponsor may be included to the extent permissible under applicable law and regulations.

The Commercial Unit and the Resident Manager's Apartment (3A) will not be counted toward declaring the Plan effective. When calculating the minimum percentage of sales to tenants or other Purchasers that are needed before the Plan may be declared effective, no more than one (1) Purchase Agreement by an outside Purchaser or by the tenant(s) of a particular Unit shall be counted and only one (1) Purchase Agreement from any tenant who leases or occupies more than one (1) Unit shall be counted towards effectiveness.

When Purchase Agreements have been executed and accepted for the sale to Purchasers of 80% of the Units offered hereby, the Plan must be declared effective. At any time before the declaration of effectiveness, Sponsor may abandon the Plan.

If the Plan has not become effective within fifteen (15) months after the date a letter is issued by the Department of Law that the Plan is accepted for filing, the Plan will be deemed abandoned. In the event of such abandonment, no new plan for conversion of this Building shall be submitted to the Department of Law for at least twelve (12) months after such abandonment. If the Plan is abandoned, all monies paid by Purchasers will be refunded to them in full, with interest earned thereon, if any, within twenty (20) days thereafter but Sponsor shall not be obligated to deposit any monies in any interest bearing account.

The Plan will be declared effective by written notice to all Purchasers and tenants in the Building or by amendment filed with the Department of Law. If the Plan is declared effective by notice then, within five (5) days thereafter, an amendment to the Plan will be submitted for filing confirming that it has been declared effective. No closing will take place prior to the amendment being accepted for filing by the Department of Law.

After this Plan has been declared effective, but before the First Closing, Sponsor may, in its sole discretion, withdraw or abandon this Plan in the event of: (a) the existence of one or more defects in title affecting one or more Units and/or the Common Elements, that cannot be removed, cured, or complied with out litigation or for less than $\frac{1}{2}$ of 1% of the aggregate Price to Tenant-Offerees (as reasonably estimated by Sponsor); (b) any substantial damage to, or destruction of, any material portion of the Building by fire or other casualty which cannot be cured for less than $\frac{1}{2}$ of 1% of the aggregate Price to Tenant-Offerees or (c) the taking of all or part of the Property in condemnation proceedings or by eminent domain. In no event, however, will Sponsor be obligated to engage in litigation or to expend monies with respect to defects in title or casualty losses to the Building, except to the extent of $\frac{1}{2}$ of 1% of the aggregate Price to Tenant-Offerees to remove, cure, or comply with defects in title. Any stated dollar amount relied upon as the basis for abandonment after the Plan has been declared effective shall be exclusive of any attorneys fees or any such title defects or determinations of any authority or regulatory association which exist on the date of presentation of the Plan and either are known to Sponsor or are a matter of public record.

If this Plan is withdrawn or abandoned, all Purchasers and all tenants or other occupants of Units will be so notified in writing. Within thirty (30) days thereafter, all Down Payments paid to Sponsor pursuant to Purchase Agreements then in effect (together with interest earned thereon if any) will be returned to Purchasers in good standing. However, Sponsor will retain as liquidated damages the portion of a Down Payment that relates to the cost of any special work ordered by Purchaser, (together with any interest earned thereon). Upon the return or retention of the Down Payments and any such interest, the Purchase Agreements will be null and void and Sponsor will have no further obligation or liability to Purchasers under this Plan or under such Purchase Agreements. Sponsor shall promptly file an amendment to this Plan together with form RS-3 as required by Section 23.1(n)(2) of the Attorney General's regulations.

CLOSING AND TERMS OF SALE

At the Closing, Purchasers will receive a bargain and sale deed with covenants against grantor's acts in the form set forth in Part II of the Plan conveying title to the Unit and its appurtenant interest in the common elements at the closing free and clear of all liens, encumbrances and title exceptions other than those described in the Plan and the proposed unit deed. See Exhibit A to the Purchase Agreement in Part II of the Plan for a description of title conditions, leases, liens, encumbrances and title exceptions that will affect the Property after Closing.

If the Purchaser becomes the tenant or occupant of the Unit before the closing of title thereto and, before such closing, the Unit is damaged by casualty or otherwise, such Purchaser shall assume the risk of loss and the obligation to repair the damage, unless the cause thereof originated outside of the Unit and did not result from the acts or omissions of such Purchaser or other occupants of the Unit or such Purchaser's guests, invitees, agents or workers or anyone for whom Purchaser is responsible. Except as set forth in the preceding sentence, all other risk of loss or damage prior to closing is assumed by Sponsor, but Sponsor shall have no obligation or liability to repair or restore the same. If Sponsor or (in the event the Declaration is filed) the Unit Owners do not elect to repair the damage, the Purchase Agreement will be cancelled and be of no further force or effect. Within thirty (30) days thereafter, the Purchaser will be refunded all purchase monies paid to Sponsor with interest earned thereon, if any, unless Purchaser is then in default thereunder (beyond the applicable grace period, if any), in which event the said purchase monies (but in no event to exceed the Liquidated Sum) will be retained by Sponsor as and for liquidated damages. If Sponsor elects to repair or replace the loss or damage, the Purchase Agreement shall continue in full force and effect, Purchaser shall not have the right to reject title to the Unit or to receive a credit against, or abatement of, the purchase price and Sponsor shall be entitled to a reasonable period of time to complete such repairs or replacement.

The Units are being sold "as is" on the date of the Purchase Agreement subject to reasonable wear and tear and to Sponsor's obligations under the Plan and law to maintain the Unit. All personal property located within a Unit on the date the Purchase Agreement is signed or located within the Common Elements on the date the Declaration is filed that is owned by the Sponsor is included in the sale unless specifically excepted in the Plan.

The Declaration, By-Laws and Floor Plans of the Condominium and such other documents required by law will be recorded or filed in the office of the Register of the City of New York, County of New York, prior to the First Closing in accordance within the New York Condominium Act or other applicable state and/or local law.

If there is a mortgage encumbering the Property, then prior to the First Closing, (i) the mortgage will be satisfied or (ii) the lien of the mortgage will be subordinated to the Declaration of Condominium and, with respect to each Unit and its appurtenant Common Interest the lien of such mortgage shall be released prior to or simultaneously with the closing of title to such Unit.

UNIT CLOSING COSTS AND ADJUSTMENTS

At the time of title closing, each Purchaser of a Unit will pay certain closing costs in addition to the legal fees of such Purchaser's counsel and the amount of any net credit in favor of Sponsor resulting from the closing apportionments described below. Such closing costs will include the following, the amounts of which are based on rates in effect on the date of this Plan and are subject to change without prior notice or amendment:

1. a. Fee title insurance, if ordered through Title Associates, Inc., will be available at a reduced premium by reason of the reissue credit arising from the initial sale of the Unit by Sponsor. As of May 2003, the discounted premium for owner's title insurance is seventy percent of the sum of \$402.00 for the first \$35,000.00 of fee insurance plus from \$4.67 for each \$1,000 of additional fee insurance up to \$50,000.00. For additional rates, please refer to the schedule below:

<u>Fee Amount</u>	<u>Premium</u>
\$50,000	\$351.00 + \$3.80 per thousand up to \$ 100,000.00
\$100,000	\$541.00 + \$3.05 per thousand up to \$ 500,000.00
\$500,000	\$1,762.00 + \$2.79 per thousand up to \$ 1,000,000.00
\$1,000,000	\$3,157.00 + \$2.57 per thousand up to \$ 5,000,000.00

- b. Mortgage title insurance, if ordered through Title Associates, Inc., will be available at a simultaneous rate. The premium for mortgage title insurance will be computed using the "Basic Rate" schedule as described below. The premium on the amount of the loan policy that does not exceed the owner's policy shall be calculated at thirty (30%) of the regular scheduled rate for loan policies as outlined on the schedule below:

<u>Loan Amount</u>	<u>Premium</u>
\$35,000	\$73.00 + \$1.17 per thousand up to \$ 50,000.00
\$50,000	\$90.00 + \$0.95 per thousand up to \$ 100,000.00
\$100,000	\$137.00 + \$0.77 per thousand up to \$ 500,000.00
\$500,000	\$445.00 + \$0.70 per thousand up to \$ 1,000,000.00

\$1,000,000 \$795.00 + \$0.64 per thousand up to \$ 5,000,000.00

2. Recording fees for recording the deed and power of attorney. Title Associates, Inc. charges \$32.00 as a base recording charge plus \$5.00 per page (including cover page) plus a \$30.00 document service charge and a mortgage recording fee (if any) at a rate of \$62.00 per instrument plus \$5.00 per page. Each title insurance company establishes its own additional service and surcharges in this regard.

3. Transfer taxes calculated as follows:

a. Real Property Transfer Taxes (RPT) for individual condominium units are 1% if the consideration is \$500,000 or less or 1.425% if the consideration is greater than \$500,000. When paid by the Purchaser, the RPT is increased to account for the grossed up consideration by approximately 1.01% if the consideration is \$500,000 or less or 1.451% if the consideration is greater than \$500,000. Recording deeds in New York County also require a \$75.00 filing fee for filing the New York City Equalization and Assessment Form (RP-5217NYC).

b. New York State Transfer Tax (deed stamps) (TP584), which are currently at the rate of \$2.00 per \$500.00 of the purchase price or fraction thereof. When paid by the Purchaser, the deed stamps are increased to account for the grossed up consideration by approximately 1%.

c. New York State Mansion Taxes for individual condominium units where the purchase price and the additional consideration deemed received by Sponsor by reason of the Purchaser's payment of the Real Property Transfer Taxes exceeds \$1,000,000 are 1%.

4. Closing of title to the Unit will take place at the office in New York City designated by Sponsor's attorney. The following closing fees will be charged to Purchaser by the attorneys for Sponsor in connection with the closing of the Units:

a. \$1,250.00 for closing of sale without bank financing, plus disbursements.

b. \$200.00 for ACRIS document preparation fee,

c. \$250.00 additional fee for closing of sale with bank financing,

d. \$500.00 additional attendance fee in the event that closing does not occur at the offices of Sponsor's attorney.

e. \$700.00 additional attendance fee in the event that the closing occurs outside the borough of Manhattan.

f. \$250.00 additional fee if closing is adjourned for any reason other than at Seller's request.

5. In the event Purchaser obtains a mortgage, Purchaser shall pay all costs in connection therewith. Such mortgage costs may include, but are not limited to:

a. Mortgage title policy with estimated costs described in subparagraph (a)(1) and (2) above;

b. Mortgage tax of 2.05% of mortgage amount if under \$500,000; 2.175% if mortgage over \$500,000, less \$30.00 (any mortgage tax credit received pursuant to Section 339-ee of the Real Property Law will inure to the benefit of Sponsor);

- c. Loan origination fee or "points";
- d. Application fee;
- e. Appraisal fee;
- f. Legal fee of lender's attorney;
- g. Private mortgage premium, if required; and
- h. Recording charges to record the mortgage.

Note: If the Purchaser obtains a commitment for a mortgage loan to finance the purchase of this unit, the mortgage on the unit may provide that the mortgagor shall deposit monthly with the mortgagee one-twelfth (1/12th) of the estimated annual real estate taxes assessed or to be assessed against his unit and at the closing of title Purchaser may be required to deposit with the mortgagee a portion of the annual real estate taxes assessed against his unit for the forthcoming period.

6. The Purchaser's contribution to the Working Capital Fund of two (2) months estimated common charges as described in "Reserve Fund and Working Capital Fund," or if Sponsor has contributed the Working Capital Fund with respect to the Unit being purchased, reimbursement to Sponsor for the sum contributed by Sponsor.

7. The Purchaser's share of the cost of the Resident Manager's Unit as set forth in the Plan on Schedule A - "Offering Prices and Related Information".

8. Payment in advance of the Common Charges for the month following the month in which the closing occurs to the Condominium or its Managing Agent.

The above closing costs are cumulative to the extent applicable to any individual closing. The above costs are exclusive of costs which may be incurred by the Purchaser for legal representation in connection with the purchase of the Unit.

The following is an example of closing costs other than closing adjustments which would be incurred by a Purchaser of a Unit, the purchase price of which is \$930,400.00 and with a 0.6380% interest in common elements assuming that the Purchaser does not finance the purchase, obtains title insurance for his Unit and does not incur any late charges.

The above costs are cumulative to the extent applicable to any individual closing.

Title Insurance (including Sponsor discount)	\$2,961.00
Recording Charges	200.00
Sponsor's Counsel Fee	1,450.00
Real Property Transfer Tax	13,575.00
Deed Stamps	3,759.00
Working Capital Contribution	984.54
Portion of Purchase Price of Resident Manager's Apartment	5,191.78
Payment in Advance of the Next Month's Common Charges	<u>492.61</u>
Total	<u>\$ 28,613.59</u>

At the closing of title to each Unit, Sponsor and the Purchaser shall apportion, as of midnight of the day preceding the closing: (i) real estate taxes (including all prepaid real estate taxes) and assessments, if any, on the basis of the fiscal or calendar year for which assessed, including water charges and sewer rents (if separately assessed) and escrows for real estate taxes, if any; (ii) Common Charges for the month in which title closes; and (iii) rent and other charges, if any, pursuant to a lease for, or tenancy of, such Unit. If a tenant-Purchaser dies or voluntarily or involuntarily vacates his Unit before the Closing Date (irrespective of whether his Purchase Agreement is assigned), rent and other charges will nonetheless be payable until the Closing Date. In the event that the Unit has not been separately assessed for the then current fiscal tax-year at the time of closing title, the apportionment of real estate taxes shall be based on the Unit's pro-rata share (in proportion to its Common Interest) of the then current real estate taxes assessed against the Property. Installments for tax assessments due after delivery of the deed (if any) shall be paid by the Purchaser and shall not be considered a defect in title.

RIGHTS AND OBLIGATIONS OF SPONSOR

Sponsor retains the unconditional right to rent rather than sell units as they become available. Sponsor does not represent that it will endeavor in good faith to sell units rather than rent as units become vacant.

The property is currently encumbered by a mortgage loan held by SunAmerica Life Insurance Company . ("Sponsor's Lender"). Pursuant to its loan documents, Sponsor has the right to market the Units for sale pursuant to this Plan and to obtain releases of Units from the lien of the mortgage. The loan documents require that 15% of the Units must be under contract before the plan can be declared effective and that an applicable release price be paid to the Lender in order for the mortgagee to release its lien from the Unit being sold. The loan documents do not limit the Sponsor's right to rent Units provided the leases are at market rental rates.

Sponsor shall not be liable for nor obligated to defend any suits or proceedings arising out of Sponsor's acts or omissions nor shall Sponsor be obligated to indemnify the Condominium Board or the Unit Owner unless otherwise required by law.

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

Sponsor agrees to pay all common charges, special assessments and real estate taxes with respect to Unsold Units. Sponsor has the financial resources to meet its obligations with respect to Unsold Units. In the first instance, these obligations will be funded from rents collected from existing and future tenants and projected sales proceeds. The ability of Sponsor to perform its obligations will depend upon its financial condition at the time it is called upon to perform. No bond or other security has been furnished to secure Sponsor's obligations.

Sponsor will maintain the property until Sponsor no longer controls the Condominium Board in substantially the same condition and manner as on the date of presentation of the Plan, subject to ordinary wear and tear.

Other than obligations, if any, imposed on Sponsor by the applicable Rent Laws, Sponsor has no obligation to repair damage from casualty or other cause which occurs prior to the closing of a Purchaser's Unit. See "Closing and Terms of Sale" for the rights and obligations of Purchasers of Units damaged by

casualty prior to closing.

Sponsor shall procure the fire and casualty insurance pursuant to an agreed amount replacement value policy or in an amount sufficient to avoid co-insurance as set forth in the footnotes to Schedule B of the Plan.

In the event of the dissolution or liquidation of Sponsor or the transfer of ten (10) or more Units or twenty (20%) percent or more of the total number of Units in the Condominium, whichever is less, the principals of Sponsor will provide financially responsible entities or individuals who will assume the status and all of the obligations of Sponsor for those Units transferred under the Plan, applicable laws or regulations. In the event of dissolution or liquidation, the principals of Sponsor shall guarantee the performance of such obligations.

Sponsor will bear all costs and expenses to be incurred in connection with the creation of the Condominium and the preparation, filing and distribution of this Plan. In addition, Sponsor will pay all selling expenses and brokerage commissions of the Selling Agent or other broker engaged by Sponsor. In the event that there are title encumbrances (other than mortgages and permitted exceptions) affecting the Property at the time of the First Closing, Sponsor shall cause such encumbrances to be cured, remedied and removed, at its sole cost and expense, except that Sponsor shall have no obligation to cure, remedy, or remove any such encumbrances if the same cannot be accomplished at an aggregate cost and expense of $\frac{1}{2}$ of 1% of the aggregate price to Tenant-Offerees. The existence of any such encumbrances will not constitute an objection to title or excuse any Purchaser from completing payment of the balance due under his Purchase Agreement (without provision for escrow), provided that Sponsor either furnishes adequate proof to Title Associates, Inc., as agent for Stewart Title Insurance Company (the "Title Company") that such encumbrance has been cured or remedied or deposits in escrow a reasonable sum to secure Sponsor's obligation to cure and remedy such encumbrance subsequent to the First Closing as determined by the Title Company. At Sponsor's request, the Escrow Agent shall apply the sums so deposited towards payment of the cost of curing or remedying the title defect, except the Escrow Agent shall retain a sufficient portion of such security deposit to pay for the reasonable costs of curing or remedying the remaining title defects. This provision shall not be construed to limit Sponsor's obligation to remedy the defect. If the aggregate cost and expense of curing, remedying and removing all such encumbrances exceeds $\frac{1}{2}$ of 1% of the aggregate price to Tenant-Offerees and Sponsor elects not to accomplish the same, Sponsor shall withdraw this Plan in accordance with the terms of the section entitled "Effective Date". Nothing herein shall limit the Sponsor's right to withdraw this Plan prior to the time the Plan has been declared effective.

Immediately following the First Closing, Sponsor will assign all assignable service and maintenance contracts and agreements relating to the Property to the Condominium Board, and the Condominium Board will, on behalf of all Unit Owners, assume the same and indemnify Sponsor against all claims and liability thereunder that relate to matters and events occurring on or after the day upon which the First Closing occurs.

Sponsor has made no representation with respect to any obligation to sell, or to endeavor to sell, any Residential Units to Purchasers for personal occupancy other than those necessary to declare this Plan effective, and Sponsor has reserved the right to hold and/or rent Unsold Residential Units. Prospective Purchasers should be aware that they potentially may be living with transient tenants in Residential Units for an indefinite period, while Sponsor determines, in its sole discretion, whether to rent or sell Units. In addition, Sponsor will have a significant role in the governance of the Condominium by reason of its voting control of the Condominium Board during the period provided in the By-Laws. Even thereafter, Sponsor will continue to have a voice in governance due to its right to designate a specified minority of the Condominium Board for so long as Sponsor owns one or more Unsold Residential Units. Moreover, Sponsor and any other nonresident Owners will at all times have the same right as Owner-occupants to vote on issues that require

the approval or consent of Unit Owners, such as the exercise of the Boards's right of first refusal or consent of Unit Owners to borrow money under certain circumstances.

CONTROL BY SPONSOR

Prior to the first annual meeting of Unit Owners and during the Initial Control Period (defined in this Plan as the period ending on the earlier of: (i) the closing of title with purchasers under the Plan to Residential Units having more than fifty percent of the aggregate Common Interests appertaining to all Residential Units or (ii) five years after the First Closing), as described more fully in the "Condominium Board" section of the Plan, the affairs of the Condominium will be governed by the Condominium Board, which shall consist initially of three members designated by Sponsor, and within 30 days after the first anniversary of the First Closing, or at such earlier time as Sponsor deems in the best interest of the parties, Sponsor shall call the first annual meeting of the Unit Owners at which the incumbent three-member Condominium Board shall resign and a new seven-member Condominium Board shall be elected by the Unit Owners and/or designated by Sponsor.

During the Initial Control Period, and assuming a seven (7) member Condominium Board, Sponsor or its designee shall have the right to designate the following minimum number of members of the Condominium Board: (a) five (5) members, for so long as the Common Interests attributable to any Units owned by Sponsor or its designee equals, in the aggregate, 65% or more of the Common Interests of all Units; and (b) four (4) member, for so long as the Common Interests attributable to any Units owned by Sponsor or its designee equals, in the aggregate, 50.0001% or more. After the Initial Control Period, and assuming a seven (7) member Condominium Board, Sponsor or its designee shall have the right to designate the following minimum number of members of the Condominium Board: (a) two (2) members, for so long as the Common Interests attributable to any Units owned by Sponsor or its designee equals, in the aggregate, 15% or more of the Common Interests of all Units; (b) one (1) member, for so long as Sponsor or its designee owns one (1) Residential Unit.

In addition, at all times, the Commercial Unit Owner shall be entitled to designate one (1) member of the Condominium Board or, in the event the Commercial Unit is subdivided, to elect one (1) member of the Condominium Board.

Sponsor or its designee shall not exercise voting control of the Condominium Board, either through its right of designation or through its voting its interests, beyond the Initial Control Period. Neither the exercise of the right of designation or to vote for Condominium Board members under the control of Sponsor or its designee nor any other provision of these By-Laws shall impair the right of Sponsor or its designee or the Commercial Unit Owner to vote for any other candidates for the Condominium Board provided such votes by the Sponsor or its designee do not constitute an exercise of voting control as provided at law. If at any time it is determined to increase or decrease the size of the Condominium Board, the representation of Sponsor or its designee shall be changed proportionally.

If at the expiration of the Initial Control Period, a majority of members of the Condominium Board serve by reason of the designations or votes cast by Sponsor or its designee, a special meeting of Unit Owners shall be called within thirty (30) days after the expiration of the Initial Control Period for the purpose of electing a new Condominium Board.

At all times, Sponsor shall have the right to vote all of the Common Interests attributable to Units owned by Sponsor on all matters as to which Unit Owners vote other than with respect to the election of the Condominium Board. Until Sponsor no longer elects a majority of the members of the Condominium Board

who are principals, employees and/or agents of Sponsor, Sponsor will, through its control of the Board, have control of the maintenance and operation of, and the services to be provided by, the Condominium. Notwithstanding the foregoing, Sponsor may not exercise veto power over expenses described in Schedule B, or over expenses required (i) to comply with applicable laws or regulations, (ii) to remedy any notice of violation or (iii) to remedy any work order by an insurer. However, Sponsor may exercise veto power over expenses other than those described in Schedule B for a period of five (5) years from the date of the First Closing so long as the Common Interests of the Unsold Units constitute more than 25% in the aggregate.

Whenever, pursuant to any provision of the By-Laws, the consent, approval, satisfaction or permission of Sponsor or its designee or the Commercial Unit Owner is required, the granting of such consent, approval, permission or acknowledgment of satisfaction shall be solely in the discretion of the party whose consent, approval, satisfaction or permission is required and no standard of reasonableness shall be imposed on such party. If the Condominium Board, any Unit Owner, or other Person that is subject to the terms of the By-Laws fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action that the Condominium Board, such Unit Owner, or Person is required to execute, acknowledge and deliver or to take pursuant to the By-Laws at the request of Sponsor or its designee or the Commercial Unit Owner, then Sponsor or its designee or the Commercial Unit Owner is hereby authorized, as attorney in-fact for the Condominium Board, such Unit Owner, or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Condominium Board, such Unit Owner, or other Person, and such document or action shall be binding on the Condominium Board, such Unit Owner or other Person.

CONDOMINIUM BOARD

The affairs of the Condominium shall be governed by the Condominium Board, which shall consist initially of three members designated by Sponsor. The first officers and members of the Condominium Board will all be: Raymond Chalmé, President, Hy Chalmé, Vice President and Daniel M. Blanco, Secretary/Treasurer. The members are members and/or employees of Sponsor.

The by-laws do not include a provision that a majority of the board of managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the sponsor and its principals, after the end of an initial sponsor control period. Rather, as provided in Section 2.1 of the by-laws, except for members designated or elected by Sponsor or its designee or the Commercial Unit Owner, all members of the Board of Managers shall be either: (i) individual Unit Owners; (ii) individual Permitted Mortgagees; (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Unit Owners or Permitted Mortgagees; or (iv) adult Family Members of any of the foregoing. Since the by-laws permit individuals other than owner-occupants to be nominated or elected to the Board of Managers, owner-occupants may not control the board or operation of the property during such transition or ever. Owner-occupants and non-resident owners, including the Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment.

Within 30 days after the first anniversary of the First Closing, or at such earlier time as Sponsor deems in the best interest of the parties, Sponsor shall call the first annual meeting of the Unit Owners. At such meeting, the incumbent three-member Condominium Board shall resign and a new seven-member Condominium Board shall be elected by the Unit Owners and/or designated by Sponsor. Thereafter, annual meetings of the Unit Owners shall be held on or about the anniversary of such date each succeeding year. At such meetings the Condominium Board shall be elected by ballot of the Unit Owners and/or designated by Sponsor and the Commercial Unit Owner in accordance with the requirements of the By-Laws. The term

of office of each of the seven members of the Condominium Board shall normally be one year.

Except for members designated or elected by Sponsor or its designee or the Commercial Unit Owner, all members of the Condominium Board shall be either: (i) individual Unit Owners; (ii) individual Permitted Mortgagees; (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Unit Owners or Permitted Mortgagees; or (iv) adult Family Members of any of the foregoing. However, no Unit Owner may be elected to serve on the Condominium Board if the Condominium Board has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such election. Other than members elected by Sponsor or its designee, no member shall continue to serve on the Condominium Board after he ceases to be a Unit Owner or an interested party in a Unit Owner, as specified in the first sentence of this paragraph.

Special meetings of Unit Owners may be called by resolution of the Condominium Board or on petition of Unit Owners having in the aggregate not less than 25% of the Common interest of all Unit Owners. The By-Laws also provide for the calling of a special meeting of Unit Owners for the purpose of electing a new Condominium Board within thirty (30) days after the expiration of the Initial Control Period.

All Unit Owners shall severally indemnify each member of the Condominium Board against any liability or claim, contractual or otherwise, except those arising out of the bad faith or willful misconduct of such member or that are contrary to law or the terms of the Declaration or the By-Laws. However, the liability of any Unit Owner on account of such indemnification will be limited to such proportionate share thereof as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners.

All officers and members of the Condominium Board shall serve without compensation.

The members of the Condominium Board will have no liability to Unit Owners for errors of judgment, negligence, or otherwise, except that individual members will be liable for their own bad faith or willful misconduct. The Condominium Board may contract or effect other transactions with any member thereof, with any Unit Owner, with Sponsor, or with any affiliate of any of them at competitive rates without incurring any liability for self-dealing.

Any member of the Condominium Board may be removed with cause by an affirmative vote of Unit Owners. A member of the Condominium Board who has not been designated by Sponsor or its designee or the Commercial Unit Owner may also be removed without cause by an affirmative vote of Unit Owners. In addition, any member of the Condominium Board who shall cease to be qualified for membership pursuant to the terms of the By-Laws shall be deemed to have resigned his membership effective as of the date upon which such qualification shall cease. Any officer may be removed, without cause, by vote of a majority of the Condominium Board at a meeting called for such purpose.

Any vacancy on the Condominium Board shall be filled by vote of a majority of the remaining Managers. Notwithstanding the foregoing, any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was designated as such or elected by Sponsor or its designee shall be filled by an individual designated by Sponsor or such designee, and any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was designated or elected as such by the Commercial Unit Owner shall be filled by an individual designated or elected by the Commercial Unit Owner. Each member of the Condominium Board who is elected thereto or designated as such to fill a vacancy shall serve as a member of the Condominium Board for the remainder of the term of the member he replaced and until his successor shall be selected and qualified at the appropriate annual

meeting of the Unit Owners.

Each Unit Owner (including Sponsor or its designee or the Condominium Board if either shall then own title to one or more Units) shall be entitled to one vote for each .0001% of Common Interest applicable to their Unit(s). The presence, in person or by proxy, of Unit Owners having a majority of the votes of all Unit Owners shall constitute a quorum at all meetings of the Unit Owners, and, unless otherwise provided, the decision of the Unit Owners casting a majority of the votes of the Unit Owners at a meeting at which a quorum shall be present shall be binding upon all of the Unit Owners.

Generally, subject to certain exceptions and provided that any required consent of the Mortgage Representatives is obtained, any provision of the Declaration, the By-Laws, or the Rules and Regulations may be amended, modified, added to, or deleted by the affirmative vote of 66 2/3 in aggregate Common Interests of all Unit Owners. However, the Declaration, the By-Laws and the Rules and Regulations may not be amended or modified so as to adversely affect the right reserved to Sponsor or its designee in the Condominium Documents as to any Unsold Units without the prior written consent of Sponsor or said designee, or so as to adversely affect the right reserved to the Commercial Unit Owner in the Condominium Documents without the prior written consent of the Commercial Unit Owner. In addition, no provision of the By-Laws, the Rules and Regulations or the Declaration relating to the use of a Unit Owner's Unit or the allocation of Common Interest appurtenant to a Unit Owner's Unit may be amended without the consent of the Unit Owner affected by such amendment. Further, the By-Laws, the Rules and Regulations or the Declaration may not be modified, added to or amended so as to eliminate, change or impair any rights, powers, easements, privileges or benefits reserved to a Unit Owner, or so as to adversely affect such Unit Owner, without the written consent of the affected Unit Owner.

RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE CONDOMINIUM BOARD

Sales and Leases of Units

Each owner of a Residential Unit may sell or lease his Residential Unit, but only by complying with the provisions and restrictions contained in the By-Laws. Any Residential Unit Owner other than Sponsor or its designee who receives a bona fide offer for the sale or lease of his Unit which he intends to accept, or who enters into any Contract of Sale or Lease for his Unit shall give notice thereof to the Condominium Board, and shall offer to sell or lease his Residential Unit, on the same terms and conditions as are contained in such outside offer (subject to certain minor variances as set forth in Article 7 of the By-Laws) the Condominium Board or to its designee or to a purchaser or tenant produced by the Condominium Board.

Within thirty (30) days after receipt of such notice from a Residential Unit Owner, the Condominium Board may elect to purchase or lease or to produce a purchaser or tenant who will purchase or lease such Residential Unit, on behalf of all Unit Owners or to produce a third party purchaser or tenant who will purchase or lease such Residential Unit. In connection with its decision whether to exercise its option, the Residential Unit Owner shall submit to the Condominium Board, in writing, such further information with respect to the outside offeror and the terms of sale or lease as the Condominium Board may reasonably request.

In the event the Condominium Board shall fail to accept such offer or to produce a purchaser or a tenant within such thirty day period, or fails to act within said thirty-day period, the Residential Unit Owner shall be free to contract to sell or lease such Residential Unit within sixty days after the expiration of the period in which the Condominium Board might have accepted such offer on the terms and conditions and

to the person as provided in the Residential Unit Owner's notice to the Condominium Board. If the Residential Unit Owner does not enter into a contract or lease on such terms within that period, or if such sale or lease shall not be consummated as so provided, then should such Residential Unit Owner thereafter elect to sell or lease his Residential Unit, whether to the same or another person on the same or other terms and conditions, the Residential Unit Owner shall be required to again comply with all of the terms and provisions of the By-Laws.

The Condominium Board shall not exercise any option to purchase any Residential Unit, whether directly or by a designee on behalf of all Unit Owners, without the prior approval of a majority in Common Interests of the Unit Owners. Acquisitions of Units by the Condominium Board, or its designee, on behalf of all Unit Owners, may be made from the working capital and Common Charges in the hands of the Condominium Board, or if such are insufficient, the Condominium Board may levy an assessment against each Unit Owner in proportion to his interest in the Common Elements, as a Common Charge and/or the Condominium Board, in its discretion, may borrow money to finance the acquisition of such Unit, provided, however, that no financing may be secured by an encumbrance on or a hypothecation of any property other than the Unit to be purchased together with its Appurtenant Interests so to be acquired by the Condominium Board. This restriction shall not apply to an election by the Condominium Board to produce a third party purchaser or to lease or produce a tenant to lease a Unit, which elections may be made by the Condominium Board without action by the Unit Owners.

Any Unit Owner shall be free to convey or transfer his Unit by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit shall be subject to, the provisions of the By-Laws. In addition, the foregoing restrictions on sales or leases shall not apply with respect to any lease, sale or conveyance of a Residential Unit by: (i) a Unit Owner to any of his adult Family Members, to any combination of the same, or to a trust for the benefit of any of them; (ii) Sponsor or its designee; (iii) the Condominium Board or a Board Designated Purchaser; (iv) a party conveying a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure; or (v) any Permitted Mortgagee or his nominee, who has acquired title to any Residential Unit at any foreclosure sale of his Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction, provided, however, that each succeeding Residential Unit Owner shall be bound by, and his Unit shall continue to be subject to, all of the terms and conditions of the By-Laws.

In addition, the foregoing restrictions shall in no event apply to a sale, lease or conveyance of all or a portion of the Commercial Unit. Sponsor or its designee and the Commercial Unit Owner from time to time shall have the right to freely sell their Units or to freely lease all or any of them without having to offer the same for sale or lease to the Condominium Board or otherwise subject to the restrictions set forth in the foregoing provisions of the By-Laws. Such provisions may not be amended without the consent of Sponsor or its designee as to Unsold Units or the Commercial Unit Owner as to the Commercial Unit.

A Unit which is acquired by purchase or lease by the Condominium Board may be used only in accordance with the Condominium Documents. The Condominium Documents provide that a Residential Unit may be used for residential purposes or, if permitted by applicable law, as a professional or business office or other purpose.

The rent from the leasing or subleasing of a Unit or proceeds from the sale of a Unit after deduction of all expenses incurred in connection with generating the same shall constitute income of the Unit Owners, and shall be collected on behalf of the Unit Owners by the Condominium Board and applied against the Common Expenses for the year in which collected. The excess of such amounts over Common Expenses shall be applied by the Condominium Board against the Common Expenses for the next succeeding year(s)

of operation, and debt service, if any, and no Unit Owner shall be entitled to a distribution of any portion of such excess unless the Condominium Board shall determine to distribute all or part of such excess to all Unit Owners pro rata in proportion to their respective Common Interests.

The leasing of Residential Units after the First Closing is not subject to government controls as to rents and continued occupancy. In addition to the terms described above, however, no Residential Unit Owner (other than Sponsor or its designee) may lease his Residential Unit for any short-term or transient tenancy. For purposes hereof, the term "short-term" shall mean a term of less than one (1) year.

The Condominium Board may not discriminate against any person for a reason proscribed by civil rights laws.

No Unit Owner shall execute any deed or any other instrument conveying title to his Unit without including therein his Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. No part of the Appurtenant Interests of any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance or other disposition of such part of the Appurtenant Interests of all Units. No Residential Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his Unit unless he shall have paid in full to the Condominium Board all unpaid Common Charges and Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgagees, levied against such Unit.

Mortgages of Units

Each owner of a Residential Unit or a Commercial Unit may mortgage his Unit, provided that, with respect to Units other than the Commercial Unit and Unsold Units, the conditions with respect thereto set forth in Articles 6 and 7.12 of the By-Laws are first complied with. As more fully set forth in said Articles 6 and 7.12, these conditions include the requirements that: (a) the mortgage be substantially in the form of the New York statutory form of mortgage, except for such changes or additions as may be required to permit a lender to make the loan; (b) the Condominium Board is notified in writing of the making of such mortgage and is given a copy thereof and (c) the Unit Owner making such mortgage is not in arrears for Common Charges and Assessments. Sponsor or its designee, as the owner of Unsold Units, and the Commercial Unit Owner shall have the right to mortgage the Unsold Units and the Commercial Unit, respectively, without any restriction or limitation with respect to the form of mortgage or otherwise, and any mortgagee of an Unsold Unit owned by Sponsor or its designee or of the Commercial Unit shall be deemed for all purposes to be a "permitted mortgagee".

Common Charges: Assessment, Collection and Lien for Non-Payment

The Condominium Board shall from time to time, and at least annually, prepare a Budget for the Condominium and determine the amount of the Common Charges payable by the Unit Owners to meet the Common Expenses of the Condominium. In preparing such Budgets from time to time, the Condominium Board shall allocate and assess such Common Charges and expenses among the Unit Owners according to their respective Common Interests, but subject to such different method of allocation as is set forth in the "Budget for the First Year of Condominium Operation", Schedule B to the Plan (the "Condominium Budget") or as may be determined by the Condominium Board to reflect exclusive use or the availability or control of particular Common Elements or services provided by the Condominium. The Condominium Board is authorized to specifically allocate expenses or specific expense items and apportion Common Charges of the Units resulting from changes in use or from changed circumstances. The Common Expenses shall include, without limitation such amounts as the Condominium Board may deem proper for the operation and

maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year. In addition, the Common Expenses may also include such amounts as may be required for the purchase or lease by the Condominium Board or its designee, on behalf of all Unit Owners, of any Unit whose owner had elected to sell or lease such Unit or of any Unit which is to be sold at foreclosure or other judicial sale. The Condominium Board shall advise all Unit Owners promptly, in writing, of the amount of Common Charges payable by each of them as determined by the Condominium Board as aforesaid and shall furnish copies of such budget on which such common charges are based, to all Unit Owners. All costs and expenses which are allocable solely to the repair, maintenance and operation of a particular Unit or Units, as the case may be, shall be borne solely by the owner(s) of such Unit(s). Notwithstanding this section, the power of the Board is subject to the restrictions contained in the By-Laws relating to repairs and maintenance of General Common Elements, Residential Limited Common Elements and Residential Common Elements.

All Unit Owners shall be obligated to pay Common Charges assessed by the Condominium Board at such time or times as the Condominium Board shall determine. The Condominium Board may also impose a reasonable late charge for late payment of Common Charges, which shall be added to the Unit Owner's Common Charges, and which shall be a lien upon the Unit Owner's Unit if not paid. Assessments for Common Charges are the personal obligation of the person owning the Unit at the time the assessment becomes due.

No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against his Unit subsequent to a sale, transfer, or other conveyance (made in accordance with the provisions of the By-Laws) of such Unit. A purchaser of a Unit shall be liable for the payment of Common Charges assessed and unpaid against such Unit prior to the acquisition of such Unit, except that, to the extent permitted by law, a mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit shall not be liable for, and such Unit shall not be subject to a lien for, the payment of Common Charges assessed prior to the foreclosure sale. In the event of a foreclosure sale of a Unit by a mortgagee, the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges thereafter accrued prior to such sale. In addition, any Unit Owner may, subject to the terms and conditions specified in the By-Laws, provided that is Unit is free and clear of liens and encumbrances other than a permissible mortgage and the statutory lien for the unpaid Common Charges, convey his Unit, together with the Appurtenant Interests, to the Condominium Board, or its designee, corporate or otherwise, on behalf of all Unit Owners, and in such event be exempt from Common Charges thereafter accruing.

The Condominium Board shall take prompt action to collect any Common Charge due from any Unit Owner which remains unpaid for more than thirty (30) days after the due date for payment thereof. In the event any Unit Owner shall fail to make prompt payment of its Common Charges or any assessment as determined by the Condominium Board, such Unit Owner shall be obligated to pay interest at the highest legal rate on such unpaid Common Charges computed from the due date thereof, in addition to any late charge which may have been imposed, together with all expenses, including attorneys' fees, paid or incurred by the Condominium Board or the Managing Agent in connection with collecting such unpaid amounts, including but not limited to those paid or incurred in any proceeding brought to collect such unpaid Common Charges or assessments or in an action to foreclose the lien on such Unit arising from said unpaid Common Charges or assessments. The Condominium Board shall have the right and obligation to attempt to recover such Common Charges or assessments, together with interest thereon, and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or (in the event of Common Charges) by foreclosure of the lien on such Unit granted by Section 339-z of the Condominium Act, in the manner provided in Section 339-aa thereof. While Sponsor or its designee is in control of the Condominium Board, it will cause the Board to file a lien as provided for in Section 339-aa of the

Condominium Act against Units with respect to which Sponsor or such designees is in arrears of Common Charges by more than thirty (30) days.

Under the provision of Section 339-z of the Condominium Act and Section ___ of the By-Laws, the Condominium Board will have a lien, on behalf of all Unit Owners, on each Unit for unpaid Common Charges assessed against such Unit together with interest thereon and for the replenishment of the fund to be maintained by Unit Owners of Units occupied by non-purchasing tenants pursuant to Section ___ of the By-Laws. A lien for non-payment of Common Charges granted pursuant to Section 339-z of the Condominium Act has priority over all other liens except (i) liens for taxes on the Unit in favor of the assessing unit, school district, special district, county or other taxing unit, and (ii) sums paid on a first mortgage of record.

In any action brought by the Condominium Board to foreclose a lien on a Unit because of unpaid Common Charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Condominium Board, acting on behalf of all Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, cast the votes appurtenant to (other than for the election of Members to the Condominium Board), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing or waiving the lien securing the same. In the event that the net proceeds received on such foreclosure (after deduction of all legal fees and disbursements, advertising costs, brokerage commissions, court costs and other costs and expenses paid or incurred in connection therewith) shall be insufficient to satisfy the defaulting Unit Owner's obligations to the Condominium, such Unit Owner shall remain liable for the deficit.

Repairs

Generally, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary in or to the Common Elements (whether such Common Elements are located outside a Unit or within a Unit) shall be made by the Condominium Board and the cost and expense thereof shall be charged to the Unit Owners as a Common Expense. Generally, in the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof is necessitated by the negligence, misuse or neglect of any Unit Owner, the entire cost thereof shall be borne by such Unit Owner. Notwithstanding the foregoing and the definition of Residential Units as set forth in the Declaration, solely for purposes of the obligation of the Board of Managers to make maintenance, repairs or replacements, whether structural or non-structural, ordinary or extraordinary, in or to the portion of the Residential Units consisting of the entire exterior envelope of the building of the building including but not limited to face brick, parapets, roof systems, other than those portions that are specifically part of the Commercial Unit, shall be considered Residential Common Elements and charged as a Residential Common Expense.

Generally, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, in or to any Unit and the interior side of entrance doors thereto shall be made by the Owner of such Unit at such Unit Owner's sole cost and expense. The interior glass surfaces of all windows located within any Unit must be washed and cleaned by the Unit Owner thereof at such Unit Owner's sole cost and expense. Maintenance, painting and repair of all window frames within any Unit shall be done by the Unit Owner thereof at such Unit Owner's sole cost and expense. Unit Owners shall be responsible for replacing broken window glass in their Units, unless the glass is broken through the negligence of the Condominium Board or its agents, in which case the cost of replacement shall be borne by all Residential Unit Owners as a Residential Common Expense. Each Unit Owner shall be responsible for all damages to any and all other Units and/or to the Common Elements by reason of his failure to do the foregoing.

All normal maintenance of and repairs and replacement to all terraces and balconies appurtenant to and for the exclusive use of particular Units shall be made by the Unit Owner owning such Unit at his own cost and expense. Each Unit Owner shall be responsible for all damages to any and all other Units and/or to the Common Elements by reason of his failure to do the foregoing. Any structural or extraordinary maintenance, repairs, or replacements to all terraces and balconies (including, but not limited to, any leaks in the terraces or balconies which are not caused by the acts or negligence of the Unit Owners which have the exclusive right to use such terraces or balconies, and cleaning and painting the sides of the terraces and balconies facing away from the usable portions of the terraces and balconies) shall be made by the Condominium Board and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense.

The washing and cleaning of the exterior glass surfaces of all windows and the replacement of all window frames shall be done by the Condominium Board and shall be charged to all Residential Unit Owners as a Residential Common Expense, unless the replacement of window frames is necessitated by the acts, negligence or misuse of any Unit Owner, in which case the entire cost thereof shall be borne by such Unit Owners.

The following provisions shall apply with respect to costs and expenses relating to Residential Common Elements and Residential Limited Common Elements:

(A) The Owner or Owners of the Commercial Units shall not pay any costs or expenses relating to normal, routine and ordinary maintenance, repair or replacement to the Residential Common Elements or to the Residential Units (except to the extent that comparable normal, routine and ordinary maintenance, repair or replacement is also provided to the Commercial Unit).

(B) The Owners of the Residential Units shall not pay any costs or expenses relating to normal, routine and ordinary maintenance, repair or replacement to the Residential Limited Common Elements limited in use to the Commercial Unit Owners.

(C) The Condominium Board shall not assess the Owner or Owners of the Commercial Units for any addition, alteration or enhancement to the Residential Limited Common Elements designated for the exclusive use of Residential Units.

(D) If Sponsor or its designees or any subsequent Owner of the Commercial Units (or the Owners of Units resulting from the subdivision thereof) exercises the right to alter or improve any Limited Common Element appurtenant to the Commercial Units, in accordance with the By-Laws, the cost and expense thereof shall be borne by Sponsor or its designee or any subsequent Owner of the Commercial Units.

Each Unit Owner shall grant a right of access to his Unit to the Condominium Board, the Managing Agent and/or any other person authorized by the Condominium Board, for the purpose of making inspections to determine if there exist conditions threatening another Unit or a Common Elements, or violations of the By-Laws or Rules and Regulations of the Condominium or any State or Municipal ordinances, or for the purpose of correcting any conditions originating in the Unit and threatening another Unit or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in his Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another Unit, provided that requests for such entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner, and further provided that such right shall be exercised in such manner as will not unreasonably interfere with the normal use of the Units. In case of an emergency where action is immediately necessary for the preservation or safety of the Building or residents or required to avoid the suspension of any necessary service to the

Condominium, such right of entry shall be immediate, whether the Unit Owner is present at the time or not. In exercising any such emergency right of access to or entry to any Unit pursuant to the preceding sentence, the Condominium Board or its Managing Agent shall prior to entry upon such Unit the demised premises, except in case of emergency, make reasonable effort to give Tenant notice thereof.

Additions Alterations and Improvements

All alterations, additions or improvements in or to any Common Elements shall be made either by the Condominium Board or Unit Owner required to maintain such Common Elements and the cost and expense thereof shall be charged either to all Unit Owners as a Common Expense or to all Residential Unit Owners as a Residential Common Expense, or to the Unit Owner responsible therefor, as the case may be. Whenever in the judgment of the Condominium Board the Common Elements shall require additions, alterations or improvements costing in excess of \$250,000.00 in the aggregate in any calendar year, the making of such additions, alterations or improvements shall require approval by a majority of the Unit Owners or Residential Unit Owners, as applicable, present and voting at a meeting at which a quorum is present (including Sponsor as owner of Unsold Units), and if so approved, the Condominium Board shall proceed with such additions, alterations or improvements and shall assess the appropriate Unit Owners for the cost thereof as a common charge. Any additions, alterations or improvements costing in the aggregate \$250,000.00 or less in any calendar year may be made by the Condominium Board without approval of the Unit Owners, and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, for so long as Sponsor or its designee shall own Units representing at least 25% of the Common Interests, but not more than five (5) years from the First Closing, no additions, alterations or improvements shall be made to the Common Elements, regardless of the cost thereof, unless the consent of Sponsor or its designee is first obtained, or such action is required by law.

No Residential Unit Owner shall make any structural addition, alteration or improvement in or to his Unit or any Residential Limited Common Elements appurtenant thereto, without the prior written approval of the Condominium Board. The Condominium Board is required to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within thirty (30) days after receipt of a complete set of documents and information as to the proposed addition, alteration or improvement, and independent architectural review, if necessary, and failure to do so within the stipulated time shall constitute a denial by the Condominium Board to the proposed addition, alteration or improvement. The Unit Owner can make any non-structural alterations or improvements to the Unit he desires without obtaining the consent of the Board of Managers, but with not less than ten (10) days prior written notice to the Condominium Board and compliance with the provisions of described in the following paragraph, so long as the alterations or improvements do not affect the Building or any Common Element, jeopardize the soundness or safety of the Property, reduce the value thereof or impair any easement therein.

No Unit Owner shall make any structural addition, alteration or improvement in or to a Unit or Limited Common Element nor any non-structural addition, alteration or improvement, without first (i) obtaining and maintaining during the course of such work such insurance as the Condominium Board may reasonably prescribe, and (ii) executing and delivering to the Condominium Board an agreement, in form and substance reasonably satisfactory to the Board, setting forth the reasonable terms and conditions under which such alteration, addition or improvement may be made, including, without limitation, the days and hours during which any such work may be done, and (iii) executing and delivering to the Condominium Board an agreement indemnifying and holding harmless the Board, its members and officers, and all Unit Owners from and against any liability, cost or expense arising out of or connected to such work. The Unit Owner shall also bear the cost of any increased taxes or insurance premiums resulting from his alterations, additions or improvements. Unit Owners shall be responsible for paying to the Managing Agent a reasonable fee, as

established by the Condominium Board, for the processing of applications for consent to alterations.

Any application to any department of the City of New York or to any other governmental authority for a permit to make an addition, alteration or improvement to any Unit or Limited Common Element will be executed by the Condominium Board without, however, incurring any liability on the part of the Condominium Board or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. All responsibility with respect to any such addition, alteration or improvement shall remain with the Unit Owner until conveyance of the Unit, at which time such responsibility shall pass to and be assumed by the transferee and the successors and assigns of such transferee.

The provisions of the By-Laws described above shall not apply to Units owned by Sponsor or its designee, including both Residential Units and the Commercial Unit, until such Units shall have been initially sold or conveyed, and any additions, alterations and improvements by Sponsor or its designee shall be governed solely by the applicable provisions of Article 12 of the Declaration. Such provisions shall also not apply to the Commercial Unit Owner (other than the Sponsor) except for that provisions relating described above relating to insurance, indemnification and governmental permits shall apply to a Commercial Unit Owner other than the Sponsor or its designee, and otherwise such additions, alterations and improvements by the Commercial Unit Owner other than the Sponsor or its designee shall be governed solely by the applicable provisions of Article 12 of the Declaration.

Insurance

The Condominium Board shall be required to obtain and maintain to the extent obtainable, the following insurance: (a) fire insurance with extended coverage normal for a condominium of this type, vandalism and mischief endorsements insuring the Building, including each Unit and the equipment installed therein on the date of recordation of the Declaration or installed thereafter by Sponsor, or replacements thereof, partitions, floors, and ceilings within the Units, together with all service and other machinery contained therein (but not including wall, ceiling or floor decorations or coverings or fixtures, appliances, furniture, furnishings or other personal property supplied or installed by Unit Owners or tenants of Unit Owners) covering the interests of the Condominium, the Condominium Board and all Unit Owners and their mortgagees, as their respective interests may appear, in an amount equal to the agreed upon replacement value of the Building or such other amount as shall be adequate to prevent the Condominium from becoming a co-insurer in the event of casualty loss (exclusive of the costs of excavation and foundations) without deduction for depreciation, as determined by the Condominium Board. Each of said policies shall contain a Condominium Property Endorsement and a New York standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject however, to the loss payment provisions in favor of the Condominium Board or the Insurance Trustee, if any, as herein provided; (b) boiler and machinery insurance; (c) a fidelity bond or bonds in sufficient amounts to fully protect the interest of the Condominium, to be carried on each member of the Condominium Board, officers of the Condominium, managing agent, and any other employees who handle or are responsible for funds of the Condominium; (d) Officers and Directors liability insurance covering officers and members of the Condominium Board; (e) comprehensive general liability insurance covering all claims for bodily injury or property damage arising out of an occurrence in the Common Elements and covering cross liability claims of one insured against another (but not covering the liability of a Unit Owner arising from occurrences within his own Unit); (f) workers, compensation insurance; (g) water damage legal liability; (h) rent insurance in an amount equal to the aggregate of the Common Charge payable to the Condominium Board; (i) elevator collision insurance; and (j) such other insurance as the Condominium Board may determine.

The initial projected limits of liability for all such policies and the cost thereof are described in footnote 10 to Schedule B. The cost of all such insurance shall be paid by the Condominium Board and shall be borne by all Unit Owners as part of the Common Charges.

All such policies shall provide that adjustments shall be made by the Condominium Board and that the net proceeds, if \$250,000.00 or less shall be payable to the Condominium Board, and if more than \$250,000.00 shall be payable to the Insurance Trustee, to be applied for the purposes of the repairing, restoring or rebuilding the Building unless otherwise determined by the Unit Owners. The Insurance Trustee shall be a bank or trust company, having an office in the City and State of New York, designated by the Condominium Board in accordance with the By-Laws.

All policies of physical damage insurance shall contain waivers (a) of subrogation, (b) of any defense based on coinsurance, (c) of any reduction of pro-rata liability of the insurer as a result of any insurance carried by Unit Owners, and (d) of invalidity arising from any acts of the insured or any Unit Owners, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of Units. The standard mortgagee loss payable clause shall be attached to all policies. Duplicate originals or certificates of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of Units who have requested same in writing, at least then (10) days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Condominium Board may obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the Building (exclusive of the cost of excavation and foundations) including all of the Units and all of the Common Elements therein, without deduction from depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this Section.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit, and are advised to carry other insurance for their own benefit, provided that all such policies shall contain waivers or subrogation against the Condominium and the Condominium Board and further provide that the liability of the carriers issuing insurance obtained by the Condominium Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Such policies shall be so endorsed as to state that they will in no way conflict with any insurance carried by the Condominium Board. A Unit Owner should consider maintaining, at his own expense: (a) separate insurance on the contents (i.e., furniture and other personal property and belongings) of his Unit, in such amount as will be adequate to insure against loss by reason of fire or other casualty, and (b) liability insurance against claims for personal injury or property damage resulting from occurrences in his Unit or its appurtenant Residential Limited Common Elements.

Repair or Restoration After Fire or Other Casualty

In the event of damage to or destruction of the Building as a result of fire or other casualty, if (a) 75% or more of the Building is destroyed or substantially damaged and 75% or more in Common Interest of the Unit Owners duly and promptly resolve to proceed with repair or restoration, or (b) less than 75% or more of the Building is destroyed or substantially damaged, then in either of such events, the Condominium Board shall arrange for the prompt repair and restoration of the Building (including any damaged Units, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures or other personal property or equipment of the Unit Owners or a tenant of a Unit Owner), and the Condominium Board shall disburse the proceeds of all insurance policies in appropriate progress payments to the contractors engaged in such repairs and restoration. Any cost of such repair and restoration in excess of the net insurance proceeds shall constitute a Common Expense and the Condominium Board shall assess all the Unit Owners for such deficit as part of the Common Charges.

In the event of a repair or restoration pursuant to the foregoing and in the event that the net proceeds of insurance received by or payable to the Condominium Board shall exceed the cost of such repair or restoration, then, at the option of the Condominium Board, the excess of such insurance proceeds shall be paid by the Condominium Board or the Insurance Trustee, as the case may be, either (a) in an amount not to exceed \$100,000.00 to the Condominium Board to be placed in the operating or working capital reserves of the Condominium, and/or (b) to all Unit Owners in proportion to their respective interests in the Common Elements after first paying out of the share due each Unit Owner such amounts as may be required to reduce unpaid liens on any Unit in the order of priority of such liens.

If 75% or more of the Building is destroyed or substantially damaged and 75% or more in Common Interest of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Property will not be repaired and shall be subject to an action for partition at the suit of any Unit Owner or lienor, as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies shall be divided by the Condominium Board or the Insurance Trustee, as the case may be, among all Unit Owners in proportion to their respective Common Interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of priority of such liens.

Whenever in this Section the words "promptly repair" are used it shall mean repairs are to begin not more than sixty (60) days from the date the Condominium Board notifies the Unit Owner or Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated costs of such work, or not more than ninety (90) days from the date the Condominium Board notifies the Unit Owner or Owners that such proceeds of insurance are insufficient to pay said estimated costs of such work or, in the event the proceeds of insurance are insufficient to pay said estimated costs or such work or, in the event the proceeds of insurance are payable to the Condominium Board or the Insurance Trustee, no more than sixty (60) days from the date of receipt by the Condominium Board of proceeds of insurance on account of such damage or destruction, whether or not sufficient to pay the estimated costs of such work. Whenever the word "promptly resolve" are used it shall also mean not more than sixty (60) days from the date the Condominium Board notifies the Unit Owners that it holds proceeds of insurance on account of such damage or destruction and that such proceeds are or are not sufficient to pay the estimated costs of the work (as the case may be).

Restrictions on the Use of Units

As more fully set forth in the Declaration and in the By-Laws, in order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

Each Residential Unit shall be used only as a residence and professional and ancillary business use as permitted by law, and not more than one natural person and his Family Members plus one additional occupant and the dependent children of such additional occupant may reside in a Residential Unit at any one time. A Residential Unit owned or leased by an individual, corporation, partnership, fiduciary, or any other entity may be occupied only by said individual, or by an officer, director, stockholder, or employee of such corporation, or by a partner or employee of such partnership, or by said fiduciary (including a director, officer, stockholder, or employee of a corporate fiduciary and a partner or employee of a partnership fiduciary), or by the beneficiary of said fiduciary, or by a principal or employee of such other entity, respectively, or by Family Members or guests of any of the foregoing, and any other occupancy shall be considered a leasing subject to the requirements of the Declaration. Additionally, in no event shall a portion of the Residential Unit (as opposed to the entire Residential Unit) be sold, conveyed, leased, or subleased, and no transient occupant (other than a permitted guest) may be accommodated therein.

Notwithstanding the foregoing or anything else contained in the Offering Plan, Sponsor or its designees may, without the consent of either the Condominium Board or the Unit Owners, use any one or more Unsold Units as model apartments and offices for selling, renting, management, operation and promotion of the Units owned by Sponsor or its designee or for any lawful purpose.

The Commercial Unit and any Units resulting from the subdivision thereof may be used for retail business, commercial and professional purposes or for any other lawful purpose in the sole discretion of Sponsor or other owner of the Commercial Unit.

No nuisances shall be allowed on the Property nor shall any use or practice be allowed that either is a source of unreasonable annoyance to its residents or interferes with the peaceful possession or proper use of the property by its residents or occupants. No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Unit Owners, or the Condominium Board, whichever shall have the obligation to maintain or repair such portion of the Property.

No portion of a Residential Unit (other than the entire Unit) may be rented, and no transient tenants may be accommodated therein. The Common Elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.

Dogs, cats or other common household pets may be kept in Residential Units, but only with the prior written consent of the Condominium Board, or as to purchasers from Sponsor, with the prior written consent of Sponsor delivered at the time of closing of title, and subject to the rules and regulations adopted by the Condominium Board from time to time, including those pertaining to the size of a pet and the permitted level of noise. In no event will any dog be permitted in any portion of the Common Elements unless carried or on a leash.

Abatement and Enjoinment of Violations by Unit Owners

The violation of any rule or regulation adopted by the Condominium Board, or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Condominium Board the right, in addition to any other rights set forth in these By-Laws (a) upon reasonable notice to the Unit Owner, to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provision hereof (provided, however, that no prior notice shall be required in the event that the Condominium Board shall determine that action is immediately necessary for the preservation or safety of the Property or for the safety of the residents of the Condominium or other persons or required to avoid the suspension of any necessary service to the Condominium); or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Electricity

Electricity is individually metered to each apartment and to the stores in the Commercial Unit and will be billed directly to respective Unit Owner by the utility company. Electricity to the Common Elements is currently provided through one or more Building meters. The Condominium Board shall pay all electricity charges to the Common Elements as a Common Expense, provided that this charge shall be specially allocated and apportioned as provided in the By-Laws to the Residential Unit Owners for electricity provided

to the Residential Common Elements. The Condominium Board shall have the right to change the manner in which electricity is provided to Residential Units, whether through submetering or other manner of measuring electrical consumption within Residential Units, and in the event the Condominium Board may either continue to pay electricity charges, but specially allocate the cost of electricity to Unit Owners based on such method of measuring consumption or require Unit Owners to pay electricity charges to the utility company, in either of which events electricity charges shall no longer be a Common Expense.

Compliance with the Applicable Rent Laws

The Condominium Board shall operate the Property at the same level of services as those supplied on the date of recording the Declaration in accordance with the Applicable Rent Laws, except for those services that are the obligation of Sponsor or its designee to provide to its Residential Units pursuant to the terms of the Declaration or these By-Laws. The Condominium Board shall not impose any charge or fee upon the tenants or occupants of such Units for using the Common Elements or on account of any services provided to such tenants or occupants unless Sponsor or its designee shall be permitted by the Applicable Rent Laws to impose such charge or fee against such tenants or occupants and any such permitted charge or fee shall be increased from time to time only to the extent allowed under the Applicable Rent Laws. Except for those services and obligations to be provided or performed by the Condominium Board as set forth in the Declaration and in these By-Laws, Sponsor or its designee shall provide and perform all other services and obligations required by Law to be furnished to tenants and occupants of the Residential Units owned by Sponsor or its designee (including, without limitation, painting the interior of such Units).

Easements

Each Unit Owner (including Sponsor, as long as Sponsor owns any Unit, and Sponsor's designees) shall have an easement, in common with all the other Unit Owners, for ingress and egress through, and for the reasonable use and enjoyment of, all the Common Elements, except the Residential Common Elements and the Residential Limited Common Elements appurtenant to the other Units, and the Common Elements shall be subject to such easement, for the reasonable purposes for which they are intended but without encroaching upon the rights of other persons to do so. Each Unit Owner whose Unit has one or more of the appurtenant Residential Limited Common Elements shall have an exclusive easement for the use thereof.

The Condominium Board shall have an easement and a right of access to each Unit and to the Common Elements to inspect the same, to remove violations therefrom and to install, operate, maintain, repair, alter, rebuild, restore and replace any of the Common Elements located in, over, under, through, adjacent to, or upon the same, and each Unit and the Common Elements shall be subject to such easement and right of access. The Condominium Board shall have the right to grant such additional electric, gas, steam and other utility easements or relocate any existing utility easements as it shall deem necessary or desirable for the proper operation and maintenance of the Building or any portion thereof; provided that such additional utilities or the relocation of existing utilities will not unreasonably interfere with the permitted uses of the Units.

Sponsor and its designee and the Commercial Unit Owner shall have an easement without being subject to any fee or charge to maintain a sales office and/or model Units, to place signs of such size and content as Sponsor shall determine, in, on about and adjacent to the Building (including on the exterior walls thereof) in connection with the sale or leasing of Units, and or access to Units and Common Elements consistent with the purposes of the Plan, as same may be amended, and Sponsor's rights and obligations thereunder, including, without limitation, the right to develop, reconfigure, renovate, maintain repair, refurbish, offer, sell and lease Units, together with their interest in the Common Elements, and such easement shall continue until such time as all Units have been conveyed to purchasers thereof. In addition, the

Commercial Unit Owner has certain easements described in the "Commercial Unit" section of the Plan.

The easements and rights of access granted in the Declaration shall be exercised in such manner as will not unreasonably interfere with the use of the Units for their permitted purposes. Such entry shall be permitted on not less than one (1) day's notice, except that no such notice shall be required in the event of any repair or replacements immediately necessary for the preservation or safety of the Building, for the safety of the occupants therein, or to avoid the suspension of necessary service of the Building. The user of any easement granted in such sections of the Declaration shall have the responsibility of repairing any damage resulting therefrom. No fee or charge may be imposed by the Condominium Board for any easement granted herein.

REAL ESTATE TAXES

In the event that the Units have not been separately assessed for real estate tax purposes prior to the First Closing, real estate taxes on the Property, until such time as the Units are separately assessed, shall be included as part of the Common Expenses of the Condominium. Accordingly, the Condominium Board will pay all real estate taxes with respect to the Condominium and will allocate the entire cost thereof among all Unit Owners in the proportion of each Unit's Common Interest and the Board will have a lien on each Unit for non-payment thereof, as if such charges were Common Charges. After the Units have been separately assessed: (i) each Unit will be taxed as a separate tax lot for real estate tax purposes and the Unit Owner will not be responsible for the payment, nor will his Unit be subjected to any lien arising from the non-payment, of taxes on other Units, and (ii) Unit Owners will be reimbursed for any overpayment of taxes which they may have made to the Condominium Board or assessed for any underpayment of taxes, as the case may be.

The estimated first year taxes to be incurred by each Unit Owner are set forth in Schedule A. The estimated real estate taxes have been based upon the following 2004/2005, 2005/2006 and 2006/2007 transitional assessed valuations and tax rates for the Building and projected transitional assessed valuation and tax rate for 2007/2008:

	<u>Actual</u> <u>Assessed Valuation</u>	<u>Transitional</u> <u>Assessed Valuation</u>	<u>Tax Rate</u>	<u>Annual Taxes</u>
2004/2005	\$14,085,000	\$13,230,000	12.216%	\$1,616,176.80
2005/2006	\$17,415,000	\$14,409,000	12.396%	\$1,786,139.64
2006/2007	\$15,300,000	\$14,877,000	12.396%	\$1,844,152.92
2007/2008 (projected)	\$16,065,000	\$15,426,000	12.396%	\$1,912,206.96

The 2007/2008 projection is based on a projected 5% increase in the actual assessed valuation for the property for that year, applied to an estimated class 2 tax rate of 12.396%. The estimated taxes for each unit in the Building were then multiplied by each Unit's percentage interest in the Common Elements.

Starting with the tax year for which assessments are fixed after the recording of the Declaration, each Unit will be taxed as a separate tax lot for real estate purposes. A Unit Owner will not be responsible for the payment of real estate taxes assessed against other Units, nor will a Unit be subject to a lien arising out of the non-payment of real estate taxes assessed against other Units.

The full amount of real estate taxes payable by Unit Owners with respect to their Units is deductible for income tax purposes but may vary due to changes in the assessed value, the tax rate or the method of assessing real property.

There can be no assurance that the tax rate will not exceed \$12.396 per \$100 of assessed valuation. Assessed valuations and property tax rates are subject to review and change at any time.

Tax certiorari proceedings are pending for the all years commencing with the 1989/90 fiscal year through the law firm of Marcus & Pollack LLP for whose benefit and at the expense of the owner of the Property for each relevant period. Any refund for the year in which the First Closing occurs, along with the cost of such proceeding (including attorneys' fees) will be apportioned between Sponsor and the Unit Owners as of the closing date. Any refund covering a period prior to the tax year in which a closing occurs and all expenses incurred in connection therewith (including attorneys' fees) shall belong to and be incurred by Sponsor or prior property owner alone.

Section 581 of the Real Property Tax Law provides that the aggregate assessment of all Units in the Condominium may not exceed the assessment which would be made had the property not been divided into condominium units. The estimated real estate taxes for each Unit for the first year of condominium operation assumes that the amount of real estate taxes payable with respect to each Unit will be levied in the proportion that its Common Interest bears to the Common Interest of all Units. There is no assurance that the New York City taxing authority will allocate taxes between Units in proportion to their respective Common Interests. If it does not, owners of Units having the same Common Interest will pay different amounts of real estate taxes.

Sponsor makes no representation and gives no warranty that the assessed valuation of the Property and the real estate tax rates applicable thereto will not increase in future years. The estimates of projected real estate taxes set forth in this Plan have been prepared by or at the request of Sponsor, but are not to be construed as an assurance of the final tax costs; the same merely being estimates based upon information available to Sponsor at this time.

Condominium Board as Agent of Unit Owners with Respect to Real Estate Taxes

Each Unit Owner shall, in the Power of Attorney delivered to the Condominium Board at closing, designate the Condominium Board as his attorney-in-fact, which power shall be deemed coupled with an interest, to act as agent for such Unit Owner in accordance with Section 339-y of the Condominium Act to complain or apply to the board of assessment review of the assessing agency by filing a single complaint on behalf of all such Unit Owners, to commence and prosecute a special proceeding for the review of assessments of real property as an aggrieved person, and to seek administrative and judicial review of assessments. The Condominium Board may retain legal counsel on behalf of all Unit Owners for which it is acting as agent and to charge all such Unit Owners a pro rata share of expenses, disbursements and legal fees for which charges the Condominium Board shall have a lien pursuant to Section 339-z of the Condominium Act. Each Unit Owner shall, at the closing of title to his Unit, execute an instrument substantially in the form included in Part II, authorizing the Condominium Board and Sponsor to act on such Unit Owner's behalf.

INCOME TAX DEDUCTIONS TO UNIT OWNERS AND TAX STATUS OF THE CONDOMINIUM

The following discussion of certain income tax consequences of the ownership of Residential Units was prepared by Sponsor based, in part, upon the income tax opinion of Cutler Minikes & Adelman LLP, a copy of which is set forth in the following section of this Plan.

CUTLER MINIKES & ADELMAN LLP IS COUNSEL TO SPONSOR AND NOT TO THE

RESIDENTIAL UNIT OWNERS. EACH PURCHASER SHOULD CONSULT THEIR OWN TAX COUNSEL AS TO THE TAX CONSEQUENCES OF RESIDENTIAL UNIT OWNERSHIP.

Each Residential Unit Owner will own his Residential Unit, together with its appurtenant Common Interest, in fee simple, and each Residential Unit will be a separate tax lot for purposes of New York City real estate taxes and assessments. Because each Residential Unit Owner will own his Residential Unit in fee simple, the owner may mortgage such Residential Unit and become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness.

Sponsor has been advised by its counsel, Cutler Minikes & Adelman LLP, that each Residential Unit Owner who itemizes deductions will be entitled under present law to deduct for Federal and New York State income tax purposes the real estate taxes assessed against his Unit and paid by him, and the amount paid by the Unit Owner on account of interest on any mortgage indebtedness covering the Unit, if the Unit is his primary or secondary residence. The deductions are subject to certain exceptions and limitations which are more particularly described in the Opinion of Counsel which follows.

With respect to the taxability of the Condominium, Section 528 of the Internal Revenue Code provides that condominiums are taxable in a manner similar to corporations except to the extent that their income is received as membership dues, fees or assessments from the Owners of the Units and provided that substantially all of the expenditures are for management, maintenance and care of the condominium property. Since the Condominium would qualify under said section of the Internal Revenue Code, if it elects to be covered thereby, only income from the sale or lease of Units owned by the Condominium or its designee on behalf of all Unit Owners and income from sources which do not qualify as membership dues, fees or assessments will be subject to tax. If the Condominium is required to pay taxes, the amount thereof will be additional Common Expenses, assessed to all Unit Owners as part of the Common Charges.

Schedule A contains estimates of the amount of real estate taxes that may be assessed against a Unit. A Unit Owner may be entitled to deduct some or all of such taxes actually paid for Federal and New York State income tax purposes under present law. In calculating individual tax deductions, each Purchaser should add, if applicable, the interest portion of his monthly mortgage payment (subject to exceptions and limitations.)

No warranties are made that the Internal Revenue Service, the New York State Department of Taxation and Finance, or the Finance Administration of The City of New York will continue to allow any of the aforementioned deductions or that the tax laws, or the regulations or rulings issued thereunder, or any judicial interpretation thereof upon which Cutler Minikes & Adelman LLP has based its income tax opinion will not change. In no event will Sponsor, Cutler Minikes & Adelman LLP, the Selling Agent, the Managing Agent, or any other person connected with this offering be liable if it is held that the Residential Unit Owners, or any of them, are not entitled to such income tax deductions by reason of changes in fact, statutory or decisional law or amendment to any law which could not be foreseen or expected to be foreseen. In addition, none of the aforesaid make any warranties with respect to the tax consequences of this Plan or the tax consequences of ownership of any Residential Units offered under the Plan, and no one has been authorized to make such warranties. The opinion of Cutler Minikes & Adelman LLP is limited to the state of the law on the date this Plan was filed with the Department of Law.

CUTLER MINIKES & ADELMAN LLP HAS EXPRESSED NO OPINION WITH RESPECT TO THE INCOME TAX CONSEQUENCES OF OWNING THE COMMERCIAL UNIT OR ANY UNITS RESULTING FROM THE SUBDIVISION THEREOF.

CUTLER MINIKES & ADELMAN LLP

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TAX OPINION OF SPONSOR'S COUNSEL

August 17, 2006

81st And 3rd Owner LLC
1438 Third Avenue
New York, NY 10028

Re: Condominium Offering Plan for
The 1438 Third Avenue Condominium ("Condominium")

To Whom It May Concern:

You have requested our opinion concerning (i) the deductibility, for Federal, New York State and New York City income tax purposes, of mortgage interest and real estate taxes paid by individual residents of New York who purchase Residential Units ("Residential Units") pursuant to the above-referenced Offering Plan (the "Plan"), and (ii) the income tax treatment to the Board of Managers of the Condominium (the "Condominium Board") of the assessments payable by Residential Unit owners to meet common expenses of the Condominium ("Common Charges").

In connection with rendering this opinion, we have reviewed the Plan (including the exhibits thereto), relevant sections of the Internal Revenue Code of 1986, as amended (the "Code"), the New York State Tax Law, the New York City Administrative Code, the Regulations promulgated thereunder and such other material as we deemed relevant. The opinions expressed herein are based upon the assumptions that (1) the Plan becomes effective and is consummated in accordance with its terms (2) condominium ownership of Residential Units located in the premises known as [Address] Street is established under applicable law and (3) the legal consequences of the Plan are as described therein. Except where otherwise indicated, the terms used in this opinion have the same meaning as in the Plan.

The Plan provides for the establishment of condominium ownership of the land and building, and appurtenances thereto, comprising [Address] Street Condominium, situated at [Address] Street, New York, NY. The Condominium will be comprised of Residential Units, Storage Units, Commercial Units, and Common Elements. This opinion addresses certain of the Federal, New York State and New York City income tax consequences that would result from the ownership of a Residential Unit by an individual resident of New York for use as his or her own primary or secondary residence. It does not address, among other matters, the tax consequences of ownership of Storage Units or Commercial Units by any person or entity, and does not address the tax consequences of the ownership of Residential Units by corporations, other entities or foreign persons.

Deductibility of Mortgage Interest and Real Estate Taxes

CUTLER MINIKES & ADELMAN LLP
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Each Residential Unit Owner will own his or her Residential Unit and an undivided interest in the Common Elements in fee simple and, under New York State Law, each Residential Unit (including its undivided interest in the Common Elements) will be taxed as a separate parcel for real estate tax purposes. Each Residential Unit Owner may mortgage his or her Residential Unit and become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness, and will be liable to the local tax authority for the tax assessment with respect to his or her interest in the Residential Unit. Under these circumstances, the Internal Revenue Service has ruled that the owner of a residential condominium Unit who itemizes deductions in filing his or her Federal income tax returns may deduct interest paid on his or her mortgage indebtedness and the real estate taxes assessed and paid on his or her interest in the property. Rev. Rul. 64-31, 1964-1 (Part I) C.B. 300.

Based on the foregoing, and subject to the limitations expressed herein, it is our opinion that each individual Residential Unit Owner who itemizes deductions will be entitled under current law to deduct from his or her gross income, for Federal, New York State and New York City income tax purposes, real estate taxes assessed against his or her Residential Unit and paid to the local authority, subject to an overall limitation on itemized deductions as set forth in Section 68 of the Code and applicable New York State and New York City limitations. However, no deduction for real estate taxes is permitted for purposes of the Federal alternative minimum tax. Residential Unit Owners should consult their tax advisers regarding the applicability of the overall limitation on itemized deductions to the deductibility of real estate taxes, and the effect of the alternative minimum tax.

A taxpayer generally is entitled to a deduction for Federal income tax purposes for interest paid during the taxable year on "acquisition indebtedness" or "home equity indebtedness" with respect to a "qualified residence" of the taxpayer. A "qualified residence" means the principal residence of the taxpayer and one other residence of the taxpayer selected by the taxpayer for the taxable year. "Acquisition indebtedness" means any indebtedness which is secured by any qualified residence of the taxpayer and which is incurred in acquiring, constructing or substantially improving the qualified residence (or which constitutes a refinancing thereof, to the extent that such indebtedness does not exceed the amount of the refinanced debt). The aggregate amount treated as acquisition indebtedness for any period cannot exceed \$1,000,000 (\$500,000 in the case of a married individual filing a separate return). "Home equity indebtedness" means any indebtedness (other than acquisition indebtedness) secured by a qualified residence, up to the excess of the fair market value of such qualified residence over the amount of acquisition indebtedness with respect to such residence. The aggregate amount treated as home equity indebtedness for any period cannot exceed \$100,000 (\$50,000 in the case of a married individual filing a separate return). Accordingly, an owner of a Residential Unit who itemizes deductions and who uses such Residential Unit as a qualified residence will be entitled, under current law, to deduct from his or her gross income, subject to an overall limitation on itemized deductions as set forth in Section 68 of the Code, for Federal income tax purposes, interest paid by him or her on (i) acquisition indebtedness incurred with respect to such Residential Unit to the extent that such indebtedness, when added to the amount of acquisition indebtedness incurred with respect to a second qualified residence (if any), does not exceed \$1,000,000 (\$500,000 in the case of a married individual filing a separate return) and (ii) home equity indebtedness with respect to such Residential Unit to the extent that such indebtedness, when added to the amount of home equity indebtedness incurred with respect to a second qualified residence (if any), does not exceed \$100,000 (\$50,000 in the case of a married individual filing a

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separate return). Since the rules and limitations regarding the deductibility of home mortgage interest are complex, purchasers are urged to consult their tax advisers regarding the application of such rules to them, as well as regarding the deductibility of interest with respect to their Residential Units for alternative minimum tax purposes (which at present is subject to rules different from those described above for regular tax purposes). In addition, owners of Residential Units should consult their tax advisers regarding potential limitations on the deductibility of points and prepaid interest, if any, on their mortgage loans and on the overall limitation on the allowance of itemized deductions.

Each owner of a Residential Unit who uses such Residential Unit as a residence will generally be entitled to the same deduction for interest and real estate taxes paid or accrued with respect to such Residential Unit for New York State and New York City income tax purposes as is allowed for Federal (regular) income tax purposes. However, although the overall limitation set forth in Section 68 of the Code does not apply, under New York State and New York City income tax law, itemized deductions, such as interest and real estate tax deductions, are subject to reduction by as much as 50% in the case of individuals having income exceeding certain prescribed levels. Furthermore, purchasers should consult their tax advisers to determine the application, if any, of the New York State and New York City minimum tax to the deduction for interest and real estate taxes with respect to their Residential Units.

Common Charges

Under the Plan, the Condominium Board will, from time to time, assess Common Charges against the Residential Unit Owners generally in proportion to their respective percentage interests in the Common Elements in order to pay the costs and expenses of operating, repairing, and maintaining the Common Elements. In certain circumstances, a condominium management association may elect to be treated as a "homeowners association" within the meaning Code section 528 and, therefore, could elect to be exempt from Federal income tax on its exempt function income. In order for a condominium management association to qualify to make such election, section 528, a condominium management association must meet six conditions: (i) the association must be organized and operated to provide for the acquisition, construction, management, maintenance and care of association' property; (ii) 60% or more of the Association's gross income for the taxable year must consist of solely of amounts received as membership dues, fees or assessments from owners of residential units; (iii) 90% of the association's expenditures for the taxable year must be expenditures for the acquisition, construction, management, maintenance and care of the association's property; (iv) no part of the net earnings of the association may inure to the benefit of private individuals, other than by acquiring, constructing or providing management, maintenance and care of the association's property and other than by a rebate of excess maintenance dues, fees or assessments; (v) the association must qualify as a "condominium management association," which is an organization meeting the requirements of condition (i) above with respect to a condominium project substantially all of the units of which are used by individuals for residents; and (vi) the association must properly elect to have Code Section 528 apply. Treasury Regulations promulgated under section 528 provide that "substantially all" of the condominium units will be considered as used by individuals for residences if 85% or more of the total square footage of all the units within the project is used by individuals for residential purposes. Auxiliary purposes such as laundry, storage and areas used by maintenance personnel are considered residential. You have advised us that more than 85% of the square footage of the Units of the Condominium are expected to be used as residences. Our review of the other documents and instruments relating to the Condominium

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Board indicates that the Condominium Board meets all of the other organizational tests for Code Section 528 treatment. Accordingly, the Condominium Board initially will be eligible for the benefits of Code Section 528. If the Condominium Board elects to be taxed under Code Section 528, it will be exempt from Federal income tax on all amounts that it receives that qualify as "exempt function income." This consists of amounts received as membership dues, fees or assessments from owners of residential units. However, the Condominium Board will be subject to tax on income that is not exempt function income to the extent such income exceeds expenses properly allocable to such income. Continually meeting the qualification for Code Section 528 will require careful periodic planning and monitoring.

Absent the application of section 528, or if the Condominium Board does not make the necessary election, the present state of the law is uncertain as to the proper reporting and tax treatment of the income of the Condominium Board derived from Unit Owners ("membership income") and others ("nonmembership income") in excess of appropriate deductions and credits. It is possible that the Condominium Board could be viewed as an agent or conduit for Unit Owners, in which case each Unit Owner would be required to report his or her proportionate share of nonmembership and possibly membership income (and the deductions attributable thereto) directly on his or her own tax return. Alternatively, the Internal Revenue Service may take the position that the Condominium Board should be treated as a separate entity. In that case, it is unclear whether the Condominium Board would be taxable as a corporation or treated as a partnership. If the Condominium Board is taxable as a corporation, it would be considered a separate taxpayer with respect to income and deductions and return filing requirements and would be subject to Federal corporate income tax, the New York State Corporation Franchise Tax and the New York City General Corporation Tax. If the Condominium Board is treated as a partnership, the Unit Owners (but not the Condominium Board) would be subject to Federal and New York State income tax on the taxable income of the Condominium Board. In addition, in that instance the Condominium Board may be subject to the New York City Unincorporated Business Tax. In determining the taxable income of the Condominium Board, the Condominium Board's deductions attributable to furnishing services to Unit Owners may be limited to its membership income. Certain amounts expended for the benefit of Residential Unit Owners, and possibly rebates, if any, to Residential Unit Owners of excess membership dues, fees or assessments, may be treated as distributions to them.

The qualification of an organization under Code Section 528 is determined annually at the close of each taxable year, and it is possible that if the Condominium Board does not qualify in one year, it may nevertheless qualify in one or more future years.

We express no opinion concerning (a) any Federal, New York State or New York City tax consequences not explicitly discussed in this opinion, (b) any other aspects of the Plan other than those consequences and aspects explicitly discussed in this opinion, or (c) the tax status and tax consequences of the Plan under the laws of any other state, local or foreign jurisdiction. Except as explicitly provided, this opinion does not address (i) tax consequences which may result with respect to any Residential Units held in connection with a trade or business, or any Residential Units held for purposes of investment or for the production of income, (ii) tax consequences which may result to a foreign Residential Unit Owner by reason of his or her foreign status or (iii) tax consequences which may result from the purchase of a Storage Unit or a Commercial Unit. This opinion also does not discuss the tax consequences which may arise if Units or Common Elements are acquired and/or leased by the Board or the issue of whether a Residential Unit Owner

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may be deemed to be a resident of the United States, New York State, or New York City as a result of the ownership of a Residential Unit and the attendant income, estate or other tax consequences. We advise, therefore, that each person contemplating the purchase of a Residential Unit consult his or her own tax adviser concerning all such tax matters, as well as with respect to the matters discussed in this opinion.

It should be noted that this opinion is based solely on the facts and documents referred to above and is not binding on the Internal Revenue Service, the New York State Department of Taxation and Finance, or the New York City Department of Finance. Moreover, the Federal, New York State and New York City tax laws and regulations and the rulings and decisions thereunder may change and thereby affect the opinions stated above in whole or in part. We undertake no obligation to update, modify or supplement this opinion in the event of any such change in applicable law, although we have advised Sponsor that it is obligated to do so.

This Opinion is not a guarantee; it is based on existing rules of law applied to the facts and documents referred to above. No assurances can be given that the tax laws upon which we base this opinion will not change. In no event will Cutler Minikes & Adelman LLP, Sponsor, we, the Condominium Board, the Selling Agent, the Managing Agent or any other person be liable if there are changes in the facts on which we relied in issuing this opinion or if there are changes in the applicable statutes, regulations, rulings or decisions on which we relied which cause the Residential Unit Owners not to be entitled to the income tax deductions described above or which affect the tax treatment of the Condominium Board as described herein.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

We hereby authorize the use of this opinion, or a reproduction thereof, in the Plan and references to our name in the Plan.

Very truly yours,

/s/ Cutler Minikes & Adelman LLP

Cutler Minikes & Adelman LLP

FINANCING FOR QUALIFIED PURCHASERS

Commercial and savings banks, as well as some savings and loan associations, may make loans to help Tenant-Offerees and other Purchasers to finance the purchase of a Unit.

Each institution has its own lending policies and credit requirements. Credit standards, the availability of funds and the loan-to-value ratio vary from institution to institution, and from time to time at any one institution. No representation or warranty is made that institutional financing will be available to anyone who agrees to purchase a Unit under the Plan or as to the terms and conditions upon which it might be available.

Persons who may be interested in availing themselves of financing arrangements for the purchase of Units should communicate directly with the lenders of their preference. If a Purchaser desires, he may partially finance the purchase of a Unit by obtaining a mortgage loan but the purchase is not contingent on the Purchaser obtaining a mortgage loan. No unit will be subject to the lien of a mortgage on any other Unit.

CAPITAL RESERVE FUND AND WORKING CAPITAL FUND

Capital Reserve Fund

Within thirty (30) days after the First Closing, Sponsor will establish and transfer to the Condominium Board a reserve fund to be used exclusively for making capital repairs, replacements and improvements necessary for the health and safety of the residents of the Building which shall not be subject to reduction for closing apportionments. Such funds shall be in an amount equal to either (i) three (3%) percent of the total price (the sum of the cost of all units offered at the last price offered to tenants in occupancy prior to the effective date of this Plan) or (ii) (a) three (3%) percent of the actual sales price of all Units sold at the time this Plan is declared effective, but not less than one (1%) percent of the total price, plus (b) supplemental contributions at the rate of three (3%) percent of the actual sales price of Units sold to bona fide purchasers after the effective date and within five (5) years after the First Closing, provided, however, that if the total contributions made to the fund within five (5) years and thirty (30) days after the First Closing are less than three (3%) percent of the total price, Sponsor will pay the deficiency. Supplemental contributions shall be paid within thirty (30) days of each sale.

Notwithstanding the foregoing, Sponsor is entitled to a credit against the mandatory initial contribution to the fund equal to the lesser of the actual cost of the following capital replacements begun after this Plan was submitted for filing to the Department of Law and before this Plan is declared effective or one (1%) percent of the total price offered to tenants in occupancy prior to the Plan being declared effective. At the current time, the capital replacements and costs thereof which Sponsor intends to commence after the Plan is submitted for filing, but before the Plan is declared effective, and as to which Sponsor intends to take a credit against the mandatory initial contribution to the fund, consist of the following:

Windows	\$ 48,898.00
Roofs and Terraces	355,000.00
Security	50,000.00
HVAC	338,000.00
Electrical	100,000.00
Elevators	<u>340,000.00</u>
TOTAL	<u>\$ 1,231,898.00</u>

At the current time, the Sponsor does not project incurring costs for any capital replacements the costs thereof which Sponsor intends to commence after the Plan is submitted for filing, but before the Plan is declared effective, but as to which Sponsor does not intend to take a credit against the mandatory initial contribution to the fund. The Sponsor nevertheless reserves the right to amend the Plan with respect to any such work, and as described in the "Rights of Existing Tenants" section of the Plan, Sponsor has reserved the right to obtain rent increases as a result of capital improvements made by the Sponsor as permitted by law. Sponsor also reserves the right to modify the allocation of work as to which it may take a credit against the mandatory initial contribution to the fund, and as to which it may obtain rent increases. If any such work described above as to which Sponsor is not obtaining a credit against the mandatory initial contribution to the fund is performed and is qualified for rent increases under the rent laws, the monthly rent increase to a typical apartment would be calculated at the cost of such work divided by 84 months divided by the 147 apartments in the building.

The foregoing commitment of Sponsor is being made pursuant to Title YYYY of Chapter fifty-one of the Administrative Code of the City of New York, (the "Code").

Section YYYY 51-5.0 of the Code requires Sponsor, not later than the 30th day following the acceptance of this Plan for filing and until the First Closing, to post and maintain in a prominent place, accessible to all tenants in the building, a listing of all violations of record against the building as determined by the Department of Buildings and the Department of Housing Preservation and Development. All newly issued violations must be posted within 48 hours after their issuance and maintained as described above. This section permits Sponsor to satisfy its requirements by designating an agent on the premises with whom such listing shall be made available for inspection by the tenants.

Title YYYY also provides for civil and criminal penalties for its violation and further provides that any waiver of its provisions is void as against public policy.

No representation is made with respect to the adequacy of this fund to meet the cost of capital repairs, replacements or improvements, if any, which may be required as a result of conditions described in the section of the Plan entitled "Description of Property and Building Condition" in Part II of the Plan. Additional sums required to finance capital expenditures such as renewal or replacement of building components or systems or to remedy major building defects may be raised by the Condominium Board by (a) including a reserve fund contribution in each annual budget to build a fund (b) making a special assessment against all Unit Owners or (c) borrowing increased funds.

Working Capital Fund

Concurrently with the First Closing, Sponsor will contribute a sum equal to two (2) months Common Charges (the "Working Capital Fund") to the Condominium Board for its working capital. The Working Capital Fund will be increased or decreased (as the case may be), depending upon whether the closing adjustments referred to below result in a net credit in favor of the Condominium or Sponsor, respectively.

AT THE CLOSING OF TITLE TO EACH UNIT, THE PURCHASER OF THE UNIT WILL BE REQUIRED TO REIMBURSE SPONSOR FOR THE SUM CONTRIBUTED BY SPONSOR TO THE WORKING CAPITAL FUND WITH RESPECT TO THE UNIT BEING PURCHASED.

The Working Capital Fund may be held or used for working capital, to make repairs and/or for such other appropriate purposes permitted under the Declaration and the By-Laws as determined by the Condominium Board in its sole discretion.

No representation is made that the Working Capital Fund will be, or is intended to be, adequate to cover expenses for the first or any subsequent year of condominium operation, including, without limitation, the cost of any necessary repairs or replacements. If additional funds are required over and above the Working Capital Fund, it may be necessary to increase the Common Charges.

THE PROPERTY IS OFFERED IN ITS CURRENT CONDITION AS SET FORTH IN THIS PLAN, WITHOUT ANY OBLIGATION ON THE PART OF SPONSOR OR THE SELLING AGENT TO MAKE ANY REPAIRS OR IMPROVEMENTS EXCEPT AS SET FORTH IN THE PLAN. NEITHER THE DEPARTMENT OF LAW NOR ANY OTHER GOVERNMENTAL AGENCY HAS PASSED UPON THE ADEQUACY OF THE WORKING CAPITAL FUND OR UPON THE PHYSICAL CONDITION OF THE BUILDING.

So long as Sponsor controls the Condominium Board, the Working Capital Fund shall not be used to reduce projected Common Charges.

Closing Adjustments

Immediately prior to the First Closing, Sponsor shall apportion the following items with the Condominium Board as of the day immediately preceding such closing:

- (a) Rents for common elements, if any, as and when collected;
- (b) employees' wages, vacation and severance pay, pension and welfare benefits and all other payments or obligations relative to the employees of the Building;
- (c) fees for assignable permits and licenses, if any;
- (d) cost of fuel;
- (e) charges for electricity and gas for the Common Elements;
- (f) payments under service and maintenance contracts and concession agreements;
- (g) water charges and sewer rents on the basis of the fiscal or calendar year for which assessed (unless separately assessed to individual Units);
- (h) cost of supplies on hand at Sponsor's cost; and
- (i) premiums for transferable insurance policies.

If the result of the closing adjustments is a net credit in favor of the Condominium, the amount of Sponsor's contribution to the Working Capital Fund will be increased by the amount of such net credit. If, however, the result of the closing adjustments is a net credit in favor of Sponsor, the amount of Sponsor's contribution to the Working Capital Fund will be decreased by the amount of such net credit. If such net credit would reduce the Working Capital Fund below \$10,000.00, Sponsor's contribution to the Working Capital Fund will be reduced to \$10,000.00, and the amount of any uncredited closing adjustments will be paid to Sponsor by the Condominium Board, without interest, in twelve equal consecutive monthly installments pursuant to the terms of twelve negotiable serial promissory notes to be executed by the Condominium Board at the First Closing. The first of these serial promissory notes will mature one month after the date upon which the First Closing takes place, and the balance will mature successively monthly

thereafter. Each serial promissory note will contain a provision allowing Sponsor to accelerate the note's maturity date in the event of a default under any other serial promissory note. The Condominium Board will be entitled to prepay each serial promissory note in full only, at any time and without penalty.

MANAGEMENT AGREEMENT, CONTRACTS AND LEASE

Management Agreement

At or prior to the First Closing, the Condominium Board will enter into a written management agreement with Douglas Elliman Property Management (the "Managing Agent"), having an office at 675 Third Avenue, New York, NY 10017, for an initial term of three (3) years. The agreement, by its terms, is cancellable by the Condominium for cause upon the giving of thirty (30) days prior written notice to the Managing Agent. The Managing Agent may cancel the agreement at any time, upon the giving of thirty (30) days prior written notice, if the Condominium shall fail or refuse to comply with or abide by any rule, order, determination, ordinance or law of any federal, state or municipal authority. The Managing Agent may also terminate the agreement for any reason whatsoever at any time, upon the giving of thirty (30) days prior written notice.

The Managing Agent will receive a stated annual fee of \$60,000.00 for the first year, payable in equal monthly installments, with increases of 4% in each of the second and third years. The Managing Agent will also be entitled to additional fees for certain special services performed by it. All such fees will be paid by the Condominium Board and will be charged to all Unit Owners as a Common Expense.

All Residential Units occupied by non-purchasing tenants will be managed by the same managing agent who manages all other Units in the Condominium, and the owner of Residential Units occupied by non-purchasing tenants shall be deemed to have irrevocably appointed the Managing Agent (or the Board of Managers if no managing agent is employed by the Condominium) to provide to non-purchasing tenants all services and facilities required by law. The Managing Agent will provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The management agreement to be executed by the Condominium Board will provide that the fee payable thereunder for each Unit for management costs in respect of such Units, including but not limited to collection of rent and payment of Common Charges, shall be equal to one (1%) of the annual management fee payable by the Condominium to the Managing Agent, and therefore, initially at the rate of \$600.00 per apartment per year. This fee is payable by the unit owner of the unit occupied by a non-purchasing tenants, but the Sponsor and holders of unsold units designated by the Sponsor are exempt from this fee, and the service shall be provided by the Condominium's managing agent without additional fee. This fee includes the cost of providing all such management services and facilities. The Condominium Board will provide all services required by law to the non-purchasing tenant on behalf of the owner of Unsold Units. Sponsor or its designee shall not be required to use the Condominium Board or the Managing Agent of the Condominium as its agent to deal with its tenants, including as to billing and collection of rents, granting or renewing of leases or to perform any services other than services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws, and neither the Condominium Board nor the Managing Agent of the Condominium shall have any power to bind or create any obligations for Sponsor or its designee except as expressly set forth herein. Any services provided to such tenant over and above what a Unit Owner is entitled to receive from the Condominium Board and approved by the owner of the Unsold Unit, which approval shall not be unreasonably withheld, will be billed by the Managing Agent at the actual cost of providing such services to the owner of the Unsold Unit, but as to Sponsor or its designee, the Condominium shall be obligated to provide, and to cause the Managing Agent of the Condominium to provide, to Sponsor and its designees all

such services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws without fee or charge of any kind except for such cost of providing such services actually incurred and paid to third parties, and not to the Condominium or the Managing Agent.

So long as there are any Unsold Units which are occupied by non-purchasing tenants (as defined by the General Business Law) every subsequent management agreement must contain a similar provision. If the Condominium Board elects not to employ a managing agent, a similar separate charge may be made by the Condominium Board for managing Units occupied by non-purchasing tenants. Sponsor will guarantee the obligation of the Managing Agent to provide all such services and facilities unless a majority of the Condominium Board is composed of persons other than Sponsor or individuals designated by Sponsor.

The duties and services to be rendered by the Managing Agent include, among others:

- (a) billing and collecting Common Charges;
- (b) causing the Common Elements to be maintained, repaired and altered in the manner deemed advisable by the Condominium Board, except that the approval of the Condominium Board is necessary for any expenditure of over \$1,500.00 for any one item of ordinary repairs or alterations (other than emergency repairs);
- (c) contracting for necessary services for the Common Elements (such as utility, exterminator, elevator and fuel oil services), but no contract shall be for a term longer than two (2) years or shall require annual payments in excess of \$1,500.00 unless authorized by the Condominium Board;
- (d) purchasing all supplies necessary properly to maintain and operate the Common Elements;
- (e) checking all bills received in connection with the operation of the Common Elements and causing all such bills and other expenses to be paid;
- (f) supervising, hiring and discharging employees;
- (g) rendering monthly statements of receipts and disbursements to the Condominium Board;
- (h) maintaining payroll records and filing withholding tax statements for employees;
- (i) maintaining accurate sets of books for the Condominium (other than books of account to be maintained by the Condominium's accountants) and orderly files of rent records, insurance policies, leases, receipted bills, and the like;
- (j) preparing and submitting to the Condominium Board, on an annual basis, operating budgets setting forth the anticipated income and expenses for the ensuing year; and
- (k) sending notices, preparing agendas and attending meetings of the Condominium Board and Unit Owners.

All disbursements incurred by the Managing Agent in performance of its duties will be reimbursed by the Condominium Board and charged to the Unit Owners as a Common Expense. In addition, the Condominium Board will indemnify the Managing Agent against any claims or liabilities in connection with acts properly performed by it pursuant to the instructions of the Condominium Board or for personal injury

or property damage not resulting from the Managing Agent's gross negligence or willful failure to comply with its obligations under the management agreement.

The Managing Agent's contract is not assignable without the consent of the Condominium Board.

Other Agreements

Upon commencement of condominium operation, the Property will be subject to the then existing agreements affecting the Building staff and maintenance, service and concession agreements (see footnotes to Schedule B for details of the agreements in effect or proposed at the date of presentation of the Plan).

Sponsor has reserved the right, prior to the First Closing, to modify, renew or replace the existing agreements or to enter into new agreements that will be binding on the Condominium Board provided Sponsor may not enter into any binding service, maintenance or concession agreement for longer than five (5) years, unless same contains a provision permitting the Condominium Board to cancel the agreement from and after the second anniversary of the First Closing, upon giving not less than ninety days prior written notice.

IDENTITY OF PARTIES

Sponsor

Sponsor is 81st And 3rd Owner LLC, a Delaware limited liability company with an office at 61 Broadway, Suite 1407, New York, NY 10006. The Secretary of State of New York has been designated to receive service of process for the Sponsor. Sponsor is wholly owned and managed by 81st and 3rd Investors LLC, a Delaware limited liability company (Investors LLC). Investors LLC is owned by BSD Third LLC, a New York limited liability company ("Sponsor Member") and 81st and 3rd Associates LLC, a Delaware limited liability company ("LB Member"), which are the managing members of Investors LLC. Raymond Chalmé is the sole member and manager of the Sponsor Member. Investors LLC, the Sponsor Member and Mr. Chalmé have the same address as Sponsor. The LB Member has an office at c/o Lehman Brothers, 399 Park Avenue, New York, New York 10022.

Each of the entities referred to in the preceding paragraph was formed on or about the time that the Sponsor acquired title to the Property and in connection with that acquisition, and such entities have no business or interests other than their respective interests in the Property. Accordingly, the background and experience of Sponsor, Investors LLC and Sponsor Member is the experience of Raymond Chalmé, the principal of the Sponsor Member.

Pursuant to the Limited Liability Company Operating Agreement between the Sponsor Member and the LB Member, the parties have approved a business plan calling for the condominium conversion of the property and the Sponsor Member, as the "Regular Managing Member", has the authorization and direction to carry out that business plan and to conduct the day-to-day operations of the Sponsor and to make and implement decisions on behalf of the Sponsor with respect to the day-to-day operations of the Sponsor. Accordingly, the sole principals of the Sponsor (that is, the sole officers, members or managers of Sponsor who are actively involved in the planning or consummation of the offering) are the Sponsor Member and Mr. Chalmé. Mr. Chalmé has been involved in the ownership and management of real estate for approximately thirteen (13) years.

Mr. Chalmé has never been convicted of a felony nor are there any injunctions, judgments and/or

convictions material to the Plan, or otherwise against him. Mr. Chalmé has not taken part in public offerings of cooperative interests in realty, including condominiums, in or from New York, which were initially offered during the preceding five years, other than as a principal in connection with the condominium offering for a property at 184 Thompson Street, New York, NY.

The Selling Agent

Douglas Elliman, LLC, 575 Madison Avenue, 4th Floor, New York, NY 10022 will serve as the Selling Agent. The Selling Agent also prepared the Letter of Compliance with Real Property Law §339i. The Selling Agent has never been convicted of a felony nor are there any injunctions, judgments and/or convictions material to the Plan, or otherwise against the Selling Agent.

The Managing Agent

Residential Management Group, LLC d/b/a Douglas Elliman Property Management, 675 Third Avenue, New York, NY 10017 currently is and will continue to be the Managing Agent of the Property after the conversion. The Managing Agent also prepared the certifications of the adequacy of the Budget and the Common Charges payable by the Commercial Unit Owner. The Managing Agent has over fifteen (15) years of real estate management experience managing both residential and commercial properties. The following is a list of the buildings they are presently managing in the New York metropolitan area: Petersfield Condominium, 115 Fourth Avenue, Worldwide Plaza, 350 West 50th Street, Beekman Regent, 351 East 51st Street, Grand Beekman Condominium, 400 East 51st Street, The Royal Condominium, 188 East 64th Street and Astor Terrace Condominium, 245 East 93rd Street. The Managing Agent has never been convicted of a felony nor are there any injunctions, judgments and/or convictions material to the Plan, or otherwise against the Managing Agent.

Attorneys for Sponsor

Cutler Minikes & Adelman LLP, 708 Third Avenue, 17th Floor, New York, NY 10017 represents Sponsor in connection with the preparation and consummation of this Offering Plan. The principal attorney who is responsible for this matter is Richard B. Adelman, Esq. The interests of Sponsor and the Condominium Board are not identical and they may, at time, conflict. In view of the foregoing, and because of the conflicting and diverse interests of the Condominium Board and Sponsor, it is recommended that each Purchaser consult with his own attorney, prior to executing a Purchase Agreement.

Wachtel & Masyr, LLP shall represent Sponsor in connection with the preparation of Purchase Agreements and closings of Units and shall act as Escrow Agent.

Architects/Engineers

Architects CMA Design Studio, P.C., 148 West 24th Street, 3rd Floor, New York, NY 10001, Ambient Group, Inc., 59 West 39th Street, New York, NY 10018, and Avcon Design Group, 545 8th Avenue, New York, NY 10018, have examined the physical condition of the premises and have rendered their individual reports thereof which are set forth in Part II of the Plan. Architects CMA Design Studio, P.C. have prepared the Condominium Floor Plans; Alfredo G. Carballedo, R.A., the President of CMA Design Studio, P.C., has been a registered architect in the State of New York for 20 years.

The architects/engineers have no financial interests in the Property.

Neither Sponsor nor its principals has any ownership interest in the Selling Agent, the Managing

Agent, its architects or engineers or any other person or firm who will provide services to the Condominium subsequent to the commencement of condominium operation.

SPONSOR'S PROFIT

Sponsor acquired the property by deed dated September 7, 2005 made by Columbia 1438 Third, LLC.

The exact profit to be realized by Sponsor upon the sale of the Units cannot now be determined and may increase or decrease depending upon such variable factors as future market conditions, losses which may be sustained by reason of Sponsor's responsibility assumed or incurred under this Plan, changes in prices as set forth under the caption "CHANGES IN PRICES AND UNITS", and the length of time required to sell all of the Units offered under this Plan.

In connection with the foregoing, the following is a calculation of the estimated profit of Sponsor, assuming that all Units are sold at the prices to tenants in occupancy set forth in Schedule A during the exclusive periods described in this Plan.

Cash amount of offering assuming 100% sell out to Tenant-Offerees	\$ 123,269,425
<u>Costs and Expenses</u>	
Debt Service	\$ 7,111,748
Capital Reserve Fund	3,698,083
Working Capital Fund	149,194
Sponsor's purchase price of property (unamortized) including acquisition costs	79,558,459
Approximate cost of capital expenditures undertaken or to be undertaken by Sponsor (and not to be reimbursed from Capital Reserve Fund)	8,944,000
Estimated costs incurred in connection with the conversion for such items as sales commissions, attorney's fees, engineer's fees, printing, advertising, government filing fees, and miscellaneous disbursements	<u>6,154,780</u>
Total Anticipated Costs	\$ 105,616,264
Estimated Profit	<u>\$ 17,653,161</u>

REPORTS TO UNIT OWNERS

Each Unit Owner will be entitled to receive, annually, from the Condominium Board copies of the following:

(a) A financial statement of the Condominium prepared by a certified public accountant within four (4) months of the end of each fiscal year of the Condominium. Such statement shall be certified while Sponsor is in control of the Condominium Board.

(b) Prior notice of each annual meeting of Unit Owners.

(c) A copy of the proposed annual budget of the Condominium ten (10) days prior to the date set for implementation of the budget by the Condominium Board.

DOCUMENTS ON FILE

In accordance with Section 352-e(9) of the General Business Law, copies of this Plan and all documents referred to herein and all exhibits submitted to the Department of Law in connection with the filing of this Plan shall be available for inspection and copying by prospective purchasers and by any person who shall have purchased securities offered by this Plan or shall have participated in the offering of such securities at the office of Cutler Minikes & Adelman LLP, 708 Third Avenue, 17th Floor, New York, NY 10017, and shall remain available for such inspection without charge and copying at a reasonable charge for a period of six years after the First Closing.

Sponsor shall deliver to the Condominium Board a copy of all documents filed with the appropriate recording office at the time of the First Closing.

GENERAL

The Plan does not knowingly omit any material fact or contain any untrue statement of any material fact.

There are no outstanding judgments nor are there any lawsuits, administrative proceedings or other proceedings now pending, the outcome of which may materially affect this Offering, the property, rights of existing tenants, Sponsor's capacity to perform all of its obligations under the Plan, the Condominium or the operation of the Condominium.

In accordance with the law of the State and City of New York, Sponsor represents that Sponsor, and the Selling Agent will not discriminate against any person because of his sex, race, creed, color, national origin or ancestry or any other reason prohibited by applicable civil rights laws in the sale or lease of any Unit.

As of the date of presentation of this Plan, neither Sponsor nor the Selling Agent nor any of their representatives or agents has raised funds or made any preliminary offering to or binding agreement with tenants, subtenants, or non-resident prospective purchasers and have not entered into any agreements or accepted any deposits or advances of funds, with respect to the purchase of Units.

Sponsor reserves the right, from time to time prior to the First Closing, without obtaining the consent of Purchasers or others, to revise the terms and conditions on which the Units offered hereby are to be sold, including changes affecting the rights, obligations and liabilities of Purchasers and Sponsor. All substantive or material revisions will be contained in a duly filed amendment to this Plan. If a material revision adversely affects the rights, obligations or liabilities of then existing Purchasers, Purchasers will be given the right to rescind their Purchase Agreements within fifteen (15) days of the presentation date of the amendment and to receive a refund of their downpayment (with interest, if any, earned thereon) within thirty (30) days after the presentation of the amendment. However, such rescission, as to Purchasers who first became tenants of the Building after the Plan was presented, shall be conditioned on the cancellation of any Interim Lease and surrender of possession of their Units. If a substantial amendment is made to the Plan prior to the First Closing, the exclusive purchase period for tenants in occupancy of Residential Units on the filing date of the Plan shall be extended as follows:

i. if the presentation of this substantial amendment occurs during the initial exclusive right to purchase, such period shall terminate at the later of thirty (30) days after presentation of the substantial

amendment or the expiration of the original exclusive right to purchase; and

ii. if the presentation of the substantial amendment occurs after the expiration of the initial exclusive right to purchase, the substantial amendment must grant to all tenants who had the right to purchase during the initial period a new exclusive right to purchase on the terms offered in the amendment for a period of not less than thirty (30) days from the date of presentation.

No person has been authorized to make any representation which is not expressly contained herein. This Plan may not be changed or modified orally, and no notice need be given prior to the filing of an amendment to this Plan.

SPONSOR'S STATEMENT OF BUILDING CONDITION

Sponsor consulted separately with Architects CMA Design Studio, P.C., 148 West 24th Street, 3rd Floor, New York, NY 10001, Ambient Group, Inc., 59 West 39th Street, New York, NY 10018, and Avcon Design Group, 545 8th Avenue, New York, NY 10018, and commissioned reports from them. These reports are set forth in Part II of the Plan in the "Description of Property and Building Condition" beginning on page D-1. Sponsor is not an architect or engineer, but believes that these reports accurately represent the present Building conditions, and Sponsor adopts these reports in full.

Sponsor represents that Sponsor does not know of any material defects or need for major repairs to the Property except as set forth in the reports and the violations search annexed to the reports.

Except as otherwise shown in the report of CMA Design Studio, P.C., Sponsor also represents that the number of Units offered is not more than the number of Units stated on the Certificate of Occupancy, that the proposed use of the Units is the same as the use indicated in the Certificate of Occupancy and that property interests offered, if any, such as roof gardens or basement facilities are provided for in the Certificate of Occupancy, if required.

The Common Elements are offered in "as is" condition as of the date of presentation of the Plan, subject to (a) Sponsor's obligation to maintain the Property until the closing in substantially the same condition and manner as on the date of presentation and (b) reasonable wear and tear. As discussed in "Introduction", the Common Elements include and involve certain rights and obligations between the owner of the subject property and the owner of the adjacent property at 1430-1432 Third Avenue, including certain perpetual easements, as documented in certain Zoning Lot Development Agreements, as same may be amended or restated.

Each Unit is offered in "as is" condition as of the date of the Purchase Agreement, subject to (a) Sponsor's obligation to maintain the Unit until the closing in substantially the same condition as on the date of execution of the Purchase Agreement and (b) reasonable wear and tear. Purchasers are advised that former or current occupants of the Units may have made alterations to certain Units, including without limitation, installation and/or relocation of interior walls. Consequently, Sponsor makes no representation, warranty or guarantee as to whether any of said alterations were completed in compliance with all applicable laws and regulations. Except as described in the "Description of Property and Building Condition" and/or the Plan, Sponsor makes no representation or guaranties regarding the condition of the Property.

As set forth in the reports, the Building was constructed during the years 1984, 1985 and 1986. As all prudent property owners are aware, a program of ongoing maintenance is required to maintain the building. Except as otherwise provided in this Plan, Sponsor's obligation to make repairs in any Unit shall cease upon

the closing of title to such Unit. Sponsor will maintain and operate the Building until the First Closing in substantially the same manner and condition as on the filing date of the Plan (subject to ordinary wear and tear) except to the extent that Sponsor is precluded from so doing by Acts of God, fire or other casualty, storm, strikes, lockouts, labor difficulties, riots, insurrection, inability to obtain materials, equipment or labor, governmental restrictions or any other acts over which Sponsor is reasonably unable to exercise control. If for any of the reasons set forth in the preceding sentence, other than fire or other casualty, Sponsor is prevented from so maintaining the Building and the Common Elements (or causing the same to be maintained), Sponsor shall make or cause to be made, within a reasonable period of time after such act ceases to exist, any repairs subsequent to the First Closing that it was obligated to make prior to the First Closing.

The reports included in Part II of the Plan include a report (the "Asbestos Report") to determine whether asbestos containing material ("ACM") is present in insulating or fireproofing material anywhere in the Building. Sponsor's obligations under this Plan do not include an obligation to remove or remediate any ACM identified in the Asbestos Report and Sponsor does not intend to perform any such remedial work.

Updated inspection certificates and permits will be provided before or at the First Closing including air resources, oil storage, elevator inspections, sprinkler system and boiler safety inspection.

The Building is subject to section C26-105.3 of the N.Y.C. Administrative Code (which pertains to the condition of any structure of the Building such as brick parapet walls, which, if not properly maintained, might present a hazard to pedestrians.) The prior owner of the Property did not perform the most recent inspection report required for compliance with this section of the Administrative Code, and the Sponsor has not yet performed such inspection to cure this violation.

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**THE
1438 THIRD AVENUE
CONDOMINIUM**

PLAN OF CONDOMINIUM OWNERSHIP

PART II

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PURCHASE AGREEMENT

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**PURCHASE AGREEMENT
FOR
UNIT NUMBER ____
AT**

THE 1438 THIRD AVENUE CONDOMINIUM

**1438 Third Avenue
New York, NY 10028**

(To be executed by Purchaser in triplicate)

AGREEMENT made as of _____, 200_ (this "Agreement"), by and between **81ST AND 3RD OWNER LLC**, a Delaware limited liability company having an office at 61 Broadway, Suite 1407, New York, New York 10006 ("Seller" or "Sponsor") and _____ having an address at _____ ("Purchaser").

WITNESSETH:

1. Plan. Purchaser acknowledges having received, at least three (3) days prior to the date hereof, and read or waived the reading of, a copy of the Plan for The 1438 Third Avenue Condominium and amendments thereto filed with the Department of Law of the State of New York prior to the date hereof (hereinafter collectively referred to as the "Plan"). Purchaser hereby accepts and approves the plan including without limitation, the proposed Declaration of Condominium, By-Laws and other documents contained in Part II of the Plan (the "Condominium Documents") and agrees to abide by and be bound by the terms and conditions thereof, as well as all amendments to the Plan duly filed by Seller (including, without limitation, amendments involving any changes, modifications, or updating of the projected Common Changes, the projected real estate taxes to be paid by Purchaser, or Schedule B-"Projected Budget for the First Year of Operation of the Condominium"). Amendments to the Plan shall neither excuse Purchaser from performing Purchaser's obligations hereunder nor entitle Purchaser to any offset or credit against the Purchaser Price and may be made by Seller without Purchaser's consent or approval. In the event of a material adverse amendment, Purchaser shall be given the right to rescind this Agreement. The Plan is incorporated into this Agreement by reference and made a part hereof with the same force and effect as if set forth herein at length. In the event of any inconsistency or conflict between the provisions of this Agreement and those contained in the Plan, the provisions of the Plan shall govern. Purchaser acknowledges having had full opportunity to examine all relevant documents, and to investigate all statements made herein and in the Plan. Terms used in this Agreement and not defined therein will have the meanings ascribed to them in the Plan unless the context thereof otherwise requires.

2. The Unit. Purchaser agrees to purchase from Seller, and Seller agrees to sell to Purchaser, the Unit designated as Number ____ (the "Unit") in the Declaration, together with a _____% undivided interest in the Common Elements appurtenant thereto (the "Common Interest"), located in the building on the land more particularly described on Exhibit A annexed hereto and made a part of hereof, upon and subject to the terms and conditions set forth herein.

3. Purchase Price.

A. The Purchase price (the "Purchase Price") is \$ _____, payable as follows:

- (i) \$_____ (the "Down Payment") on the signing of this Agreement by check, (subject to collection) receipt of which is hereby acknowledged; and
- (ii) \$_____ (the "Balance"), constituting the balance of the Purchase Price, at the closing, by Purchaser's unendorsed certified check, or an official bank check, drawn on or issued by a bank or trust company that is a member of the New York Clearing House Association.

All checks for all sums due under this agreement shall be unendorsed and made payable to the direct order of "**Wachtel & Masyr, LLP, as Escrow Agent**" or as otherwise directed by Seller. If any check is returned for insufficient funds or any other reason, said return shall be deemed to be a default by Purchaser under this Agreement and shall entitle the Seller to exercise any of the remedies set forth in Article 13 hereof.

B. Purchaser's payment of the Balance and acceptance of a deed to the Unit shall constitute Purchaser's acknowledgment that Seller has satisfactorily performed all of the obligations stated in the Plan and this Agreement to be performed by Seller prior to closing. However, nothing herein contained shall excuse Seller from performing obligations (if any) expressly stated herein or in the Plan to be performed Subsequent to the closing, and nothing herein shall be in derogation of the rights of Purchasers under Article 23A of the General Business Law, the Plan or Part 23 of Regulations issued by the Department of Law of the State of New York.

C. Purchaser shall not be obligated to pay the Balance of the Purchase Price or accept title to the Unit unless all of the events set forth under "Closing of Title to Units" in Part I of the Plan are met simultaneously with the closing or prior thereto.

4. Funds to be Held in Trust.

A. Seller will hold in trust any and all funds received by it directly or through its agents or employees until the Unit is transferred to Purchaser or the Purchase Agreement is cancelled in accordance with its terms. Said funds shall be held in an interest-bearing account entitled "Wachtel & Masyr, LLP, 1438 Third Avenue Escrow Account" or similar name, or a sub-account of that account, and will be located in an account maintained with Citibank, N.A., 153 East 53rd Street, New York, NY 10022. All instruments shall be made payable to or endorsed to the order of Wachtel & Masyr, LLP, as escrow agent. The deposit by the escrow agent of the Purchaser's down payment into the escrow account shall not be deemed acceptance of the Purchase Agreement. The Purchase Agreement shall only be deemed accepted when countersigned by Sponsor or its authorized agent. The funds so deposited will be disbursed only in accordance with the provisions of this Agreement and the Plan. The signature of an attorney in the firm Wachtel & Masyr, LLP will be required before any funds held in trust may be released.

B. In the event the Plan is abandoned or withdrawn, or if this Agreement is canceled pursuant to its terms through no fault of the Purchaser, all funds held in trust will be returned to Purchaser with interest, if any, earned and collected thereon, within (30) days after the date of the abandonment or withdrawal, except as otherwise provided herein. However, Seller shall retain as and for liquidated damages the portion of a Down Payment that relates to the cost of any special work ordered by Purchaser, (together with any interest earned thereon) (herein collectively called the "Liquidated Sum"), and any sums in excess thereof, together with any interest earned and collected thereon, shall be returned to Purchaser within thirty (30) days after the date of abandonment or withdrawal. Upon the return or retention of the Down Payments and any such interest, the Purchase Agreements will be null and void and Seller will have no further obligation or liability to Purchasers under this Plan or under this Purchase Agreement.

C. Upon the payment of the Balance and performance by Purchaser of all of Purchaser's obligations hereunder and the transfer to Purchaser of title to the Unit, Seller will instruct the depository to pay to Purchaser any and all interest earned and collected on the funds deposited hereunder. The Seller and Selling Agent will not be liable to Purchaser for the amount of said interest or the payment thereof, except to the extent of any amount received from the depository. All funds due to Seller and received under this Agreement will be handled in accordance with Sections 352-e(2-B) and 352-h of the New York General Business Law. In lieu of depositing the Down Payment into an Attorney Escrow Account, Seller reserves the right to a post a bond issued by a licensed bonding company securing repayment of the aforementioned funds together with interest earned and collected thereon, in the event a Purchaser is entitled to repayment of same. If Seller elects to post a bond, it will submit the form of the bond to the Department of Law for its approval and will notify all affected purchasers by filing an amendment to the Plan.

5. Closing of Title.

A. The closing of title shall be held on the date and at the time and place in the City and State of New York as Seller may designate to Purchaser upon not less than thirty (30) days prior written notice. Seller shall have the right, from time to time, to adjourn the date and time for closing on written notice to Purchaser. If adjourned, Seller shall fix a new date and time for title closing and shall give Purchaser not less than ten (10) days prior written notice of the new scheduled date and time for closing.

B. If Purchaser is not ready to close title at the date and time fixed by Seller, any adjournment granted at Purchaser's request shall be upon the condition that all adjustments, including interest on the unpaid balance of the Purchase Price at the rate of 12% per annum, shall be made as of the date originally fixed for the closing of title. Nothing contained in this Agreement shall require Seller to grant any adjournment not reasonable in duration.

C. The closing of title shall occur only after or upon compliance with all of the events set forth under "Closing of Title to Units" in Part I of the Plan.

6. Deed. At the closing of title, Seller shall deliver to Purchaser a Bargain and Sale Deed with covenants against grantor's acts conveying title to the Unit to Purchaser free and clear of all encumbrances other than those set forth on Exhibits B annexed hereto and made a part hereof (the "Permitted Exceptions"). The deed shall be prepared by Seller and shall be substantially in the form provided in Part II of the Plan and shall be executed and acknowledged by Seller and Purchaser in form for recording. The deed shall be delivered to the representative of the title company insuring Purchaser's title (or, if no title company representative is present then Purchaser's attorney) for recording in the Office of the City Register of New York County. After being recorded, the deed shall be returned to Purchaser.

7. Marketable Title. At the closing time of title, except as otherwise set forth in this Agreement, Seller shall convey to Purchaser good and marketable title in fee simple to the Unit subject only to the Permitted Exceptions. Any encumbrances to which title is not to be subject shall not be objections to title if: (a) the instrument required to remove it of record is delivered to the proper party or Purchaser's title insurance company at or prior to closing together with the requisite recording or filing fees; or (b) Purchaser's title insurance company will insure Purchaser against its collection or enforcement out of the unit.

8. Seller's Inability to Convey Title. In the event that Seller is unable to deliver title to the Unit to Purchaser in accordance with the provisions of this Agreement and the Plan, Seller will not be obligated to bring any action or proceeding or otherwise incur any cost or expense of any nature whatsoever in excess of its obligations set forth in the Plan in order to cure said inability. If Seller notifies Purchaser of its refusal

to cure the defect in title and if Purchaser is not then in default hereunder, Purchaser shall have the option to either: (a) take title to the Unit subject to the title defect (without abatement in or credit to the Purchase price, or claim or right of action against Seller for damages or otherwise); or (b) cancel this Agreement by notifying the Seller in writing of Purchaser's election to cancel within fifteen (15) days after Seller notified Purchaser of Seller's refusal to cure the title defect. If Purchaser elects to cancel this Agreement, Seller shall refund to Purchaser, within thirty (30) days after receipt of Purchaser's cancellation notice, all sums deposited hereunder, with the interest (if any) earned and collected notice thereon less that portion of the interest payable to the Seller as Seller's administrative fee. Upon making said refund, this Agreement shall be null and void and neither party shall have any further rights, obligations, or liabilities with respect to the other hereunder or under the Plan. The foregoing option must be exercised by notice of Purchaser in writing sent to Seller within fifteen (15) days after the giving of the Seller's notice of refusal to cure the title defect, failing which, it shall be conclusively deemed that Purchaser elected the first option above (i.e., to acquire title subject to the title defect without abatement in or credit to the Purchase Price, or right of action against Seller for damages or otherwise).

9. Power of Attorney to Condominium Board and Seller. At the closing title, Purchaser shall execute, acknowledge and deliver to the title insurance company insuring Purchaser title to the Unit or to Seller's attorney for recording in the Office of the City Register New York County, a Power of Attorney in favor of the Board of managers relative to purchasing or leasing of Units and in favor of Seller relative to amending the Condominium Documents to the extent permitted in the Power of Attorney. The Power of Attorney shall be substantially in the form provided in Part II of the Plan. After being recorded the Power of Attorney shall be sent to the Board of Managers.

10. Closing Adjustments.

A. At the closing of title, Seller and Purchaser shall apportion, as of midnight of the day preceding the closing:

- (i) real estate taxes and assessments, if any, including water charges and sewer rents for the Unit on the basis of the period assessed;
- (ii) the Unit's share of the insurance premium for the Condominium policy;
- (iii) Utility Charges;
- (iv) Any mortgage tax credit received pursuant to Section 339-ee of the Real Property Law which will inure to the benefit of Seller;
- (v) Common Charges for the month in which title closes; and
- (vi) rent and other charges, if any, pursuant to an interim lease or tendency of the Unit.

B. The "Customs in Respect to Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, shall apply to the adjustments and other matters therein mentioned, except as expressly provided to the contrary herein.

C. Any errors or omissions in computing apportionments at the closing shall be corrected and payment made to the proper party promptly after discovery. This provision shall survive the closing for a period of one (1) year.

D. Installments for tax assessments due after the delivery of the deed, if any, shall be paid by the Purchaser and shall not be considered a defect in title.

11. Purchaser's Closing Costs. At the closing of title, Purchaser shall be required to pay those costs more particularly described below:

A. The premium for fee title insurance and (if Purchaser obtains a mortgage) mortgage title insurance.

B. Recording fee for recording the deed, power of attorney and other documents including (without limitation) the mortgage recording tax and filing fees if Purchaser obtains a mortgage.

C. New York State Transfer Tax.

D. New York City Real Property Transfer Tax

E. New York City Equalization and Assessment Form, plus a filing fee to the City of New York of \$75.00.

F. New York State Mansion Tax, if applicable.

G. In the event a Purchaser obtains a mortgage, the Purchaser shall pay all costs in connection with the mortgage.

H. The following closing fees of Wachtel & Masyr, LLP, attorneys for Seller:

(i) Basic fee for closing of sale without bank financing \$1,250.00

(ii) ACRIS document preparation fee \$200.00

(iii) Additional fee for closing of sale with bank financing \$250.00

(iv) Additional attendance fee in the event that closing does not occur at the offices of Wachtel & Masyr, LLP \$500.00

(v) Additional attendance fee in the event that the closing occurs outside the borough of Manhattan \$700.00

(vi) Additional Fee if closing is adjourned for any reason other than at Seller's request \$250.00

(vii) If Purchaser obtains title from a title insurance company or through an abstract company other than Title Associates, Inc. (the "Title Company"), and Sponsor incurs additional legal fees and expenses as a result of the requirements of such title insurance company, the Purchaser will reimburse Sponsor at closing for the amount of such additional legal fees and expenses so incurred.

I. At the closing of title, Purchaser will be required to pay (i) to the Board of Managers a sum equal to two (2) months Common Charges as an initial, non-reimbursable contribution to the Working Capital Fund of the Condominium. Said payment shall be in addition to and not in lieu of monthly payments

of Common Charges required to be made by Purchaser on the Closing Date, (ii) to Sponsor, the Unit's share of the cost of the Superintendent's Unit as set forth in the Plan on Schedule A - "Offering Prices and Related Information", and (iii) to the Condominium or its Managing Agent, payment in advance of the Common Charges for the month following the month in which the closing occurs.

12. Agreement Not Contingent Upon Financing. The terms and provisions of this Agreement and Purchaser's obligations hereunder are not contingent upon Purchaser securing financing of the Purchase Price (or any portion thereof) stated in Section 3 of this Agreement, and Purchaser understands and agrees that his failure to obtain such financing will not relieve him of his obligations hereunder. Purchaser further understands and agrees that even if this Agreement were contingent upon financing and Purchaser chooses to finance his purchase of the Unit through a lending institution and obtains a commitment therefrom, neither a subsequent change in the terms of such commitment, the expiration or other termination of such commitment, nor the failure of the mortgagee to fund the commitment nor any change in his financial status or condition shall release or relieve him of his obligations pursuant to this Agreement.

13. Events of Default.

A. The following shall constitute "Events of Default" hereunder:

- (i) If any check delivered to Seller hereunder is returned for insufficient funds or for any other reason, or Purchaser's failure to pay the Balance on the Closing Date designated by Seller pursuant to Article 5 herein;
- (ii) Purchaser's failure to duly sign, notarize and deliver at the times specified the Power of Attorney pursuant to Article 9 herein;
- (iii) The failure to pay, perform, or observe any of Purchaser's other obligations hereunder, that is not cured within thirty (30) days after mailing of written notice specifying the nature of the default.

B. Upon the occurrence of an Event of Default, Seller may, at its option, either: (i) elect to cancel this Agreement by sending Purchaser thirty (30) days prior written notice of its intention to do so; or (ii) if Purchaser has taken occupancy of the Unit pursuant to an interim lease, bring an action against the Purchaser for specific performance in which event the Purchaser could be compelled to complete the transaction and pay the Balance of the Purchase Price from Purchaser's own funds. If Seller elects to cancel, Purchaser shall have thirty (30) days from the date of mailing of the cancellation notice within which Purchaser must cure the specified default. **TIME IS OF THE ESSENCE TO CURE THE DEFAULT WITHIN SAID THIRTY (30) DAY PERIOD.** If the default is not timely cured, then the Agreement shall be deemed cancelled and Seller shall have the right to retain, as and for liquidated damages, the Down Payment plus the cost incurred by Seller on account of any special work in the Unit ordered by Purchaser, together with any interest earned and collected thereon (the "liquidated Sum"), and any sums in excess thereof together with any interest earned and collected thereon shall be returned to Purchaser within thirty (30) days after cancellation of the Agreement. Upon cancellation of this Agreement and making any refund to Purchaser, Purchaser, Seller and Selling Agent will be released and discharged of all further liability and obligations hereunder and under the Plan. Thereafter, the Unit may be sold as though this Agreement had never been made, and without accounting to Purchaser for any portion of the proceeds of any sale.

C. Notwithstanding the occurrence of an Event of Default, Seller may, in its sole discretion, keep this Agreement in effect and proceed to close title without prejudice to Seller's right to recover from Purchaser damages, losses, costs, expenses and any and all other lawful sums to which Seller is entitled,

including, but not limited to, reasonable legal and costs of collection.

D. If Purchaser now is or hereafter becomes a tenant or occupant of a Unit and Purchaser fails to pay rent or additional rent or to otherwise comply with Purchaser's lease or tenancy or occupancy obligations, or if Purchaser shall have vacated or abandoned the Unit, then said default, vacating or abandonment shall constitute a default hereunder entitling Seller, at its sole option, to cancel this Agreement and retain the Liquidated Sum, or specific performance as provided in Paragraph 13B. Upon any cancellation, Seller shall refund to Purchaser any sums deposited hereunder in excess of the Liquidated Sum together with any interest earned and collected thereon. Upon the refund being made, Seller and Purchaser will be released and discharged of all further liability and obligations under this Agreement and the Plan. However, in no event shall Purchaser be released or executed from paying and performing Purchaser's tenancy or occupancy obligations.

14. Obligations of Tenant Purchasers. If Purchaser is the tenant or occupant of the Unit on the actual closing date:

A. Purchaser agrees to pay all rent as and when due in accordance with the terms of his lease, if any, or occupancy agreement through and including the day immediately preceding the closing;

B. It shall be a condition to Seller's obligation to close that all rent (including pro-rated rent) and other obligations under Purchaser's lease or occupancy agreement shall be fully paid and performed through the day immediately before the closing. In addition, Purchaser's failure to pay rent or to otherwise comply with the lease or occupancy obligations, if not cured within thirty (30) days after written notice (but in no event later than the closing), shall constitute a default under this Agreement, entitling Seller at its option to terminate this Agreement, provided Seller first obtains a final judgment of eviction or default under the lease or occupancy agreement or Purchaser vacates the Unit prior to such termination.

C. Seller and Purchaser shall apportion as of midnight of the day preceding the actual closing of title, the rent for the Unit due or paid by Purchaser as the tenant or occupant thereof and Purchaser shall pay Seller any open utility charges and any other outstanding obligations under the terms of Purchaser's lease or tenancy; and

D. At closing, Seller shall return to Purchaser the unapplied rent security deposit, if any, held by Seller.

E. By executing and delivering this Agreement, Seller and Purchaser each hereby terminates, as of the closing hereunder, the lease or occupancy agreement, if any, with respect to the Unit.

15. Transfer of Tenant Security Deposit. If Purchaser is not the tenant of the Unit, then the unapplied security deposit, if any, of the tenant will be transferred after the actual closing of the title to the Purchaser and Purchaser shall (i) hold such unapplied security deposit in trust, in an interest bearing account in accordance with Section 7-103 of the New York General Obligations Law and (ii) execute and deliver to Seller, on or before the actual closing date, an instrument prepared by Seller confirming the Purchaser's assumption of such obligations and agreeing to indemnify and hold Seller harmless from any claims, liabilities, cost or expenses (including, without limitation, reasonable attorney's fees) in connection therewith. The provisions of this paragraph shall survive the closing under this agreement.

16. Occupied Units. If the Unit is occupied by a person other than Purchaser, then Purchaser acknowledges and agrees that the Unit is being offered subject to the tenant's lease and/or occupancy and rights under the Plan and under Section 352-eeee of the General Business Law (collectively, the "Rent

Laws”), and Purchaser agrees that Purchaser, his successors and assigns shall continue to be bound by such tenant’s rights as long as occupancy continues. Any Purchaser of an occupied Unit will be obligated to comply with the Rent Laws, the provisions of the Plan (including without limitation the provisions of the Plan dealing with the obligations of owners of occupied units) and the lease with respect to the Unit. If the Unit is an occupied Unit, Purchaser acknowledges and agrees as follows: (a) to register with the Division of Housing and Community Renewal, (b) to keep such registration current, (c) to provide renewal leases and riders as required under the Rent Laws, (d) not to evict a non-purchasing tenant occupying the Unit except for nonpayment of rent, illegal use or occupancy of the Unit, refusal to allow access to the Unit by the owner of the Unit or a similar breach of his obligations to the owner of the Unit, provided that the owner of the Unit may not commence an action to recover possession of the Unit from a non-purchasing tenant on the grounds that he seeks the Unit for use and occupancy by himself or his family, (e) that the Unit will continue to be subject to Rent Laws as to rental and continued occupancy so long as such regulations are in effect, except as provided in clause (d) above and (f) below, (f) that if the Rent Laws as to rental or continued occupancy are eliminated at any time or become inapplicable, then the non-purchasing tenant shall not be subject to unconscionable rent increases beyond ordinary rentals for comparable Units during the period of his occupancy; (g) the rights of a non-purchasing tenant described above may not be abrogated or reduced regardless of any expiration or amendment to Section 352-eeee of the General Business Law; (h) to grant the managing agent of the premises where the Unit is located (“the Property”) an irrevocable power of attorney to provide all services and facilities required by law to the non-purchasing tenant on a non-discriminatory basis as provided by Rent Laws at the cost of such Purchaser; (i) to assume the Seller’s and/or the Condominium’s rights and obligations as landlord, which will include, without limitation, the right to collect rent (whether the same be greater or less than the common charges or other charges due and payable) and the obligation to periodically paint the Unit and repair and maintain the Unit (including the equipment and appliances contained therein), for the benefit of the tenant; and (j) to deposit with the managing agent of the Condominium at or prior to the closing of the purchase of the occupied unit at an amount equal to not less than two (2) months’ common charges applicable to the Unit, which is to be used as working capital to furnish services required under the non-purchasing tenant’s lease and under Rent Laws, and Purchaser agrees to replenish such funds from time to time upon notice from the managing agent that it has been diminished. Collection of rent from the tenant of an occupied Unit and payment of the maintenance charges therefore shall be the responsibility of the Purchaser and neither Seller nor any managing agent for the building shall have any obligation or responsibility for same. Seller does not guaranty that an occupied Unit at the date of this Agreement will be so occupied at the closing of title, and Seller reserves the right (but shall not be obligated) to evict the tenant or occupant for the reasons permitted under the Rent Laws. The provisions of this paragraph shall survive the closing under this Agreement.

17. Condition of Unit; Inspection of the Unit.

A. At closing, the Unit will contain only those appliances, countertops, cabinets, sinks, vanities, hardware and other fixtures and equipment currently installed therein that are owned by Sponsor. The Unit is being sold unfurnished. Any appliances, furnishings, fixtures, equipment and other personal property owned by any tenant of the Unit are not included in this sale. In addition, furniture, wall coverings, furnishings, decorations and the like in or about any model apartment are for display purposes only and are not included in the sale. Any floor plans or sketches shown to Purchaser are only approximations of the Unit’s dimensions and arrangement, and Purchaser should not rely thereon. There will be no modifications or extras unless agreed to in writing by the parties. All modifications, alterations and additions to the Unit must be approved by Sponsor in writing and, if approved, shall be performed by Sponsor at Purchaser’s expense (payable in the manner to be set forth in an addendum to this Purchase Agreement or in a separate agreement). The Unit is sold “as is” on the date of this Purchase Agreement subject to reasonable wear and tear and to Sponsor’s obligations under the Plan and law to maintain the Unit. If the Unit is sold by Seller as a vacant unit, at the Closing the Unit shall be broom clean, empty of all contents not included in the sale,

and free of occupancies and all appliances included in the sale shall be in working order.

B. At least one (1) week before the Balance is to be paid, Sponsor or the selling agent shall notify Purchaser that the Unit is ready for inspection. Upon receipt of notice Purchaser that the Unit is ready for inspection. Upon receipt of the notice, Purchaser shall promptly arrange an appointment with Sponsor or Selling Agent to inspect the Unit. Purchaser or an agent authorized by Purchaser in writing shall attend the inspection and shall complete, date and sign an inspection report and deliver same to Sponsor at the conclusion of the inspection. Failure of Purchaser either to arrange an appointment or to inspect the Unit prior to one (1) week before the Closing Date or to sign and deliver the completed inspection report, shall not excuse Purchaser from paying the Balance when due and shall constitute Purchaser's full acceptance of the Unit. However, nothing herein shall relieve Seller of its obligations as set forth in the section of the Plan entitled "Rights and Obligations of Sponsor."

18. Risk of Loss; Possession.

A. Purchaser shall not be entitled to possession of the Unit until the Deed is delivered to Purchaser at closing; however, Seller may in its sole discretion, grant Purchaser possession of the Unit prior to the closing under an interim lease or other written agreement.

B. If Purchaser is granted possession of the Unit prior to the closing under an interim lease or otherwise, then Purchaser shall be solely responsible for any damages to, or loss or other condition in, the Unit or its contents resulting from Purchaser's use or occupancy, and Seller shall not be obligated to make any repairs to the Unit or its contents. However, until the closing, Seller will remain responsible to make those repairs required of it as landlord under any interim lease and, after the closing, the Board of Managers will be responsible for making those repairs required of it under the Declaration and By-Laws.

C. If during Purchaser's occupancy, the Unit or its contents are damaged by casualty or otherwise, then Purchaser shall assume the risk of loss and the obligation to repair the damages, unless the cause thereof originated the Unit and did not result from the acts of Purchaser, of other occupants of the Unit or of Purchaser's guests, invitee, or workmen. If Purchaser is obligated to repair the damage, then Purchaser's failure to repair the damage shall not excuse Purchaser from paying the Balance and accepting delivery of the Deed.

D. Except as provided in the preceding subparagraph C, all other risk of loss prior to the closing has assumed by Seller, but without any obligation or liability of Seller to repair the damage or restore the Unit or its contents. If Seller or (in the event the Declaration is filed) the Board of Managers elect to repair or replace the loss or damage, this Agreement shall continue in full force and effect, and Purchaser shall have the right to reject title to the Unit or to receive a credit against, or abatement in, the Purchase Price and Seller shall be entitled to a reasonable period of time to complete or to permit the Board of Managers to complete said repair or replacements, and Purchaser shall not be required to pay the Balance if such damages were not during a period of Purchaser's occupancy or otherwise due to Purchaser's default unless and until: (i) the Unit has been substantially repaired as near as is reasonably possible to its condition immediately prior to the casualty; and (ii) its essential services (such as gas, electricity, and heat) and a reasonable means of ingress and egress to the street have been restored. Any proceeds received from insurance, or in satisfaction of any claim or action in connection with any loss, shall belong entirely to Seller (subject to the rights, if any, of the Board of Managers or of other Unit Owners). If any insurance proceeds are paid to Purchaser, Purchaser shall promptly upon receipt thereof turn them over to Seller. The provisions of this subparagraph D shall survive the closing.

E. In the event that Seller notifies Purchaser that it does not elect to repair or restore the Unit

or if the Board of Managers do not resolve to make the repairs or restoration pursuant to the Condominium's By-Laws, this Agreement shall be deemed cancelled and no further force or effect, and Seller shall return to Purchaser all sums deposited hereunder, together with interest, if any earned and collected thereon, whereupon the parties shall be released and discharged from all obligations liability hereunder and under the Plan except that, if Purchaser is then in default hereunder(beyond the applicable grace period, if any), Seller may retain the Liquidated Sum pursuant to Article 13 above.

19. No Representations. Purchaser acknowledges that Purchaser has not relied upon any architect's plans, sales plans, selling brochures, advertisements, representations, warranties, statements or estimates of any nature whatsoever, whether written or oral, made by Seller, Selling Agent or other, including, but not limited to, any relating to the description or physical condition of the Property, the Building or the Unit, or the size of the dimensions of the Unit or the rooms therein contained or any other physical characteristics thereof the services to be provided to Unit Owners or the projected Common Charges and projected real estate taxes allocable to the Unit, the right to any income tax deduction for any real estate taxes or mortgage interest paid by Purchaser, or any other data, except as may be specifically represented herein or in the Plan; Purchaser having relied on Purchaser's own examination and investigation thereof. No person has been authorized to make any representations on behalf of Seller except as specifically set forth herein or in the Plan. No oral representations or statements shall be considered a part of this Agreement. Purchaser agrees: (a) to purchase the Unit, without offset or any claim against, or liability of Seller, whether or not any layout or dimension of the Unit or any part thereof, or of the Common Elements, as shown on the Floor Plans is accurate or correct, provided the layouts and dimension conform substantially to the Floor Plans and (b) that Purchaser shall not be relieved of any of Purchaser's obligations hereunder by reason of any minor inaccuracy or error. The provisions of this Article shall survive the closing of title.

20. Notices. All notices, election, consents, demands and communications (collectively called "notices" or individually called "notice" shall be delivered personally or given in writing by recognized overnight courier or by certified mail, return receipt requested, postage prepaid and, if sent to Purchaser, addressed to Purchaser at Purchaser's address given in the preamble to this Agreement and, if sent to Seller, addressed to Seller at 81st And 3rd Owner LLC, 61 Broadway, Suite 1407, New York, New York 10006(with a copy sent simultaneously in like manner to Wachtel & Masyr, LLP, 110 East 59th Street, New York, NY 10022, Attn: Eli Dweck, Esq.) Either party may, by written notice to the other, change the address to which notices are to be sent. Unless otherwise provided herein, all notices shall be deemed given when personal delivery is effected or when delivered to the a recognized overnight courier or deposited in any branch, station or depository maintained by the U.S. Postal Service in the State of New York, in a certified, prepaid wrapper, addressed as aforesaid, except that a notice of a change of address shall be deemed given when actually received.

21. Brokerage. Purchaser represents to Seller that Douglas Elliman, LLC and _____ is the only broker or sales agent with whom Purchaser has dealt in connection with this transaction. Seller agrees to pay the commission earned by said broker pursuant to separate agreement. Purchaser agrees that should any claim be made against Seller for commissions by any broker, other than the aforesaid broker or sales agent on account of any acts of Purchaser or of Purchaser's representatives, Purchaser will indemnify and hold Seller free and harmless from and against any and all liabilities and expenses in connection therewith, including without limitation reasonable legal fees and disbursements. The provisions of this Paragraph shall survive the closing of title.

22. No Lien, Agreement Subordinate to Mortgage.

A. No lien or encumbrance shall arise against the Property or the Unit as a result of this Agreement or any sums deposited hereunder. Neither this Agreement nor a memorandum thereof shall be

recorded and any purported recordation by Purchaser shall constitute an uncureable Event of Default, subject to the remedies set forth in Paragraph 13 hereof.

B. In furtherance, and not in limitation, of the provisions of the preceding subparagraph A, Purchaser agrees that the provisions of this Agreement are, and shall continue to be, subject and subordinate to the lien of any mortgages heretofore or hereafter made and any payments or expenses already made or incurred or which hereafter may be made or incurred pursuant to the terms thereof, or incidental thereto, without the execution of any further legal documents by Purchaser. Seller shall, at its option, either satisfy said mortgages or obtain a release of the Unit and its undivided interest in the Common Elements from the lien of said mortgage (s) on or prior to the closing of title unless Purchaser assumes such mortgage with consent of the mortgage lien encumbering the Unit. The existence of any mortgage or mortgages encumbering the Property, or portions thereof, other than the Unit and its undivided interest in the Common Elements, shall not constitute an objection to title or excuse Purchaser from completing payment of the Purchase price or performing all of Purchaser's other obligations hereunder or be the basis of any claim against, or liability of, Seller, provided that said mortgage (s) are subordinated to the Declaration or the Unit is released from, or not subject to the lien of said mortgage(s) at the closing or if Purchaser assumes or consents to the continuation of a mortgage(s) at the closing or if Purchaser assumes or consents to the continuation of a mortgage lien encumbering the Unit.

23. Entire Agreement. This Agreement, together with Plan, as the Plan may be amended from time to time, constitutes the entire agreement between the parties to the subject matter hereof and supersedes all prior understandings and agreements.

24. Advertising. Prior to the closing of title, Purchaser shall not advertise or otherwise offer, promote or publicize the availability of the Unit for sale or lease.

25. Prohibition Against Assignment. Purchaser does not have the right to assign this Agreement without the prior written consent of Seller which may be granted or withheld in Seller's sole discretion for any reason or no reason. Any purported assignment by Purchaser in violation of this Agreement shall be voidable at the option of Seller and shall constitute an Event of Default by Purchaser subject to the remedies set forth in Paragraph 13 hereof, Seller refusal to consent to an assignment shall not entitle Purchaser to cancel this agreement or give rise to any claim for damages against Seller. Seller may assign this Agreement in accordance with the Plan without the consent of Purchaser.

26. Joint Purchasers. The term "Purchaser" shall be read as "Purchasers" if the Unit is being purchased by more than one person or entity, in which case their obligations shall be joint and several.

27. Liability of Seller.

A. Seller shall not have any liability to Purchaser or others with respect to any of Seller's obligations under this Agreement, or the Plan, or otherwise in excess of the net proceeds paid to Seller from the sale of all Unsold Units after payments of, or reserve for, any liabilities, costs, or expenses of Seller arising out of the promulgation of the Plan, the offering of the Units for sale and the consummation of the of the transactions contemplated in the Plan, except as specifically set forth in the Plan. Nothing contained herein shall be constructed to violate existing statutes or regulations.

B. Seller shall be excused from performing any obligation or undertaking provided for in this Agreement for so long as its performance is prevented, delayed, or hindered by an act of God, fire, flood, explosion, war, riot, sabotage, inability to procure or, general shortage of, energy, labor, equipment, facilities, materials, or supplies in the open market, failure of transportation, strike, lock-out, action of labor unions

or any other cause (whether similar or dissimilar to the foregoing) not within the reasonable control of Seller. Seller's time to perform an obligation or undertaking shall be tolled for the length of the period during which said performance was excused.

C. No provision of this Agreement shall survive the delivery of the deed except those obligations expressly stated herein or in the Plan to so survive or to be performed subsequent to the closing. Acceptance by the Purchaser of the deed will constitute the Purchaser's acceptance and acknowledgment of the full performance by Seller of, and the discharge of Seller from all obligations under this Agreement, except those obligations expressly stated to survive or to be performed subsequent to delivery of the deed. Nothing contained herein will be in derogation of the rights of Purchasers under Article 23-A of the General Business Law, the Plan or Part 23 of the Regulations issued by the Department of Law, and nothing herein will relieve Seller of liability for misrepresentations (if any) under the a Plan.

28. Further Assurances. Either party shall execute, acknowledge and deliver to the other party any instruments and take any other actions, in addition to the instruments and actions specifically provided for herein, as the other party may reasonably request in order to effectuate the provisions of this Agreement or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any transaction hereunder.

30. Severability. If any provision of this Agreement or the Plan is held to be invalid or unenforceable as against any person or under certain circumstances, the remainder of this Agreement or the Plan and the applicability of the provision to other persons or circumstances shall not be affected thereby. Each provision of this Agreement or the Plan, except as otherwise expressly provided, shall be valid and enforced to the fullest extent permitted by law.

31. Strict Compliance. Any failure by Seller to insist upon strict performance by Purchaser of any of the provisions of this Agreement shall not be deemed a waiver of said provisions, regardless of the number of violations or breaches that may occur, and Seller, notwithstanding any failure, shall have the right thereafter to insist upon strict performance by Purchaser of any and all of the provisions of this Agreement to be performed by Purchaser.

32. Governing Law. The provisions of this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the state of New York.

33. Waiver of Jury Trial. Except as prohibited by law, the parties shall, and they hereby do, expressly waive trial by Jury in any litigation arising out of, connected with, or relating to this Agreement or the relationship created hereby. With respect to any matter for which a jury trial cannot be waived, the parties agree not to assert any claim as a counterclaim in, nor move to consolidate said claim with, any action or proceeding in which a jury trial is waived. The provisions of this Article 33 shall survive the closing of title or earlier expiration of termination of this Agreement.

34. Gender. A reference in this Agreement to any one gender, masculine, feminine, or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires.

35. Captions. The captions in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof.

36. Successors and Assigns. Subject to the provisions of Paragraph 25 hereof, the provisions of this Agreement shall bind and inure to the benefit of Purchaser and Purchaser's heirs, legal representatives,

successors and permitted assigns and shall bind and inure to the benefit of Seller and its successors and assigns.

37. Acceptance of Agreement.

A. Upon signing this Agreement, Purchaser agrees, if requested, to provide Sponsor with written information concerning Purchaser's employment, financial condition and history of rental/ownership of any real personal property. Purchaser hereby expressly authorizes Sponsor or any Sales Agent to perform a credit search. Said information shall be used to determine Purchaser's qualification to purchase and own the Unit.

B. The submission of: (i) written information, if requested; or (ii) this Agreement to Seller does not constitute a reservation or binding obligation on either Purchaser or Seller. No binding obligation shall arise until this Agreement is executed by, and delivered to, both Purchaser and Seller (or Seller's duly authorized agent). In the event Sponsor takes no action within the fifteen (15) days following submission of this Agreement to Sponsor duly signed by Purchaser, this Agreement shall be deemed cancelled. If the Agreement is not accepted, all sums paid by Purchaser shall be promptly refunded, without interest. Upon said refund being made, neither party shall have any further rights, obligations or liabilities hereunder with respect to the other. Seller has right without incurring any liability, to reject this Agreement without cause or explanation to Purchaser. This Agreement may not be rejected due to Purchaser's race, color religion, age, sex disability, marital status, national origin, ancestry, sexual preference or other ground proscribed by law.

38. No Oral Changes. This Agreement cannot be modified or any provision herein waived or modified orally. ANY CHANGES OR ADDITIONAL PROVISION OR WAIVERS MUST BE SET FORTH IN A RIDER ATTACHED HERETO OR IN A SEPARATE WRITTEN AGREEMENT SIGNED BY THE PARTIES.

39. No Recordation. Seller and Purchaser hereby acknowledge that neither this Agreement nor any memorandum or affidavit thereof shall be recorded. Should Purchaser ever record or attempt to record this Agreement, or a memorandum or affidavit thereof, or any other similar document, then, notwithstanding anything herein to the contrary, said recordation or attempt at recordation shall constitute a default by Purchaser hereunder, and, in addition to the other remedies provided for herein, Seller shall have the express right to terminate this Agreement by filing a notice of said termination in the county in which the Land is located.

40. Cost of Enforcing and Defending Agreement. Purchaser shall be obligated to reimburse Sponsor for any legal fees and disbursements incurred by Sponsor in defending Sponsor's right under this Agreement or, in the event Purchaser defaults under this Agreement beyond any applicable grace period, in canceling this Agreement or otherwise enforcing Purchaser's obligations hereunder.

41. Rule of Construction. There shall be no presumption against the draftsman of this Agreement or the Plan.

42. Lead Paint.

A. Purchaser acknowledges having been advised that pursuant to regulations promulgated by the U.S. Department of Housing and Urban Development (24 CFR Part 35) and the Environmental Protection Agency (40 CFR Part 745) in accordance with Section 1018 of the Residential Lead Paint Hazard Reduction Act of 1992, Purchaser has the right to make Purchaser's obligations under this Contract contingent on a ten day period to perform a risk assessment or inspection in the Unit and the Premises for lead-based paint and/or lead-based paint hazards ("Risk Assessment").

B. Pursuant to the aforementioned laws and regulations, Purchaser acknowledges having been advised that: (i) exposure to lead from lead-based paint may place young children at risk of developing lead poisoning; (ii) lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory; and (iii) lead poisoning also poses a particular risk to pregnant women.

C. Seller does not have any actual knowledge of any lead-based paint or lead-based paint hazards in the Unit or in the Premises, and does not have any actual knowledge of any records or reports regarding any lead-based paint (or absence thereof) in the Unit or in the Premises. However, if the premises were constructed prior to 1978, it is possible that either the Premises or the Unit may contain lead-based paint and/or lead-based paint hazards. Purchaser understands that the Seller has not undertaken and will not undertake any separate investigation or Risk Assessment as to the presence of lead-based paint and/or lead-based paint hazards in the Premises and/or in the Unit.

D. Purchaser hereby represents that it has either (a) performed a Risk Assessment or inspection prior to the execution of this Contract, or (b) waives its right to do so and any attendant rights of Purchaser to cancel this Contract for reasons related to the presence, if any, of lead-based paint and/or lead-based paint hazards. Purchaser understands that by virtue of such waiver, Purchaser assumes all risks, if any, arising from or relating to lead-based paint and/or lead-based paint hazards in the Unit or in the premises.

E. Purchaser acknowledges receipt of the pamphlet entitled "Protect Your Family from Lead in Your Home."

F. Purchaser acknowledges receipt of an executed Disclosure Form with respect to lead-based paint and/or lead-based paint hazards.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER:
81ST AND 3RD OWNER LLC

PURCHASER:

By: _____
Name:
Title:

Print Name:
Social Security No.: _____

Print Name:
Social Security No.: _____

EXHIBIT A

**Legal Description
1438 Third Avenue
New York, NY 10028**

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County, City and state of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Third Avenue, distant 51 feet 8-1/2 inches northerly from the northwesterly corner of 81st Street and 3rd Avenue;

RUNNING THENCE, northerly along the westerly side of Third Avenue, 75 feet 11-5/8 inches to a point;

THENCE, westerly and at right angles to the westerly side of Third Avenue, 102 feet 2-3/8 inches to a point;

THENCE, southerly and parallel with the westerly side of Third Avenue, 60 feet 6-1/8 inches;

THENCE, easterly parallel to East 81st Street, 9 feet 2-2/3 inches;

THENCE, southerly again parallel with the westerly side of Third Avenue, 15 feet 4-1/2 inches;

THENCE, easterly parallel with East 81st Street, 93 feet to the point of place **BEGINNING**

Premises known as 1438 Third Avenue, New York, NY 10028.

EXHIBIT B

Permitted Exceptions

1. Any state of facts which an accurate survey and inspection of the condominium Unit would show. Th Purchaser's title insurance policy, however, may insure that any encroachments by the insured Unit upon adjoining units or upon the Common Elements may remain undisturbed so long as same may stand.

2. Zoning Lot and Development Agreement made by and between Irma Heller and Albert Heller and 1438 Third Avenue Associates, dated March 10, 1983, recorded March 17, 1983 in Reel 673 page 674.

3. Zoning Lot and Development Agreement made by and between Irma Heller and Albert Heller and 1438 Third Avenue Associates, dated March 10, 1983, recorded March 17, 1983 in Reel 673 page 694, as corrected by Zoning Lot and Development Agreement dated March 10, 1983, recorded April 19, 1983 in Reel 680 page 49, as amended by Addendum to Zoning Lot Development Agreement dated June 22, 1987, recorded June 26, 1987 in Reel 1281 page 111.

4. Zoning Lot and Development Agreement made by and between 1430-3rd Avenue Associates and 1438 Third Avenue Associates, dated February 17, 1983, recorded November 3, 1983 in Reel 732 page 1984.

5. Terms, provisions, covenants, restrictive uses and regulations, conditions and options contained in and rights and easements established by the Declaration of Condominium and By-Laws of The 1438 Third Avenue Condominium and Maps and Floor Plans to be recorded and filed in the New York county office of the Register of the City of New York, as the same may be amended from time to time and the terms, covenants and conditions of the Offering Plan and amendments thereto

6. Unit Owner's Power of Attorney given by _____ to the members of the Board of Managers of The 1438 Third Avenue Condominium and their successors in office, dated _____, 200_, recorded _____, 200_ in CRFN 200_-000_____.

7. Zoning and building ordinances, resolutions, restrictions and regulations of municipal authorities having jurisdiction and any amendments thereto, now or hereafter adopted, providing same will not be violated by the Building;

8. Consents by Seller or any former owner of the Land for the erection of any structure or structures on, under or above any street or streets on which the Property may abut;

9. An easement in favor of adjoining Units and of the Common Elements for the continuance of all encroachments of such adjoining Units or Common Elements on the Unit, existing as a result of construction of the Building, or which may come into existence as a result of settling or shifting of the Building, or as a result of repair or restoration of the Building or any adjoining Unit or the Common Elements made by or with the consent of the Board of Managers after damage or destruction by fire or other casualty or after a taking in condemnation or eminent domain proceedings, or by reason of an alteration or repair to the Common Elements, made by or with consent of the Board of Managers, so that any such encroachments may remain so long as the Building shall stand;

10. Easements in favor of the Board of Managers, its agents, contractors or employees to have

a right of access to the Unit and to the Common Elements to inspect, maintain or repair or to make repairs to the unit to prevent damage to the Common Elements or any other Units, to make repairs to the Common Elements, including without limitations to any wires, pipes, conduits or telecommunication system servicing any of the Units or to make repairs to any other Unit;

11. Easements in favor of those Units having restricted use to portions of the Common Elements;

12. Easements for the continuance of encroachments on the Unit and on the Common Elements by other units or portions of the Common Elements, now existing by reason of the construction of the Units, or hereafter occurring by reason of the settling or shifting of the Units, or by reason of the repair and/or restoration by the Board of Managers of the Units or such other Units or such Common Elements, after damage by fire or other casualty or after taking in condemnation or eminent domain proceedings, or by reason of an alteration to the Common Elements made by the Boards of Managers, so that any such encroachments may remain as long as the Units stand;

13. Any easement or right of use created in favor of any public utility company for electricity, steam, gas, telephone, water or other, cable television service, and the right to use, maintain and repair wires, cables terminal boxes, lines service connections, poles, mains, facilities and the like upon, under and across the Property;

14. Standard printed exceptions to the NYBTU and ATLA policies of title insurance;

15. Franchise taxes, if any provided the title company issuing a policy of title insurance to the Purchaser will insure that such taxes cannot be collected from the Unit;

16. Taxes, tax liens, tax sales, water rates, sewer rents and assessments, subject to adjustment;
and

17. Rights of tenants or persons in possession.

PURCHASER'S AFFIDAVIT OF INTENTION TO RESIDE

The undersigned, being duly sworn, deposes and says:

1. I am the Purchaser of Unit _____ in The 1438 Third Avenue Condominium.
2. I will/will not personally occupy the Unit as my residence.
3. If I do not intend to personally occupy the Unit, I represent that I intend that the Unit will be occupied by the following member(s) of my immediate family: _____

Sworn to before me this

_____ day of _____, 200__

Notary Public

UNIT OWNER'S POWER OF ATTORNEY

All terms used in this Unit Owner's Power of Attorney that are used (a) in the Declaration establishing a plan for condominium ownership of the premises known both as The 1438 Third Avenue Condominium and by the street number 1438 Third Avenue, New York, NY 10028, under Article 9-B of the Real Property Law of the State of New York, dated _____, 200__, and recorded in the New York County office of the Register of the City of New York on _____, 200__ under CRFN No. _____, (hereinafter referred to as the "Declaration"), or (b) in the By-Laws of The 1438 Third Avenue Condominium (hereinafter referred to as the "By-Laws") attached to, and recorded together with, the Declaration, shall have the same meanings in this Unit Owner's Power of Attorney as in the Declaration or the By-Laws.

The undersigned _____, (having an office) (residing)* at _____, the owner of the Condominium Unit (hereinafter referred to the "Undersigned's Unit") known as Residential Unit No. _____ at The 1438 Third Avenue Condominium, said Unit being designated and described as Residential Unit No. _____ in the Declaration and also designated as Tax Lot _____ in Block 1510 of Section 5 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of the City of New York and on the Floor Plans, (does) (do)* hereby irrevocably nominate, constitute and appoint the persons who may from time to time constitute the Condominium Board, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Unit Owners, in accordance with the Unit Owners' respective Common Interests, subject to the provisions of the By-Laws then in effect (1) (a) to acquire or lease any Unit, together with its Appurtenant Interests, from any Unit Owner desiring to sell, convey, transfer, assign, or lease the same, (b) to acquire any Unit, together with its Appurtenant Interests, whose owner elects to surrender the same pursuant to the term of Section 5.4 of the By-Laws, (c) to acquire any Unit, together with its Appurtenant Interests, that becomes the subject of a foreclosure or other similar sale, on such terms and (with respect to any transfer pursuant to the terms of subdivision (a) or (c) of this paragraph) at such price or at such rental, as the case may be, as said attorneys-in-fact shall deem proper, and thereafter to convey, sell, lease, mortgage, or otherwise deal with (but not vote the interest appurtenant to) any such Unit so acquired by them, or to sublease any Unit so leased by them, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in said premises that the undersigned could do if the undersigned were personally present and (2) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution, or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium or (b) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Condominium or the Common Elements, that the Condominium Board deems necessary or appropriate.

The acts of a majority of such persons constituting the Condominium Board shall constitute the acts of said attorneys-in-fact.

The undersigned (does) (do)* hereby irrevocably nominate, constitute and appoint 81st And 3rd Owner LLC (hereinafter referred to as "Declarant") as attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, to amend from time to time said declaration, By-Laws and the Rules and Regulations of the said Condominium, or any of said documents, when such amendment (1) shall be required to reflect any changes in Unsold Units or the Commercial Unit and/or the reapportionment of the Common Interests of the affected Unsold Units or the Commercial Unit resulting therefrom made by Declarant or its

designees in accordance with Article 12 of the Declaration or (2) shall be required by (a) an Institutional Lender designated by Declarant to make a mortgage loan secured by a mortgage on any Unit, (b) any governmental agency having regulatory jurisdiction over the Condominium, or (c) any title insurance company selected by Declarant to insure title to any Unit, provided, however, that any amendment made pursuant to the terms of subdivision (1) or (2) of this paragraph shall not (i) change the Common Interest of the Undersigned's Unit, (ii) require a material, physical modification to the Undersigned's Unit, or (iii) adversely affect the priority or validity of the lien of any purchase money mortgage or any mortgage held by an Institutional Lender covering the Undersigned's Unit unless the undersigned (in the event described in subdivision (i) or (ii) of this paragraph) or the holder of such mortgage (in the event described in subdivision (iii) of this paragraph) shall consent thereto by joining in the execution of such amendment. The terms, covenants and conditions contained in, and the powers granted pursuant to, this paragraph shall remain in full force and effect until such time as the Declarant or its designees shall cease to own any of the Residential Units in The 1438 Third Avenue Condominium.

IN WITNESS WHEREOF, the undersigned (has) (have)* executed this Unit Owner's Power of Attorney as of the _____ day of _____, 200__.

(SEAL)

(SEAL)

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

On _____, 200__ before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

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

On _____, 200__ before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

UNIT OWNER'S POWER OF ATTORNEY

- to -

THE BOARD OF MANAGERS OF
THE 1438 THIRD AVENUE CONDOMINIUM

The Premises affected by the within instrument lies in

Section: 5

Block: 1510

Lot:

On the Land Map of the County of New York

Street Address: 1438 Third Avenue
New York, NY 10028

Title Co.:

Title No.:

Record and Return To:

Dated: _____, 200__

FORM OF UNIT DEED

THIS INDENTURE, made the _____ day of _____, 200_, by and between **81ST AND 3RD OWNER LLC**, a Delaware Limited Liability Company having an office at 61 Broadway, Suite 1407, New York, New York 10006 (hereinafter referred to as the "Grantor") and _____ (having an office) (residing) at _____ hereinafter referred to as the "Grantee".

WITNESSETH

That the Grantor, in consideration of Ten (\$10.00) Dollars and other valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, and the heirs or successors and assigns of the Grantee, forever:

The Condominium Unit (hereinafter referred to as the "Unit") known as Residential Unit No. _____ in the building (hereinafter referred to as the "Building") known as The 1438 Third Avenue Condominium and by the street number 1438 Third Avenue, Borough of Manhattan and State of New York, said Unit being designated and described as Residential Unit No. _____ in a certain declaration dated _____, 200_, made by Grantor pursuant to Article 9-B of the Real Property Law of the State of New York (hereinafter referred to as the "Condominium Act"), establishing a plan for condominium ownership of the Building and the land (hereinafter referred to as the "Land") upon which the Building is situate (which Land is more particularly described in Exhibit A of said declaration), which declaration was recorded in the New York County office of the Register of The City of New York on _____, 200_, under CRFN No. _____. The Unit is also designated as Tax Lot _____ in Block 1510 of Section 5 of the Borough of Manhattan on the Tax Map of the Surveyor's Office of the Department of Finance of the City of New York on the floor plans of the Building certified by CMA Design Studio, P.C. on _____, 200_ and filed with the Surveyor's Office of the Department of Finance of the City of New York on _____, 200_ as Condominium Plan No. _____ and also filed in the City Register's office on _____, 200_ under CRFN No. _____;

Together with an undivided _____% interest in the Common Elements (as such term is defined in the Declaration);

Together with the appurtenances and all the estate and rights of the Grantor in and to the Unit;

Together with, and subject to, the rights, obligations, easements, restrictions and other provisions set forth in the Declaration and the By-Laws of The 1438 Third Avenue Condominium, as the same may be amended from time to time (hereinafter referred to as the "By-Laws"), all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in the Unit, as though recited and stipulated at length herein;

Subject also to such other liens, agreements, covenants, easements, restrictions, consents and other matters of record as pertain to the Unit, to the Land and/or to the Building (which Land and Building are hereinafter collectively referred to as the "Property").

TO HAVE AND TO HOLD the same unto the Grantee, and the heirs or successors and assigns of the Grantee, forever.

If any provision of the Declaration or the By-Laws is invalid under, or would cause the Declaration or the By-Laws to be insufficient to submit the Property to the provisions of the Condominium Act, or if any

provision that is necessary to cause the Declaration or the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the By-Laws, or if the Declaration or the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the applicable provisions of Article 17 of the Declaration shall control.

Except as otherwise specifically permitted by the Condominium Board (as such term is defined in the Declaration) or provided in the Declaration or in the By-Laws, the Unit is intended for residential use only.

The Grantor covenants that the Grantor has not done or suffered anything whereby the Unit has been encumbered in any way whatever, except as set forth in the Declaration and the By-Laws (and any Rules and Regulations adopted under the By-Laws).

The Grantor, in compliance with Section 13 of the Lien law of the State of New York, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the improvements at the Property and will apply the same first to the payment of the cost of such improvements before using any part of the same for any other purposes.

The Grantee accepts and ratifies the provisions of the Declaration and the By-Laws (and any Rules and Regulations adopted under the By-Laws) and agrees to comply with all the terms and provisions thereof.

If the Grantor is a corporation, this conveyance is made in the regular course of business actually conducted by the Grantor.

The term "Grantee" shall be read as "Grantees" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the Grantor and the Grantee have duly executed this indenture as of the day and year first above written.

81ST AND 3RD OWNER LLC

By: _____

Grantee

Grantee

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

On _____, 200_ before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

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

On _____, 200_ before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

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

On _____, 200_ before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EXHIBIT A
DESCRIPTION

Unit No. _____

Section 5, Block 1510, Lot _____

The Condominium Unit (hereinafter referred to as the "Unit") known as Residential Unit No. _____ in the building (hereinafter referred to as the "Building") known as The 1438 Third Avenue Condominium and by the street number 1438 Third Avenue, Borough of Manhattan and State of New York, said Unit being designated and described as Residential Unit No. _____ in a certain declaration dated _____, 200_ (which declaration and amendments thereto are hereinafter collectively referred to as the "Declaration") made by Grantor pursuant to Article 9-B of the Real Property Law of the State of New York (hereinafter referred to as the "Condominium Act"), establishing a plan for condominium ownership of the Building and the land (hereinafter referred to as the "Land") upon which the Building is situated (which Land is more particularly described in Exhibit A of said declaration), which declaration was recorded in the Office of the Register of the City of New York in the County and State of New York on _____, 200_ under CRFN No. _____. The Unit is also designated as Tax Lot _____ in Block 1510 of Section 5 of the Borough of Manhattan on the Tax Map of the Surveyor's Office of the Department of Finance of the City of New York on the floor plans of the Building certified by CMA Design Studio, P.C. on _____, 200_ and filed with the Surveyor's Office of the Department of Finance of the City of New York on _____, 200_ as Condominium Plan No. _____ and also filed in the City Register's office on _____, 2005 under CRFN No. _____.

TOGETHER WITH an undivided _____% interest in the Common Elements (as such term is defined in the Declaration).

The Land upon which the Building containing the Unit is situate is bounded and described as follows:

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Third Avenue, distant 51 feet 8-1/2 inches northerly from the northwesterly corner of 81st Street and 3rd Avenue;

RUNNING THENCE, northerly along the westerly side of Third Avenue, 75 feet 11-5/8 inches to a point;

THENCE, westerly and at right angles to the westerly side of Third Avenue, 102 feet 2-3/8 inches to a point;

THENCE, southerly and parallel with the westerly side of Third Avenue, 60 feet 6-1/8 inches;

THENCE, easterly parallel to East 81st Street, 9 feet 2-2/3 inches;

THENCE, southerly again parallel with the westerly side of Third Avenue, 15 feet 4-1/2 inches;

THENCE, easterly parallel with East 81st Street, 93 feet to the point of place **BEGINNING**.

Premises known as 1438 Third Avenue, New York, NY 10028.

UNIT DEED

81st And 3rd Owner LLC

- to -

The Premises affected by the within instrument lies in

Section: 5

Block: 1510

Lot:

On the Land Map of the County of New York

Street Address: 1438 Third Avenue
New York, NY 10028

Title Co.:

Title No.:

Record and Return To:

Dated: _____, 200_

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DESCRIPTION OF PROPERTY AND BUILDING CONDITION

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DOCUMENT #

**DESCRIPTION OF PROPERTY
AND BUILDING CONDITIONS**

**1438 Third Avenue
NEW YORK, NEW YORK 10028**

PREPARED BY:

**ALFREDO G. CARBALLUDE
REGISTERED ARCHITECT
CMA DESIGN STUDIO, P.C.
47 EAST 19TH STREET – 6TH FLOOR
NEW YORK, NEW YORK 10003**



**DATE: December 12th, 2005
Revised: July 20th, 2006**

**1438 Third Avenue
New York, New York
PREFACE**

This report concerning 1438 Third Avenue, New York, New York (the "Building" or "Property" or "Premises") was commissioned by the Sponsor for the purpose of inclusion in the Condominium Offering Plan (the "Plan") for said Building in compliance with the requirements of the Department of Law of the State of New York and we hereby consent to such use. Any use of this report for any other purpose is not authorized by Alfredo G. Carballude, R.A./CMA Design Studio, P.C.

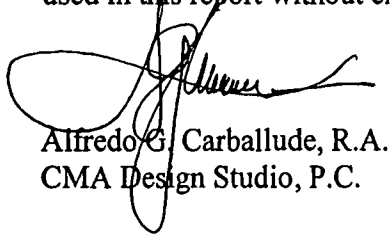
We visually inspected existing portions of the occupied Premises during the months of August, September and October 2005. Research of New York City Department of Buildings and governmental archives failed to locate construction documents or plans used during the building construction performed in 1984 - 1986, therefore, all statements contained herein are based on visual observations.

A separate existing conditions report for electrical, plumbing, ventilating, fire alarm and heating systems has been prepared by Fred Roslyn, P.E. describing the condition of those systems.

A report titled "inspection for asbestos containing materials" dated October 21st, 2005 as prepared by Linda Ultee, certified asbestos investigator #96435 of Ambient Group Inc. was consulted in the preparation of this report.

Observations were made of those areas that were open and accessible at the time of the visits. Alfredo G. Carballude, R.A./CMA Design Studio, P.C. assume no responsibility for any conditions or defects that were hidden, inaccessible, or could not be determined by cursory observation. It is to be understood that some aspects of the physical condition of the Property cannot be determined from visual observation including a representative sample or selection of vacant or occupied apartments. All statements contained in this report are premised on and limited to such observations. This report is not intended as a guarantee or warranty of the physical condition of the Premises by the Architect. All statements relative to the legal use, zoning provisions, and code compliance of the Building only express Alfredo G. Carballude's, R.A. professional opinion, as President of CMA Design Studio, P.C., and are subject to final determination by those government agencies having jurisdiction.

The sponsor has not undertaken to correct or repair any existing conditions noted in this report, unless otherwise expressly provided. The definitions of the Plan apply to all terms used in this report without express definition.



Alfredo G. Carballude, R.A.
CMA Design Studio, P.C.

July 20th, 2006



A) LOCATION AND USE OF PROPERTY

1) Address: 1438 Third Avenue

New York, New York

Property is located on the west side of Third Avenue distant 51'-8 1/2" north from the corner formed by the intersection of Third Avenue and East 81st Street.

2) Block and Lot Number

Block: 1510

Lot: 35

3) Zoning

The current zoning district for the Building site is C1-9. The Building is not located in an historic district.

4) Permissible Use

The Building is located in a C1-9 zoning district allowing for a wide variety of commercial uses as well as residential use. The existing building contains commercial and residential uses. There are no remaining development rights left as the Building is built under a zoning lot assemblage that included lots #33, 35, 36, 37, 38 & 39.

B) STATUS OF CONSTRUCTION

1) Year Built:

Building Department records the Building was built during 1984, 1985 and 1986 under application #NB 1-1983.

2) Class of Construction

The Building construction classification is Type IB non-combustible construction per New York City Department of Buildings records.

3) Certificate of Occupancy

The New York City Department of Buildings issued Certificate of Occupancy #89261 on October 1st, 1986. The description of uses, and dwelling units listed on the Certificate of Occupancy are as follows:

<u>Floor</u>	<u>Live Load</u>	<u>Dwelling Units</u>	<u>Description of Use</u>
1. Sub-cellar	on grade	-	Boiler room, refuse room, accessory health club for tenants

<u>Floor</u>	<u>Live Load</u>	<u>Dwelling Units</u>	<u>Description of Use</u>
2. Cellar	100	-	Laundry room, electric & gas meter rooms, tenant storage room, commercial kitchen, accessory health club for tenants.
3. 1 st Floor	100	-	Accessory health club, commercial restaurant, lobby
4. 2 nd - 8 th Floors	40	5	Class "A" apartments
5. 9 th - 28 th Floors	40	5	Class "A" apartments
6. 29 th - 31 st Floors	40	4	Class "A" apartments
7. Roof Bulkhead	-	-	Elevator machine room

4) Alteration Permit Numbers

An Alt. II Application for the modernization of elevators will be filed and approved by the New York City Department of Buildings.

Repairs in kind to existing mechanical ventilation system will not require the filing of applications or obtaining work permits from the New York City Department of Buildings.

C) SITE

1) Size

The Building site is located on the west side of Third Avenue distant 51'-8 1/2" north from the corner formed by the intersection of Third Avenue and East 81st Street. The lot is approximately 75'-11 5/8" wide (which is the frontage on Third Avenue) and approximately 102'-2 3/8" deep. The Building is approximately 287'-0" high from the sidewalk to the thirty first floor roof.

2) Number of Buildings

There is one building on the site.

3) Streets Owned or Maintained by the Project

The site does not own or maintain a street. The asphalt paved street in front of the Building is owned by the city of New York and is in reasonable condition with catch basins at intersections. The curbs are concrete or steel in fair shape. Street lighting is New York City maintained standard lighting.

4) Drives, Sidewalks, and Ramps

There are no drives or ramps on the Property. The sidewalk is built of concrete and is in fair condition. Some minor cracking was observed but does not appear to present a tripping hazard. The sidewalk curbs are steel and in fair condition.

D) UTILITIES

Water service is provided by the City of New York and is a municipal service. The sewer is a municipal sanitary service and the storm system drains into the municipal storm water system. Incoming water will be provided by a single metered service that will be a Common Charge to the Residential Units. Separate sub-meters are installed at the Commercial Unit.

Gas is provided by Consolidated Edison Company of New York, a regulated public utility and will be a Common Charge to Residential Units, including cooking, heating and the domestic hot water system for the Residential Units. Incoming gas for residential units will be via two separate meters, one meter for cooking gas and one for boiler service. Both meters will be a Common Charge to the Residential Units. Two gas meters are installed at the Commercial Unit.

Electricity is provided by Consolidated Edison. Common charges, per the master meter, will include power for all public areas including lighting, public stairways, laundries, residential common area, storage units, exhaust fans and elevators. Each Residential and Commercial Unit will be individually metered for electricity and will pay for electricity directly to the utility as per its separate meter.

Residential and Commercial Unit Owners will be responsible to make individual arrangements for cable television services with providers with direct billing to user. Cable T.V. service is provided by Time Warner Cable

Telephone service is provided by the Verizon Company, a regulated utility. All Residential and Commercial Unit owners will be responsible to make individual arrangements for direct billing to user.

Maintenance costs for utilities for common areas and storage units including water, gas and electric will be included in the Common Charges to Residential Units.

For further information on utilities refer to report prepared by Fred Roslyn, P.E.

E) UTILITIES/SUB-SOIL CONDITIONS

1) Foundations

Visual inspection of the cellar and sub-cellar walls and floors of foundations did not indicate any settlement, movement, cracking or evidence of major repair. Foundation walls and floor slabs are in good condition.

2) Moisture

The cellar and boiler room are dry and show no sign of moisture or seepage from ground water. According to the U.S. Geological Survey map of the area, this Property is above mean sea level and is not considered to be located in a flood prone area.

3) Flooding

The nearest surface water body to the Building is the East River. There is no indication that the Manhattan water table reaches this Building.

Flooding might occur in the event of a water main break in the street. No practical preventative action is suggested. Any goods stored in the cellar or sub-cellar would be damaged in the event of a flood.

F) LANDSCAPING AND ENCLOSURES

1) Grass

There is no grass at the site.

2) Plantings

There are no plantings at the site.

3) Trees

There are no trees at the site.

4) Fencing

The second floor apartments facing the rear yard have wood gates and wood fence enclosures. The gates and enclosures are in fair shape and will require maintenance in the near future.

5) Gates/enclosures

The second floor apartments facing the rear yard have wood gates and wood fence enclosures. The gates and enclosures are in fair to good condition and will require maintenance in the near future.

6) Garden Walls

There are no garden walls at the site.

7) Retaining walls

There are no retaining walls at the site.

8) Display pools and fountains

There are no display pools and fountains at the site.

G) BUILDING SIZE

1) Height

Building is approximately 287'-0" high from grade at Third Avenue to the thirty first floor roof.

2) Crawl Spaces

There are no crawl spaces at the site.

3) Sub-Cellar/Cellar

The sub-cellar in the building is located completely below grade. The boiler room is located approximately 4'-0" below the sub-cellar level. The sub-cellar contains the boiler room, refuse compactor room and portions of the Commercial Unit.

The cellar in the Building is located completely below grade. The cellar contains two laundry rooms, oil tank room, upper portion of boiler room, two storage rooms, closets and portions of the Commercial Unit.

4) Number of floors

The Certificate of Occupancy lists the following floors in the building:

1. Sub-cellar	17. Fifteenth floor
2. Cellar	18. Sixteenth floor
3. First floor	19. Seventeenth floor
4. Second floor	20. Eighteenth floor
5. Third floor	21. Nineteenth floor
6. Fourth floor	22. Twentieth floor
7. Fifth floor	23. Twenty first floor
8. Sixth floor	24. Twenty second floor
9. Seventh floor	25. Twenty third floor
10. Eighth floor	26. Twenty fourth floor
11. Ninth floor	27. Twenty fifth floor
12. Tenth floor	28. Twenty sixth floor
13. Eleventh floor	29. Twenty seventh floor
14. Twelfth floor	30. Twenty eighth floor
15. Thirteenth floor	31. Twenty ninth floor
16. Fourteen floor	32. Thirtieth floor
	33. Thirty first floor

5) Equipment rooms

Equipment rooms are located on the cellar, sub-cellar and roof level of the building. The roof level contains the elevator machine room, the cellar level contains the gas meter/pump room, the boiler room and electrical room.

6) Parapets

The Building parapets are approximately 3'-6" high concrete parapets above the roof. The parapets are in good condition.

H) STRUCTURAL SYSTEMS

The Building is a reinforced concrete structure with reinforced concrete slabs, columns and shear walls. The foundations are assumed to be reinforced concrete bearing on suitable rock sub-soil conditions.

1) Exterior of buildings

(a.) Walls

The Building exterior walls are cavity walls made of 4" face brick, a two inch air space and interior concrete masonry units, supported by the structural slabs. It is assumed the exterior wall drywall furring contains some type of insulation in between metal studs. The Building exterior is in relatively good condition with the exception of the concrete slab "eyebrows" which show some minor spalling. Mr. Fred Roslyn, P.E. is preparing a Cycle #6 Local Law II report which will be completed and filed with the New York City Department of Buildings by the end of December 2006. No hazardous conditions were noted on exterior walls.

(b.) Windows

Exterior sliding windows and sliding doors are aluminum thermal break units with insulated thermal pane glass. The windows and sliding glass doors are 20 years old and are in fair to good condition. No visual evidence of leaks was detected.

The windows have no screens. The caulking or sealant in the window frames is in fair condition.

The Building does not have Landmark status.

(c.) Lintels and Sills

Existing window sills are aluminum in fair to good condition. Existing window lintels are steel in fair to good condition.

2) Parapets and Copings.

Parapets in the Building roof are solid cast concrete without copings. The parapets are in good condition. No deficiencies were noted on the parapets. Some setbacks at the second floor have cast stone copings. The cast stone copings are in good condition.

3) Chimneys and caps

There is an existing masonry flue for the boiler and one for the refuse chute that appear to be in fair condition consistent with its age. The caps are aluminum and are in fair to good condition.

4) Balconies and terraces

The Building has balconies, or terraces at most residential units. The balconies have concrete floors, the terraces have paving concrete blocks as floor finish. The balconies have steel railings and balustrades that are in good condition. No hazardous conditions were noted on the balconies or terraces.

All balconies and terraces have access from the residential units through sliding glass doors as described above. The balconies and terraces are located in the following areas:

A. Terraces

<u>Floor</u>	<u>Residential Unit</u>	<u>Approximate Square Footage</u>
1. Second floor.....	2A	364 S.F.
2. Second floor.....	2B	608 S.F.
3. Second floor.....	2C	157 S.F.
4. Second floor.....	2E	a. 300 S.F. b. 139 S.F.
5. Ninth floor.....	9D	266 S.F.

B. Balconies

<u>Floor</u>	<u>Residential Unit</u>	<u>Approximate Square Footage</u>
1. Ninth floor.....	9A	61 S.F.
2. Ninth floor.....	9B	61 S.F.
3. 10 th , 13 th , 14 th , 19 th & 20 th floors	10A, 13A, 14A..... 19A, 20A, 10B 13B, 14B, 19B, 20B	61 S.F.
4. 10 th , 13 th , 14 th , 19 th & 20 th floors	10C, 13C, 14C..... 19C, 20C	53 S.F.
5. 10 th , 13 th , 14 th , 19 th & 20 th floors	10D, 13D, 14D..... 19D, 20D	45 S.F.
6. 10 th , 13 th , 14 th , 19 th & 20 th floors	10E, 13E, 14E..... 19E, 20E	55 S.F.

7. 11 th , 12 th , 15 th , ... 16 th , 17 th , 18 th 21 st , 22 nd floors	11A, 12A, 15A..... 16A, 17A, 18A, 21A, 22A 11B, 12B, 15B, 16B, 17B, 18B, 21B, 22B	61 S.F.
8. 11 th , 12 th , 15 th , ... 16 th , 17 th , 18 th 21 st , 22 nd floors	11C, 12C, 15C..... 16C, 17C, 18C, 21C, 22C	53 S.F.
9. 11 th , 12 th , 15 th , ... 16 th , 17 th , 18 th 21 st , 22 nd floors	11D, 12D, 15D..... 16D, 17D, 18D, 21D, 22D	45 S.F.
10. 11 th , 12 th , 15 th , ... 16 th , 17 th , 18 th 21 st , 22 nd floors	11E, 12E, 15E..... 16E, 17E, 18E, 21E, 22E	55 S.F.
11. 23 rd , 24 th , 25 th , ... 26 th , 27 th & 28 th floors	23A, 24A, 25A..... 26A, 27A, 28A, 23B, 24B, 25B 26B, 27B, 28B,	61 S.F.
12. 23 rd , 24 th , 25 th , ... 26 th , 27 th & 28 th floors	23C, 24C, 25C..... 26C, 27C, 28C, 23E, 24E, 25E 26E, 27E, 28E,	116 S.F.
13. 23 rd , 24 th , 25 th , ... 26 th , 27 th & 28 th floors	23D, 24D, 25D..... 26D, 27D, 28D,	45 S.F.
14. 29 th , 30 th & 31 st floors	29A, 30A, 31A.....	61 S.F.
15. 29 th , 30 th & 31 st floors	29B, 30B, 31B..... (Two balconies ea.)	a. 61 S.F. b. 77 S.F.
16. 29 th , 30 th & 31 st floors	29C, 30C, 31C.....	64 S.F.
17. 29 th , 30 th & 31 st floors	29E, 30E, 31E.....	141 S.F.

Residential Unit Terraces or Balconies will be a Residential Limited Common Element appurtenant to the Residential Unit. It will be the sole responsibility of the Unit Owner to maintain his or her Terrace or Balcony. Terraces or Balconies will be maintained by those Units that they are appurtenant to, including keeping these areas and their drains clean, repaired and kept free and clear of snow, ice, and debris at the sole cost of the individual Residential Unit Owner.

5) Exterior entrances

(a.) Exterior doors and frames

The residential entry to the Building consists of two 3'0" wide X 8'0" high, wood and glass entry doors. There are also wood and glass side panels at both sides of the entrance doors. The entrance vestibule consists of two wood and glass doors approximately 3'-0" X 8'-0" high with wood and glass side panels. Both assemblages are in good condition. The wood and glass entrances and storefront for the Commercial Unit are in fair to good condition.

(b.) Exterior stairs

There are no exterior stairs in the building.

(c.) Exterior Railings

There are no exterior railings at exterior entrances.

(d.) Lighting

The exterior ground floor area by the Building lobby entrance receives reflected illumination from interior lobby fixtures that shine through the glass doors and storefront, and has two exterior light fixtures.. The interior lighting at the main residential lobby give adequate illumination to the exterior. Street lighting is New York City maintained standard lighting.

(e.) Mailboxes

The mailboxes for the residential units are located at the rear of the lobby adjacent to the passenger elevators. The mailboxes are aluminum gang-type and are in fairly good condition.

(f.) Interior Demising Walls

Interior demising walls between the Commercial Unit and Residential areas are masonry or drywall partitions that meet all New York City Building code requirements. All walls are in good condition.

6) Service entrances

(a.) Doors and frames

There are no service entrance doors in the building.

(b.) Gates

There are no service entrance gates in the building.

(c.) Exterior Stairs

There are no service entrance exterior stairs or railings in the building.

7) Roof and type of roof structures

The Building has a main roof above the thirty first floor and a roof area in the rear yard above the first floor. All roofing systems are original to the Building construction from 1986. The roof system is hot mopped asphalt with asphalt impregnated felt layers. Insulating values, if any, were not determined. The roof system is not bonded or guaranteed. The roofing membrane has been adhered approximately 10" vertically around the bulkheads, parapets and walls with flexible base flashing and flashing cement at which points there are stainless steel or aluminum counter flashings. Although no active leaks were detected the building superintendent stated that once in a while, during heavy winter snow storm conditions a recurring leak appears in one of the 31st floor apartments. The roof system, which is in fair condition, is approximately 20 years old and at the end of its lifespan. With proper maintenance the roof system life could be extended 1 to 5 years but a new roofing system will be required in the future.

(b.) Drains

Terraces and roofs have internal drains that appear to be in fair condition consistent with their age. Roof bulkheads have leaders and gutters in fair to good condition.

(c.) Skylights

There are some skylights in the Building's second floor rear yard roof. The skylights are in fair to good condition and are part of the Commercial Unit. No leaks were visually detected at skylights.

(d.) Bulkheads

There is one masonry stair bulkhead on the second floor rear yard roof. The bulkhead houses an internal steel public stairway which serves the Commercial Unit. There is a large masonry stair/elevator machine room bulkhead at the roof level of the Building. The roof level bulkhead also contains a storage room. The roof bulkhead is a Residential Common Element. The bulkhead is in good condition.

(e.) Metal work at roof

There is no metal work at the roof levels.

(f.) Vertical Ladders

There are no vertical ladders in the roof levels.

(g.) Roof Hatches

There are no roof hatches.

(h.) Rooftop facilities

There are no rooftop facilities.

8) Fire escapes

The Building does not have fire escapes.

9) Yards and courts

The building has no front or side yards. The site contains a rear yard approximately 75'-10 5/8" wide by 29'-8 3/8" long in the west portion of the site. Portions of the rear yard have been allocated for private terraces for residential units. The balance of the rear yard has been allocated for use by the Commercial Unit. The rear yard has access to the street through public stair #3 which is part of the Commercial Unit.

10) Interior stairs

(a.) Number of interior stairs

There are three interior public stairs, #1, #2 and #3 servicing the Building. Stair #1 services from the cellar to the Building's roof. Stair #2 services from the cellar to the Building's roof. Both stairs #1 and #2 are Residential Common Elements except for the first and cellar portions which are General Common Elements. Stair #3 services from the sub-cellar to the second floor rear yard roof.

(b.) Public Stairs Enclosure

The public stair enclosures are built out of concrete masonry units and have a fire rating that satisfies code requirements. Both stair enclosures appear to be in good condition having painted walls. There are self-closing fire rated steel doors and frames at all landings. Doors and frames are in good condition. Illumination in both stairways appears adequate with illumination at each level.

(c.) Construction, stringers, treads, and risers

The public stairs are made of reinforced concrete. Stair widths, landings, and run distances all meet code requirements. Both stairs are in good condition. The average minimum stair width of 3'-0" satisfies code requirements.

(d.) Stair railing

The stair public railings are wall mounted 1 1/2" diameter steel pipe and are in good condition. The railing heights meet code requirements. The average pipe railing height is 32".

(e.) **Balustrades**
There are no balustrades in the public stairs.

(g.) **Apartment Interior Stairs**
There are no interior apartment stairs.

11) Interior doors and frames

(a.) **Apartment Entry Doors**
Apartment entry doors and frames are 3'-0" x 7'-0" steel fire rated doors with self-closing hinges. Some hinges are not closing properly to meet code requirements. The sponsor will replace hinges and/or add door closers to defective doors so all apartment entrance doors meet all building code requirements. All doors have mortise lockset hardware with privacy chain and chimes. The doors and hardware are in fair to good condition.

(b.) **Interior Apartment Doors**
All interior apartment doors are flush hollow core wood doors in hollow metal (knock down) or wood frames. Most closet doors are 1" particle board bi-fold doors. All doors and hardware are in fair to good condition.

(c.) **Roof doors, sub-cellar, cellar doors and frames**
Roof doors including doors leading into the bulkheads are steel and in fair condition. The sub-cellar and cellar level have a variety of steel doors and frames, in fair to good condition. Cellar and sub-cellar doors meet code requirements.

12) Elevators

(a.) **Number of passenger elevators**
There are two passenger elevators in the building, Elevator #1 and Elevator #2. The existing passenger elevators are overhead traction type as manufactured by Staley with a rated capacity of 2,000 lbs. each. The elevator cabs are plastic laminate walls with bronze metal panels. The Sponsor has indicated both passenger elevators will be refurbished including new motors, controls, cabs, signal, doors, etc. Joseph Neto & Associates, Inc. (elevator consultant) has prepared full specifications for the upgrading of both elevators.

(b.) **Manufacturer and capacity**
The two new passenger elevators will be manufactured by Hollister-Whitney with a capacity of 2000 lbs. (13 person capacity) with a rated travel speed of 400 ft./minute.

(c.) **Type of operation and location**

The elevators serving the Building from the cellar through the 31st floor will be automatically operated. They are exclusively for passenger use with occasional use as freight cars for moving furniture.

(d.) **Controls**

Both passenger elevators will be driven by new microprocessor controls and operate as a duplex selective system. The control system will be as manufactured by Elevators Controls Inc. or equal.

(e.) **Floors served**

Both passenger elevators service the cellar through the 31st floor.

(f.) **Type**

Both elevators will be automatic passenger elevators.

(g.) **Doors**

Both elevators will have new 36" wide by 86" high single speed steel doors.

(h.) **Machine room location**

The machine room for both elevators is located above the roof level.

(i.) **Motors**

Both elevators will have 15 HP motors as manufactured by Imperial Electric Co., or equal.

13) Elevator cabs

(a.) **Kind**

Both cabs will be closed and self contained shell structures.

(b.) **Floor**

The new elevator cab floors will be vinyl tile.

(c.) **Walls**

The new elevator cab walls will be plastic laminate panels or stainless steel panels.

(d.) **Ceiling**

The new ceilings of the new elevator cabs will be plastic laminate panels which will be perforated with ventilation slots.

(e.) **Lighting**

The new elevator ceilings will have incandescent down lighting.

D) AUXILIARY FACILITIES

1) Laundry rooms

There are two laundry rooms #1 and #2 in the cellar level. Both laundry rooms are equipped with heavy duty coin operated washers and dryers.

All laundry rooms will be used by all residential tenants. For dryers and laundry room ventilation refer to report prepared by Fred Roslyn, P.E.

2) Refuse disposal

(a.) Refuse Chute and Compactor

The building has an existing refuse chute serving the second through the 31st residential unit floors.

The refuse chute is accessible behind a hollow metal door at the public corridors. The refuse chute has steel hopper doors. The refuse compacting room is located in the sub-cellar and contains a refuse compactor that appears to be 10 – 15 years old. The refuse compactor is in fair condition and will need replacement in the near future.

There are no jurisdictional approvals required for refuse removal in the Building.

The method and times set for compactor trash removal as well as non-compactor trash removal from the Residential Units will be determined by the Board of Managers.

The City of New York picks up refuse from residential buildings as established by their schedule. Commercial tenants will have to arrange refuse pick-up by private carting companies.

(b.) Initial storage location

Initial storage location, for residential units' refuse, will be limited to the compactor/refuse room which is located in the sub-cellar.

J) PLUMBING AND DRAINAGE

1) Water Supply

Refer to separate report prepared by Fred Roslyn, P.E.

K) HEATING

Refer to separate report prepared by Fred Roslyn, P.E.

L) GAS SUPPLY

Refer to separate report prepared by Fred Roslyn, P.E.

M) AIR CONDITIONING

Refer to separate report prepared by Fred Roslyn, P.E.

N) VENTILATION

Refer to separate report prepared by Fred Roslyn, P.E.

O) ELECTRICAL SYSTEM

Refer to separate report prepared by Fred Roslyn, P.E.

P) INTERCOMMUNICATIONS, CABLE TV, & PHONE

Refer to separate report prepared by Fred Roslyn, P.E.

Q).PUBLIC AREA LIGHTING

Refer to separate report prepared by Fred Roslyn, P.E.

R) GARAGES AND PARKING AREAS

There are no parking facilities in the Building.

S) SWIMMING POOL

There is no swimming pool in the Building.

T) TENNIS COURTS, PLAYGROUND, RECREATION FACILITIES

There are no tennis courts, playgrounds, or recreation facilities in the building or property.

U) REQUIRED PERMITS

Drawings will be filed and new permits obtained to refurbish both passenger elevators.

At the end of refurbishing the elevators, sign-offs and a passenger elevator inspection certificate will be obtained by the Sponsor.

The Building is required to have the following ongoing inspections and certifications:

- 1) The elevators in the Building must be inspected every year and a safety test conducted every five years.
- 2) The sprinkler system must be inspected monthly and tested as required by code.

- 3) The Building is required to have a façade inspection by a licensed professional engineer or registered architect every five years as required by Local Law #11 (which pertains to facades, balconies, cornices, and eaves of the Building). The present cycle inspection has not been filed as of the date of this report.
- 4) The boilers must be inspected every year. Issuance of a Certificate of Operation from the Department of Air Resources is required every three Years.
Updated inspection certificates will be provided by the Sponsor before the First Closing, as required, for the elevators, sprinkler system and boiler system.

V). VIOLATIONS

As of July 19th, 2006 the New York City Department of Buildings Index Record indicates (2) two Department of Buildings violations, (11) eleven Environmental Control Board violations. As of July 10th, 2006 the New York City Fire Department records list one Fire Department violation. As of July 18th, 2006 the Department of Housing Preservation and Development records indicate (15) fifteen open violations. The violations are as follows:

a) Building Department Violations

<u>Violation #</u>	<u>Date Issued</u>	<u>Violation Description</u>	<u>Work Required To Cure</u>
1. V060605E9011/ 130650	06/06/05	Elevator violation	Resolve work & remove violation
2. V060605E9011/ 131776	06/06/05	Elevator violation	Resolve work & remove violation

b) Environmental Control Board Violations

<u>Violation #</u>	<u>Date Issued</u>	<u>Violation Description</u>	<u>Work Required To Cure</u>
1. 34076093K	07/14/92	Restaurant exhaust system	Bring restaurant exhaust system up to code
2. 34176453N	05/12/98	Repair façade deficiencies	Repair deficiencies & remove violation
3. 34150778X	08/14/97	Repair façade deficiencies	Repair deficiencies & remove violation

4. 34150872M	05/30/97	Repair façade deficiencies	Repair deficiencies & remove violation
5. 34156290J	03/10/98	Repair façade deficiencies	Repair deficiencies & remove violation
6. 34146488X	12/11/96	Public Assembly violation	Resolve Public Assembly Occupancy & remove violation
7. 38068234K	12/17/97	Elevator violation	Resolve work & remove violation
8. 38068235M	12/17/97	Elevator violation	Resolve work & remove violation
9. 38116570N	06/12/01	Elevator violation	Resolve work & remove violation
10. 34156204Y	11/26/97	Repair facade deficiencies	Repair façade & remove violation
11. 34156204Y	02/03/98	Repair facade deficiencies	Repair façade & remove violation

c) Fire Department Violations:

Control #	Date Issued	Violation Description	Work Required to Cure
1. 10913241H	Nov.'04	Failure to provide C. of O. and Public Assembly permit	Provide updated C. of O. and Public Assembly permit

d) Department of Housing Preservation and Development Violations

Violation #	Date Issued	Violation Description	Work Required To Cure
1. 3777208	03/29/01	Eroded mortar joint @ window lintel in 2 nd room apt. 30C	Repair mortar joint
2. 3663357	11/17/00	Leak @ ceiling & wall of 1 st room apt. 30C	Resolve leak

3. 3663366	11/17/00	Broken & defective plaster @ 1 st room apt. 30C	Repair plaster & paint
4. 3664852	11/17/00	Defective mortar joint @ window lintel apt. 30C	Repair mortar joint
5. 3664857	11/17/00	Leak @ ceiling of 2 nd room apt. 30C	Repair leak
6. 2312706	06/08/99	Door non-self closing @ apt. 2B	Repair door to be self-closing
7. 2312707	06/08/99	Vermin, mice & roaches @ apt. 2B	Exterminate vermin & roaches
8. 2312708	06/08/99	Defective plaster surfaces @ N/W corner apt. 2B	Repair plaster & paint
9. 2312709	06/08/99	Defective wood floor under kitchen cabinet	Repair wood floor
10. 2312702	05/05/99	Vermin mice @ apt. 2A	Exterminate vermin
11. 2312703	05/05/99	Non self-closing door at roof bulkhead	Make door self-closing
12. 2312704	05/05/99	Non self-closing door @ public hallway 22 nd floor	Make door self-closing
13. 2312705	05/05/99	Cellar door to heating system room closed	Open door
14. 2312701	02/09/99	Water damaged ceiling N/E room @ apt. 8D	Repair & paint

15. 2312700	04/23/87	Deficient lighting @ building main entrance	Provide adequate lighting
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As of July 10th, 2006 there were no violations issued by the New York City (D.O.T.) Department of Highways.

W) UNIT INFORMATION

The Residential Units room count is defined as follows: kitchens, living rooms, and winter gardens, as indicated on the plans.

Dining areas are considered part of living room since they occupy the same open area.

Kitchens are considered rooms whether or not they are self contained enclosures. (notwithstanding Building Department kitchenette definitions)

UNIT DESCRIPTIONS

<u>Units</u>	<u>Rooms</u>	<u>Bathrooms</u>	<u>Bathroom Fixtures</u>
2A,3A,4A,5A,6A, 7A,8A,9A,10A,11A 12A,13A,14A,15A,16A, 17A,18A,19A,20A,21A, 22A,23A,24A,25A,26A, 27A,28A,29A,30A,31A	2 rooms plus one bedroom	1 ½	Toilet, sink, bathtub Toilet, sink
2B,3B,4B	2 rooms	1	Toilet, sink, bathtub
5B,6B,7B,8B,9B, 10B,11B,12B,13B,14B 15B,16B,17B,18B,19B, 20B,21B, 22B,23B,24B, 25B,26B, 27B,28B	2 rooms plus one bedroom	1 ½	Toilet, sink, bathtub Toilet, sink,
29B,30B,31B	2 rooms plus two bedrooms	2	Toilet, sink, bathtub Toilet, sink, bathtub
2C,3C,4C	2 rooms plus one bedroom	1	Toilet, sink, bathtub

5C,6C,7C,8C,9C, 10C,11C,12C,13C,14C 15C,16C,17C,18C,19C, 20C,21C, 22C,23C,24C, 25C,26C, 27C,28C	2 rooms plus one bedroom	1 ½	Toilet, sink, bathtub Toilet, sink,
29C,30C,31C	2 rooms plus two bedrooms	2	Toilet, sink, bathtub Toilet, sink, bathtub
2D,3D,4D,5D, 6D,7D,8D	2 rooms plus one bedroom	1	Toilet, (2) sinks, bathtub
9D,10D,11D,12D,13D 14D,15D,16D,17D,18D, 19D,20D,21D,22D,23D, 24D,25D,26D,27D,28D	2 rooms plus one bedroom	1 ½	Toilet, sink, bathtub Toilet, sink
2E,3E,4E,5E, 6E,7E,8E	2 rooms plus two bedrooms	2	Toilet, sink, bathtub Toilet, sink, bathtub
9E,10E,11E,12E,13E 14E,15E,16E,17E,18E, 19E,20E,21E,22E,23E, 24E,25E,26E,27E,28E	3 rooms plus one bedroom	1 ½	Toilet, sink, bathtub Toilet, sink
29E,30E,31E	3 rooms plus two bedrooms	2	Toilet, sink, bathtub Toilet, sink, bathtub

1) Finishes for Residential Units

Most of the Residential Units have the original oak parquet floors in the living rooms, bedrooms & hallway interiors. Parquet oak floors are in fair to good condition. A few of the Residential Units have been refurbished with pre-finished oak laminated wood floors in the living rooms and bedrooms. The laminated wood floors are in good condition.

- b. Walls throughout the residential units are painted gypsum board. The existing gypsum board is in good condition. Ceilings are painted or textured paint applied to the concrete ceiling slab or painted gypsum wallboard where ceilings are dropped. All ceiling finishes are in fair to good condition.

- c. Existing kitchen cabinets are vinyl covered melamine with plastic laminate counter tops. Kitchens have original vinyl tile floors. Kitchen cabinets and floors are in fair to good condition. Existing kitchen appliances and fixtures are in good condition.
- d. Bathrooms have original ceramic mosaic floors with ceramic tile base. Bathtub surrounds have original tile walls from tub to ceiling. All ceramic tile is in fair to good condition.

2) Description of Lighting Fixtures

- a. Public corridors have original ceiling recessed or wall mounted incandescent light fixtures. Fixtures are in fair to good condition. Public stairs have original fluorescent fixtures in fair to good condition. Lighting levels at public corridors and stairs meet minimum lighting levels required by New York City Building codes. There is no emergency lighting or exit lighting in public corridors or stairs. The Sponsor has indicated new emergency/exit lighting system will be installed in public corridors and stairs to meet New York City Building code requirements. Emergency/exit lighting will be installed prior to closing on Residential Units.
- b. Most kitchens and apartment entrances have original surface mounted incandescent or fluorescent fixtures. Fixtures are in fair condition.
- c. Bathrooms have original wall mounted incandescent light fixtures above the medicine cabinets. Light fixtures are in fair to good condition.
- d. Sub-cellar, cellar and public corridor, storage rooms, laundry rooms and common elements have original fluorescent fixtures. All cellar light fixtures are in fair condition.

3) Type and Condition of Lavatory and Bathroom Fixtures

The majority of bathroom fixtures in the Residential Units are original from 1985 - 1986. Bathtubs are stamped steel with enamel, toilets are tank type Vitreous china, sinks are self rimming drop-in white Vitreous china or enameled cast iron set in plastic laminate tops with melamine vanities. All fixtures, vanities and fittings in the bathrooms are in fair condition.

4) **FINISH SCHEDULE OF AREAS OTHER THAN UNITS**

All finishes other than units are original to the building as built
In 1985 – 1986, and are in fair condition.

AREA	FLOORS	BASE	WALLS	CEILING
Public Stairs #1 and #1	Cement	None	C.M.U. Conc. or Gyp. Board	Underside of stair
Public corridors	Carpet	Rubber or Vinyl	Painted Gyp. Bd.	Gypsum wall Board
Entry Vestibule	Ceramic tile	Ceramic tile	Gypsum wall Board	Gypsum wall Board
Main Entry Lobby	Ceramic Tile	Ceramic Tile	Gypsum wall Board	Gypsum wall Board

All the finishes in the public cellar areas are in fair condition consistent
with their age. The cellar surfaces are dry.

X) SAFETY AND WARNING DEVICES

All Residential Units observed were equipped with all the safety and warning
devices as required by the New York City Building Code.

Y) ADDITIONAL INFORMATION

1) **Site Plan**

Site plan is not provided.

2) **Area map**

Area map is not provided.

3) **Floor Plans**

Individual unit floor plans are included in Part II of the Offering Plan

4) **Floor to ceiling heights in Units**

Floor to ceiling heights in Residential Units may vary within individual
apartments. The following is floor by floor heights that are found in the
Residential Units and other floors:

a. Sub-cellar.....	9'-8"
b. Cellar.....	9'-8"
c. First floor.....	11'-4"
d. Second floor through thirty first floors.....	8'-4"

Ceiling heights are approximate and may be lower (in localized areas of the Unit) in order to accommodate structural elements, mechanical and plumbing equipment. Ceiling heights may also be dropped for aesthetic purposes (to cover rough framing).

5) Total area for each Unit

The following are the approximate square footages for the Units. The approximate indoor floor area of each Unit has been measured from the exterior side of the façade or exterior Building walls or glass windows at the Building line and/or Property line enclosing the Unit, or from the midpoint of the interior Demising Walls separating the Unit from another Unit, or from the public side of the interior Demising Walls separating the Unit from the public corridors or public stairs, or from the mechanical space side of interior Demising Walls separating the Unit from an elevator or other mechanical equipment space or any other Common Elements. Columns and mechanical pipes and chases (whether along the perimeter or within the Unit) are not deducted from the square foot area of the Unit.

The floor area occupied by any Common Elements bordering or within a Unit (such as the Building's façade or exterior walls, vents, chase walls or areas, conduits, ducts, shafts or pipes) have been included in the computation of the floor area of the Unit, but such Common Elements are not part of the Unit. As a result, the square footage shown are taken from points behind the walls enclosing the Unit and exceed the Unit's usable floor area. Minor inaccuracies in a Unit's square footage will not excuse a Purchaser from completing the purchase of a Unit without recourse against the Sponsor, or reduction in price.

6) UNIT SQUARE FOOTAGE

<u>Location</u>	<u>Unit #</u>	<u>Square Footage</u>
Sub-cellar/Cellar/First Floor	Commercial Unit	13,229 S.F.
Second Floor Commercial Stair		109 S.F.
Second Floor Roof for Commercial Unit		859 S.F.
Second Floor	2A	799 S.F.
		Terrace.....364 S.F.
	2B	650 S.F.
		Terrace 608 S.F.
	2C	741 S.F.
		Terrace 157 S.F.
	2D	743 S.F.
	2E	1,014 S.F.
		Terrace#1 300 S.F.
		Terrace#2 139 S.F.

Third Floor	3A		779 S.F.
	3B		650 S.F.
	3C		741 S.F.
	3D		739 S.F.
	3E		1,014 S.F.
Fourth Floor	4A		779 S.F.
	4B		650 S.F.
	4C		741 S.F.
	4D		752 S.F.
	4E		1,014 S.F.
Fifth Floor	5A		773 S.F.
	5B		783 S.F.
	5C		849 S.F.
	5D		752 S.F.
	5E		1,014 S.F.
Sixth Floor	6A		773 S.F.
	6B		783 S.F.
	6C		849 S.F.
	6D		739 S.F.
	6E		1,014 S.F.
Seventh Floor	7A		773 S.F.
	7B		783 S.F.
	7C		849 S.F.
	7D		752 S.F.
	7E		1,014 S.F.
Eighth Floor	8A		773 S.F.
	8B		783 S.F.
	8C		849 S.F.
	8D		752 S.F.
	8E		1,014 S.F.
Ninth Floor	9A		771 S.F.
		Balcony	61
	9B		790 S.F.
		Balcony	61 S.F.
	9C		815 S.F.
	9D		741 S.F.
		Terrace	266 S.F.
	9E		903 S.F.

Tenth Floor	10A		771 S.F.
		Balcony	61 S.F.
	10B		790 S.F.
		Balcony	61 S.F.
	10C		815 S.F.
		Balcony	53 S.F.
Eleventh Floor	10D		756 S.F.
		Balcony	45 S.F.
	10E		903 S.F.
		Balcony	55 S.F.
	11A		771 S.F.
		Balcony	61 S.F.
Twelfth Floor	11B		790 S.F.
		Balcony	61 S.F.
	11C		815 S.F.
		Balcony	53 S.F.
	11D		745 S.F.
		Balcony	45 S.F.
Thirteenth Floor	11E		903 S.F.
		Balcony	55 S.F.
	12A		771 S.F.
		Balcony	61 S.F.
	12B		790 S.F.
		Balcony	61 S.F.
Fourteenth Floor	12C		815 S.F.
		Balcony	53 S.F.
	12D		741 S.F.
		Balcony	45 S.F.
	12E		903 S.F.
		Balcony	55 S.F.
Fifteenth Floor	13A		771 S.F.
		Balcony	61 S.F.
	13B		790 S.F.
		Balcony	61 S.F.
	13C		815 S.F.
		Balcony	53 S.F.
Sixteenth Floor	13D		756 S.F.
		Balcony	45 S.F.
	13E		903 S.F.
		Balcony	55 S.F.

Fourteenth Floor	14A		771 S.F.
		Balcony	61 S.F.
	14B		790 S.F.
		Balcony	61 S.F.
	14C		815 S.F.
		Balcony	53 S.F.
Fifteenth Floor	14D		756 S.F.
		Balcony	45 S.F.
	14E		903 S.F.
		Balcony	55 S.F.
	15A		771 S.F.
		Balcony	61 S.F.
Sixteenth Floor	15B		790 S.F.
		Balcony	61 S.F.
	15C		815 S.F.
		Balcony	53 S.F.
	15D		741 S.F.
		Balcony	45 S.F.
Seventeenth Floor	15E		903 S.F.
		Balcony	55 S.F.
	16A		771 S.F.
		Balcony	61 S.F.
	16B		790 S.F.
		Balcony	61 S.F.
	16C		815 S.F.
		Balcony	53 S.F.
	16D		745 S.F.
		Balcony	45 S.F.
	16E		903 S.F.
		Balcony	55 S.F.
	17A		771 S.F.
		Balcony	61 S.F.
	17B		790 S.F.
		Balcony	61 S.F.
	17C		815 S.F.
		Balcony	53 S.F.
	17D		745 S.F.
		Balcony	45 S.F.
	17E		903 S.F.
		Balcony	55 S.F.

Eighteenth Floor

18A		771 S.F.
	Balcony	61 S.F.
18B		790 S.F.
	Balcony	61 S.F.
18C		815 S.F.
	Balcony	53 S.F.
18D		741 S.F.
	Balcony	45 S.F.
18E		903 S.F.
	Balcony	55 S.F.

Nineteenth Floor

19A		771 S.F.
	Balcony	61 S.F.
19B		790 S.F.
	Balcony	61 S.F.
19C		815 S.F.
	Balcony	53 S.F.
19D		756 S.F.
	Balcony	45 S.F.
19E		903 S.F.
	Balcony	55 S.F.

Twentieth Floor

20A		771 S.F.
	Balcony	61 S.F.
20B		790 S.F.
	Balcony	61 S.F.
20C		815 S.F.
	Balcony	53 S.F.
20D		756 S.F.
	Balcony	45 S.F.
20E		903 S.F.
	Balcony	55 S.F.

Twenty First Floor

21A		771 S.F.
	Balcony	61 S.F.
21B		790 S.F.
	Balcony	61 S.F.
21C		815 S.F.
	Balcony	53 S.F.
21D		741 S.F.
	Balcony	45 S.F.
21E		903 S.F.
	Balcony	55 S.F.

Twenty Second Floor	22A		771 S.F.
		Balcony	61 S.F.
	22B		790 S.F.
		Balcony	61 S.F.
	22C		815 S.F.
		Balcony	53 S.F.
Twenty Third Floor	22D		745 S.F.
		Balcony	45 S.F.
	22E		903 S.F.
		Balcony	55 S.F.
	23A		771 S.F.
		Balcony	61 S.F.
Twenty Fourth Floor	23B		790 S.F.
		Balcony	61 S.F.
	23C		815 S.F.
		Balcony	116 S.F.
	23D		756 S.F.
		Balcony	45 S.F.
Twenty Fifth Floor	23E		903 S.F.
		Balcony	116 S.F.
	24A		771 S.F.
		Balcony	61 S.F.
	24B		790 S.F.
		Balcony	61 S.F.
Twenty Sixth Floor	24C		815 S.F.
		Balcony	116 S.F.
	24D		741 S.F.
		Balcony	45 S.F.
	24E		903 S.F.
		Balcony	116 S.F.
Twenty Seventh Floor	25A		771 S.F.
		Balcony	61 S.F.
	25B		790 S.F.
		Balcony	61 S.F.
	25C		815 S.F.
		Balcony	116 S.F.
Twenty Eighth Floor	25D		756 S.F.
		Balcony	45 S.F.
	25E		903 S.F.
		Balcony	116 S.F.

Twenty Sixth Floor	26A		771 S.F.
		Balcony	61 S.F.
	26B		790 S.F.
		Balcony	61 S.F.
	26C		815 S.F.
		Balcony	116 S.F.
	26D		756 S.F.
		Balcony	45 S.F.
	26E		903 S.F.
		Balcony	116 S.F.
Twenty Seventh Floor	27A		771 S.F.
		Balcony	61 S.F.
	27B		790 S.F.
		Balcony	61 S.F.
	27C		815 S.F.
		Balcony	116 S.F.
	27D		741 S.F.
		Balcony	45 S.F.
	27E		903 S.F.
		Balcony	116 S.F.
Twenty Eighth Floor	28A		771 S.F.
		Balcony	61 S.F.
	28B		790 S.F.
		Balcony	61 S.F.
	28C		815 S.F.
		Balcony	116 S.F.
	28D		741 S.F.
		Balcony	45 S.F.
	28E		903 S.F.
		Balcony	116 S.F.
Twenty Ninth Floor	29A		771 S.F.
		Balcony	61 S.F.
	29B		1,074 S.F.
		Balcony#1	61 S.F.
		Balcony#2	77 S.F.
	29C		1,074 S.F.
		Balcony	64 S.F.
	29E		1,100 S.F.
		Balcony	141 S.F.

Thirtieth Floor	30A	771 S.F.
		Balcony 61 S.F.
	30B	1,074 S.F.
		Balcony#1 61 S.F.
		Balcony#2 77 S.F.
	30C	1,074 S.F.
		Balcony 64 S.F.
	30E	1,100 S.F.
		Balcony 141 S.F.
Thirty first Floor	31A	771 S.F.
		Balcony 61 S.F.
	31B	1,074 S.F.
		Balcony#1 61 S.F.
		Balcony#2 77 S.F.
	31C	1,068 S.F.
		Balcony 64 S.F.
	31E	1,100 S.F.
		Balcony 141 S.F.

- Z)** Further development of the Building is not planned. The building was built under an assemblage of zoning lots #33, 35, 36 37, 38 & 39. The site is fully developed and there is no development rights available.

AA) ASBESTOS

Ms. Linda Ultee, certified asbestos investigator #96435 from Ambient Group has prepared a report titled "inspection for asbestos-containing materials" dated October 21st, 2005. Refer to the report for results.

Should any asbestos be discovered in any areas, once the condominium has been established, it will be the responsibility of the Board of Managers to formulate an Operations and Maintenance (O & M) Program for dealing with asbestos.

BB) ADDITIONAL INFORMATION

(1) Mixed-use zoning district

Prospective purchasers and occupants of the Residential Units should be aware that the Residential Units are located in a mixed-use building zoning district containing retail uses and commercial uses within the building and in adjacent properties. Prospective purchasers should make any investigation they deem necessary to determine that the conditions existing or permitted to exist are not offensive to such prospective purchasers.

(2) Lead-based paint

Based on the age of the Building, lead-based paint would have been used in the painting of some surfaces of the Building as discussed in the Special Risk section below. Painting over lead-based paint surface does not suffice for removal or encapsulation. Purchasers contemplating alterations that will penetrate or disturb refinished surfaces (such as ceilings) should consult a qualified consultant or contractor for the recommended protocol to avoid potential lead-based paint dust contamination.

3) Radon

The Building has not been tested for Radon. According to area radon information from the U.S. Dept. of Interior and U.S. Geological Survey's Geological Radon Potential, dated 1993, Manhattan has an average radon concentration of 1.5 picocuries per liter (pCi/L). Since the USEPA action level for residential radon is 4.0 pCi/L, the Building is not considered to be in a radon prone area.

4) Roof rights

Some of the roof areas of the Building will be used as Terraces appurtenant to Units as Limited Common Elements. The remaining areas consisting of the second floor rear yard roof is part of the Commercial Unit, the main building roof is a Residential Common Element.

CC) SPECIAL RISKS

1) Waivers

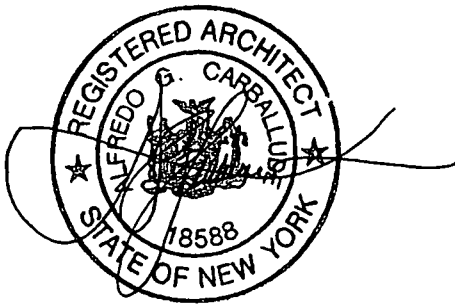
The Sponsor has not undertaken to correct or repair any existing conditions noted in this Report including this Special Risk Section, unless otherwise expressly provided.

2) Lead-base paint

Based on the age of the Building, lead-based paint would have been used in the painting of some surfaces of the original Building. Site observation, however, did not indicate areas of peeling paint meaning that the paint was intact on the walls and ceilings. The Sponsor does not intend to remove any lead-based paint that may be in the Building, except to the extent required by law, or removed in connection with the Sponsor's Plans and Specifications for the partial rehabilitation of the Building. In the future if the walls and ceilings of the Residential Units are demolished or altered, code approved provisions for treatment of lead-based paint surfaces will need to be followed including approval of the Board of Managers if testing reveals the presence of lead-based paint.

3). Asbestos

Notwithstanding the filing of ACP-5 or ACP-7 reports which the Sponsor may file, the Sponsor makes no representation that any Units or common areas are free of asbestos or asbestos carrying materials. If asbestos is present in the Building, the Board of Managers would need to institute an operations and maintenance (O&M) program.



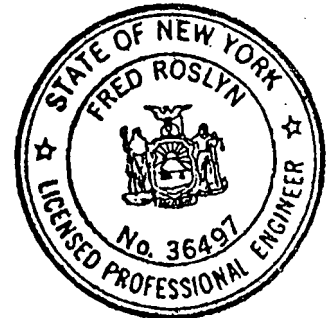
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DESCRIPTION OF PLUMBING SPRINKLER, MECHANICAL, AND
ELECTRICAL SYSTEMS.

1438 THIRD AVENUE
NEW YORK, NEW YORK
NOVEMBER 9, 2005
REVISED: July 10, 2006

PREPARED BY:

FRED P. ROSLYN, P.E.
545 8TH AVENUE
NEW YORK, NEW YORK 10018



Fred P. Roslyn

Avcon Project #05074

20.7 - (j) - 1 Plumbing and Drainage

- (i) There are two main water meters serving this building one for the fire service, and one for the domestic water system.
- (ii) Domestic hot water for floors basement through the 28th is generated from the two (2) Low pressure steam boilers that have internal steam to hot water heat exchanges located in the boilers. A three way HW mixing valve is used to adjust the temperature of the hot water. Domestic water temperature is presently maintained at 120°F. Domestic hot water is pumped from the basement to the 28th floor from constant volume duplex hot water pumps. Domestic hot water for floors 29, 30, and 31, is generated from two domestic gas fired hot water heaters located in the roof tank room. The domestic hot water heater capacities are as follows:

1- A.O. Smith - 89 Gal. Capacity

1- Rheem - 67 Gal. Capacity

Domestic hot water is pumped from the two (2) hot water heaters, down to the 29, 30, and 31st floors. From an Armstrong Co. water circulating pump. Adequate pressure is evident in the domestic hot water heating system. Hot water is generated for the health club from a steam to hot water heat exchanger exclusively for the health club. Steam is provided from the building steam system, the steam is not metered for use by the health club. In general the domestic hot water equipment and piping system appears to be operating well and are in fair condition.

In general the insulation for the steam and hot water piping in the Boiler Room and in the Tank Room is in poor condition and some insulation needs to be replaced.

- (iii) Domestic cold water for this building enters the basement water meter room from the street. The service size is 4. Water is pumped by two 15 HP water make-up pumps up to the 10,000 gallon combined domestic/fire storage tank, located in the tank room above the elevator machine room. This tank appears to be operating well and is in good condition. The water feed pumps also appear to be operating well and are in good condition. Access to this tank is obtained from a ships ladder located in the tank room bulkhead.
- (iv) Two secondary cold water constant pressure circulating pumps are located in the mechanical equipment room below the water tank these pumps are in good condition and are operating well. The controls for operating the domestic system appear to be in poor condition but are operational. The cold water piping distribution system also appears to be in good condition.
- (v) **In general, in the areas observed by the writer there are no apparent leaks in the building plumbing and drainage system. This system does not impose any hazardous or dangerous conditions to the building.**

20.7 (j) - 2 Fire Protection System

- (i) The building is presently protected by a combined partial sprinkler, and fire standpipe system. The piping is high quality grade schedule 40 steel. The main 8" fire service enters the water service room in the basement. Sprinklers are installed in the basement areas, at the lot line windows, on various floors, at the top of the incinerator shaft, and in the incinerator chute rooms.

(ii) The fire standpipe system consists of one 10,000 combined domestic/storage tank located in the roof tank room. This tank provides sufficient water capacity for the building fire standpipe system. A 6" fire standpipe riser is located in the common stair at the entrance of the stair from the corridor. A hose connection is provided at each floor. Manifold connections are also provided on the roof, from the standpipe riser. The building has two Siamese connections at the front of the building for fire department use, one for the fire standpipe system and one for the sprinkler system. The fire standpipe/ sprinkler systems are in good condition, and appears to have sufficient size and capacity to support this building.

(iii) The Sprinkler System has adequate coverage for the areas as required by code. In the areas observed by the writer there are no apparent leaks in the sprinkler system this system does not impose any hazardous or dangerous conditions to the building.

(iv) The building has two sewer ejector pumps, *Federal Pump Co. Model nos. 5k182dl618da*, one main and one standby located in the basement boiler room. These pumps are well maintained, appear to be in good condition, and operating effectively. **There are no apparent leaks in this system, and they do not impose any hazardous and dangerous conditions to the building.**

20.7 (k) - 1 Heating

(i) The building is heated from two (2) H. B. Smith Co. 900 MBH cast iron low pressure steam boilers, dual fuel (No.2 oil/natural gas). The boiler appears to be operating well.

(ii) The burners are power flame dual gas/ No.2 oil burners, with a maximum firing range of 4718 MBH; these burners are in good condition and are operating very well.

(iii) The No.2 fuel oil 5,000 gallon storage tank is also in good condition, is free of any leaks, and is operating well.

(iv) Low pressure steam is distributed to the Basement, Lobby, Public Areas and Storage Rooms, and to the apartment floors 2 through 31, from main steam and condensate risers, located in the center core area of the building.

(v) All apartments are heated by a combination heat/cool through the wall Climate Control Co. unit with a steam heating coil. The steam heating coils in these units are working well and appear to be in fair condition.

(vi) The main entrance lobby is heated from a low pressure steam unit heater located at the main entrance and a convector located in the vestibule. These units are in good condition and are working well.

(vii) The first floor Restaurant and Health Club are also heated from the building steam heating system and are not individually metered. Steam is distributed to all perimeter radiation; all systems are operating well.

(viii) Heating for the roof tank room and MER is heated from a gas fired Reznor unit heater, to maintain non freeze temperatures.

(ix) The building has one main 6" gas service, which enters the gas meter room in the basement. This service feeds four individual meters, the distribution is as follows:
4" meter for the building heating (boiler and building services.)
2" meter for the Health Club.
2" for the Restaurant.

2" apartments (all floors.)

All apartments are connected to the same common meter and gas riser. The gas system appears to be in good operating condition.

- (x) In the areas *observed* by the writer there are no apparent defects in the Heating System. All systems are in good working condition, functioning effectively and are rarely out of service. The present heating system does not impose any hazardous or dangerous conditions to the building.

20.7 (m) - 1 Air Conditioning

- (i) All apartments are air conditioned from a heat/cool climate control unit, the air conditioning cooling coils and compressors for these units appear to be in fair and good operating condition. The cooling capacity of these units range from 9,000 to 12,000 BTU/HR. Individual room control is available from the internal heat/cool thermostat located in each unit.
- (ii) The Public Corridors, floors 2 through 31, are air conditioned by an 8 Ton rooftop Climate Control Co. HVAC unit with gas heating and air cooled cooling sections. This unit is 19 years old and appears to be in poor condition is operating well, and has reached the end of its effective life cycle. The sponsor is not planning to replace this unit at this time. In addition, the gas heating section (1 1/2" gas connection) has not been in use for several years. Due to the high internal heat gain loads in the public corridors, the heating cycle is not used. However, this section is in operable condition.
- (iii) Air conditioning for the main lobby is provided from ceiling split system Carrier Co. Model No.406F-0041, 3.5HP AC Unit. This unit is in fair condition and is operating well.
- (iv) Individual air cooled split AC systems are installed by the tenants, and are not part of the building air conditioning systems.

20.7 (n) - 1 Ventilation

- (i) Each apartment is ventilated from exhaust air duct risers located in the bathroom and kitchen areas. These risers feed up to roof exhaust fans. These fans are in fair operating condition and are operating well.
- (ii) The elevator machine room presently is ventilated from a 24" x 24" exhaust louver located in the side wall of the room, and a small exhaust fan, presently not operating. This system will be repaired by the sponsor before closing.
- (iii) The boiler room presently is provided with an intake air louver for combustion air, and has a small exhaust fan ventilating the space, and appears to be operating well.
- (iv) The two laundry rooms located in the basement appear to need additional ventilation. Also, the lint exhaust system from the dryers appears to not be working to its full capacity. The Laundry Room Ventilation System will be repaired by the sponsor before closing.
- (v) There are no apparent defects in the Boiler and MER's. In general, the Air Conditioning and Ventilation system in the areas observed by the writer have no apparent leaks. These systems do not impose any hazardous or dangerous conditions to the building.

20.7 (o) - 1 Electrical

- (i) Con Edison electrical service rated 120/208-Volt, 3-Phase; 4-Wire (approximately 5000A) enters the building into cellar electric switchboard room, terminating in (6) service switches - (2) 1200A, (3) 800A and (1) 400A.

There are three metered electrical feeders in the switchgear room:

- Health Club
- Restaurant
- Common building areas

Remaining service feeders supply tenant distribution risers separately metered on per unit basis. The main electric distribution service appears to be in very good condition.

- (ii) From the cellar switchgear risers run to meter banks feeding a group of Residential Units located on the three adjacent floors as follows:

2,3(meter bank),4

5,6 (meter bank),7

8,9 (meter bank),10

11,12 (meter bank),13

14,15 (meter bank),16

17,18 (meter bank),19

20,21 (meter bank),22

23,24 (meter bank),25

26,27 (meter bank),28 (meter bank for 29,30,31)

Residential unit sub feeders vary in size as required by load and voltage drop. Each Unit sub feeder is tapped to the riser via 2-pole 40A or 60A pullout switches at the meter bank. This appears to be adequate, and is operating effectively.

- (iii) Main building distribution board provides power to Common Elements' panels for roof fans and RTU, pumps, elevators (two, 25 Hp each), building entrance and elevator lobbies lighting. Distribution appears to be in good condition and is operating well.

- (iv) Each unit has a 208/120V, 1 phase, 3 wire, 16 pole branch panel with main lugs rated 125A. Average number of circuits per unit is 10, with 6 spaces to accept additional loads.

20.7 (p) - 1 Adequacy

- (i) Service:

Capacity provided for each residential unit is in good condition and appears to be adequate to meet normal apartment appliance load and lighting requirements.

- (ii) Lighting and fixtures:

Switched lighting fixtures are provided in bathrooms, foyers and kitchens

- (iii) Convenience outlets, appliance outlets:

Switched receptacles are provided to meet NYC Electrical Code. Ground fault receptacles are provided in bathrooms and at kitchen countertop. Appliance receptacles are provided in kitchens. Convenience receptacles are provided to meet the requirements of the NYC Electrical Code.

- (iv) The corridors and stair wells are not provided with battery packed emergency lighting units. No exit signs are placed in common corridors.

20.7 (q) - 1 General

- (i) Each residential unit is provided with an operational intercom linked to concierge desk.
- (ii) Each residential unit contains a smoke detector located in the vicinity of the bedrooms. The detector is wired to a 120-volt local power supply and is self-contained with its own sounding device. The self-contained CO detector with battery pack is also provided for each unit. This system is in good condition and is operating well.
- (iii) In general, the building electrical service and distribution system is adequate for modern usage with air conditioning. The building electrical demand is also *adequate*. Emergency lighting and exit signs are not installed in all common spaces, stairwells and corridors. These systems will be installed by the sponsor by closing.
- (iv) The building electrical system has no apparent defects. *And in general, the areas where the electrical system was observed by the writer, do not impose any hazardous or dangerous conditions to the building.*

20.7 (r) - 1 General

- (i) Where observed by the writer, frequent cleaning of the building's motorized exhaust ducts and vents were maintained.
- (ii) The areas of the building below grade are described as follows: Boiler Room, Water Meter Room, Gas Meter Room, Laundry and Public Corridors. No apparent defects in these areas were observed by the writer. In addition, there are no plans to phase out the existing Laundry Room.

INSPECTION FOR ASBESTOS-CONTAINING MATERIALS

Performed at:

**1438 Third Avenue
New York, NY**

Performed for:

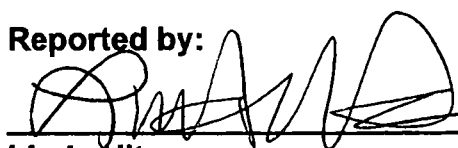
**Broad Street Development Corp
61 Broadway, Suite 1407
New York, NY**

Prepared by:

**Ambient Group, Inc.
55 West 39th Street, 12th floor
New York, NY 10018
Ambient Project #03613**

Dated: October 21, 2005

Reported by:


**Linda Ultee,
Certified Asbestos Investigator
Certification # 96435**

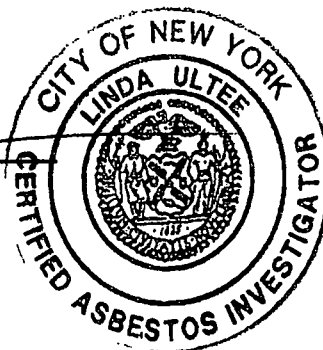


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APPENDICES:

APPENDIX A: Analytical Results and Chain of Custody

INSERT

DISCLAIMER

This report was prepared by Ambient for the use and benefit of Broad Street Development Corp ("Sponsor"). No other party shall have the right to use or rely on this document without written consent or interpretation from the Sponsor and Ambient Group, Inc. All recommendations, findings, and conclusions stated in this report are based upon facts and circumstances as they existed at the time of the inspections and at the time that this report was prepared. Quantities of asbestos material are approximate only. Contractor shall field verify amount of asbestos materials.

1.0 Background

Ambient Group, Inc. (Ambient) as part of its role as an Environmental Consultant, has conducted an asbestos survey for the presence of asbestos-containing materials (ACM) at 1438 Third Avenue, New York City. This survey was performed to satisfy the requirements of Part 23 of title 13 NYCRR Regulations Governing the Conversion of Occupied Residential Property to Condominium Ownership:

This information is being submitted for the following facility:

Borough: Manhattan
Address: 1438 Third Avenue
Type of facility: Apartment building
of residential Units: 147

The investigator and inspector responsible for this project was:

Linda Ultee
NYC Inspector: #96435 Exp:4/29/06
NYS Inspector: 89-07577 Exp:04/06
Site visit: October 19, 2005
Report date: October 21, 2005

2.0 Scope of Work

The purpose of the inspection was to locate and identify any ACM/SUSPECT ACM in either the apartment or common areas of the building.

The inspection was characterized by a close visual inspection of all accessible common areas and representative apartment units. Suspect materials found were sampled and inventoried for quantity, condition and location.

Material Examined Included:

- pipe insulation
- flue insulation sheetrock wall board
- flooring
- textured paint

3.0 Field Procedures and Analysis Methodology

Guidelines used for the inspection were established by the Environmental Protection Agency (EPA) in the Guidance for Controlling Asbestos Containing Materials in Buildings. Office of Pesticides and Toxic Substances. DOC #560/5-85-024, and 40 CFR Part 763. Asbestos Hazard Emergency Response Act (AHERA).

Field information was organized as per the AHERA concept of homogenous area (HA). That is, suspect ACM with similar age, appearance and texture was grouped together, sampled and assessed for condition.

Bulk samples of suspect ACM were analyzed by Polarized Light Microscopy (PLM) with dispersion staining, as described in 40 CFR Part 763 and the National Emissions Standard for Hazardous Air Pollutants (NESHAPS).

The New York State Department of Health PLM Stratified Point Counting Method. The new method, "Polarized Light Microscopy Methods for Identifying and Quantitating Asbestos in Bulk Samples" can be found as item 198.1 in the ELAP Certification manual.

The State of New York ELAP has determined that analysis of non-friable organically bound materials (NOB's) is not reliably performed by PLM. Therefore, if PLM yields negative results for a non-friable materials, it must be confirmed by Transmission Electron Microscopy (TEM).

All samples were initially analyzed by Polarized Light Microscopy. Samples which yielded a negative PLM result and which are classified as a "non-friable" material, were then re-analyzed utilizing Transmission Electron Microscopy methodology.

Representative bulk samples were collected by penetrating the total depth of the material with a sample container providing a core of all materials present. Representative sampling is based upon the material's physical character and distribution throughout the survey area.

The sample is first determined in the laboratory to be either friable or non-friable, organically-bound (NOB), and either homogenous or heterogeneous.

Sample analyses of both friable and NOB materials are performed in accordance with procedures described in the New York State Department of Health Environmental Laboratory Approval Program (NYSDOH ELAP) Certification Manual as "Polarized-Light Microscope Methods for Identifying and Quantitating Asbestos in Bulk Samples," Item No. 198.1, dated 03/01/97.

If the analysis of a friable material reveals the presence of asbestos, the asbestos is quantified by type and the asbestos concentration is expressed as a percentage of the total matrix. The total amount of asbestos in the sample is also reported. If the analysis of a friable material indicates the presence of asbestos but at a concentration less than 1% of the total matrix, the result is reported as a trace for each type of

asbestos found. If the analysis of a friable material does not indicate the presence of asbestos, the result is reported as no asbestos detected ("NAD").

All NOB materials are gravimetrically reduced by ashing and acid digestion prior to analysis. If the weight of the residue after ashing and acid digestion is less than 1% of the starting weight, then the results are reported as non-asbestos containing (i.e., less than 1% asbestos by weight). If the analysis of an NOB residue which weighs 1% or more of the starting weight reveals the presence of asbestos, the asbestos is quantified by type and the asbestos concentration is expressed as a percentage of the total matrix. The total amount of asbestos in the sample is also reported.

If the analysis of a NOB material does not reveal the presence of asbestos, the results are reported as inconclusive by polarized light microscopy (neither negative nor positive for asbestos). Polarized-light microscopy is not consistently reliable in detecting asbestos in floor coverings and similar NOB materials. Before this material can be considered or treated as non-asbestos containing, confirmation must be made by quantitative transmission electron microscopy (TEM).

Sample analysis of NOB materials by transmission electron microscopy is performed in accordance with procedures described in the NYSDOH ELAP Certification Manual as "Transmission Electron Microscope Method for Identifying and Quantitating Asbestos in Non-Friable Organically Bound Bulk Samples," Item No. 198.4, dated 03/01/97.

If the TEM analysis of a NOB material reveals the presence of asbestos, the asbestos is quantified by type and the asbestos concentration is expressed as a percentage of the total matrix. The total amount of asbestos in the sample is also reported. If the analysis of a NOB material indicates the presence of asbestos but at a concentration less than 1% of the total matrix, the result is reported as a trace for each type of asbestos found. If the analysis of a NOB material does not indicate the presence of asbestos, the result is reported conclusively as no asbestos detected ("NAD").

NOTE: AMBIENT LABS, INC. ELAP #10865

The following individual was involved in the performance of the on-site investigation and bulk sample collection:

- Linda Ultee (NYCDEP Asbestos Certificate # 96435, expiration date 04/29/06 and NYSDOL Inspector, Management Planner Certificate and Project Designer Certificate # AH 89-07577), expiration date 04/06.

4.0 Summary Of Inspection Results

Ambient's certified asbestos personnel collected representative bulk samples of suspect materials found. Sample numbers, sample locations, description of materials sampled and asbestos content of the materials is summarized in Table 1, Summary of Analytical Results..

The only suspect thermal insulation identified was flue breaching in the basement boiler room. Bulk samples collected of this material tested negative for asbestos content. Please note that the piping observed above drop ceilings and exposed in cellar areas was fiberglass insulated. In all cases, with the exception of a few elbows in the boiler room, fittings were either plastic or foil. Since there were only a few possible suspect elbows in the boiler room, and they were in good condition, they were not sampled. However, they should be noted as presumed acm until such time that they are tested. No intentional destructive probes were conducted and there is the possibility of some insulation enclosed within walls or chases.

Suspect textured paint was identified throughout the building. Samples of this material tested negative for asbestos.

Flooring throughout was found to be either wood or stone/ceramic. Not vinyl floortiles were encountered.

No inspection or sampling was done of the roof or other outside components.

The following is a list of units inspected/sampled.

- 3A
- 4C
- 5A
- 9D
- 10D
- 15B
- 15E
- 16C
- 16D
- 18A
- 19A
- 22E
- 26D
- 30C
- 31A
- 31C
- as well as the common area corridors, lobby and basement areas.

No ACM was identified in any observed area.

The private health club was inspected as well, with no exposed suspect materials observed.

Please note that our survey did not access pipe enclosed in walls, ceiling cavities, shafts etc. Pipe insulation enclosed in these areas could possibly have some acm insulation.

5.0 Conclusions and Recommendation

Based on our inspection of representative apartments, , Ambient group does not expect there to be any exposed ACM in any of the apartment units. It is possible there may be asbestos containing pipe insulation within chases walls, however, based upon what we did see we do not expect that.

Finally, it is assumed that the roofing or other associated materials may be asbestos containing. Ambient does not recommend sampling for the sake of knowledge with roofs because it compromises the roofing system integrity as well as potentially rendering the warranties on the roof invalid.

Any asbestos removal performed in the building must conform with the current requirements of the following:

1. Occupational Safety and Health Administration (OSHA)
 - A. Asbestos Regulation Title 29, Part 1910, Section 1001 of the Code of Federal Regulations.
2. Environmental Protection Agency (EPA) Asbestos Regulations and Guidelines.
 - A. Title 40, Part 61, Subparts A and B of the Code of Federal Regulations.
3. New York State Department of Labor (DOL)
 - A. Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Cited as 12NYCRR Part 56).
4. New York City Department of Environmental Protection Regulations
 - A. Title 15, Chapter 1 RCNY
 - B. Local Law 70/85
5. All State and Local Construction Codes.

Apartments undergoing asbestos abatement must be vacant during the work.

Appendix A: Laboratory results and Chain of custody



ambient group inc.

55 WEST 39TH STREET
12TH FLOOR
BULK SAMPLE CHAIN OF CUSTODY

New York, New York

CLIENT ADDRESS:

Broad St Development
61 Broadway

BUILDING ADDRESS:

1438 3rd

PROJECT ID #: 03613

NO. OF SAMPLES: 11

DATE COLLECTED: 10/19/05

PRIORITY: ASAP 24HRS 48HRS

RESULTS NEED BY: Thurs

VERBAL HARD COPY

FIELD ID #	LABORATORY ID #	LOCATION/DESCRIPTION
1	01A	Popcorn ceiling paint
2	01B	30 Hall
3	01C	30 Hall
4	01D	22 Hall
5	01E	22 Hall
6	01F	28 5A
7	01G	16 Hall
8	02A	Wall Board
9	03A	Boiler flue ins
10	03B	
SAMPLED BY: [Signature]		DATE/TIME: 10/19/05
RELINQUISHED BY: [Signature]		DATE/TIME: 10/19/05
RECEIVED BY:		DATE/TIME:
RELINQUISHED BY:		DATE/TIME:
RECEIVED BY:		DATE/TIME:



ambient group inc.

55 WEST 39TH STREET
12TH FLOOR

New York, New York

BULK SAMPLE CHAIN OF CUSTODY

CLIENT ADDRESS:

Broad St Development
61 Broadway

BUILDING ADDRESS:

1438 3rd

PROJECT ID #:

03613

NO. OF SAMPLES:

11

DATE COLLECTED:

10/19/05

PRIORITY: ASAP 24HRS 48HRS

RESULTS NEED BY:

Thurs.

VERBAL HARD COPY

FIELD ID #	LABORATORY ID #	LOCATION/DESCRIPTION
1	03A	Boiler flue ins.
2		
3		
4		
5		
6		
7		
8		
9		
10		
SAMPLED BY: [Signature]		DATE/TIME: 10/19/05
RELINQUISHED BY: [Signature]		DATE/TIME: 10/19/05
RECEIVED BY:		DATE/TIME:
RELINQUISHED BY:		DATE/TIME:
RECEIVED BY:		DATE/TIME:



AMBIENT GROUP, INC.

10 Morris Avenue, Glen Cove, NY 11542
Phone: (516) 671-2370 - Fax: (516) 609-8271
NVLAP ID#101618-0; NY ELAP ID#10865

Laboratory Report
AGL17519

Bulk Asbestos Analysis by Polarized Light Microscopy

Client: Broad Street Development Job Number: 3613
Address: 61 Broadway 14th Floor, Suite 1407 Date Received: 10/19/2005
New York NY 10006 Date Analyzed: 10/20/2005
Collected By: Linda Ultee Job Location: 1438 3rd Ave.
Collected: 10/19/2005

Lab ID Field ID	Sample Location	Sample Description	Asbestos Detected	Asbestos Type (%)	Non-Asbestos Constituents
0017519-001 03613-01	Popcorn Ceiling Paint	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 96% Other Non-Fibrous Material 4%
0017519-002 03613-01B	Popcorn Ceiling Paint - 30 Hall	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 98% Other Non-Fibrous Material 2%
0017519-003 03613-01C	Popcorn Ceiling Paint - 30 Hall	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 98% Other Non-Fibrous Material 2%
0017519-004 03613-01D	Popcorn Ceiling Paint - 22 Hall	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 100% Other Non-Fibrous Material Trace
0017519-005 03613-01E	Popcorn Ceiling Paint - 22 Hall	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 100% Other Non-Fibrous Material Trace
0017519-006 03613-01F	Popcorn Ceiling Paint - 5A	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 98% Other Non-Fibrous Material 2%
0017519-007 03613-01G	Popcorn Ceiling Paint - 16 Hall	Ceiling Paint, White, Homogeneous, Coarse Note: Friable	No		Non-Fibrous Material 98% Other Non-Fibrous Material 2%
0017519-008 03613-02A	Wall Board	Wall Board, Tan, Homogeneous Note: Friable	No		Cellulose Fiber 11% Non-Fibrous Material 89%



AMBIENT GROUP, INC.

10 Morris Avenue, Glen Cove, NY 11542
Phone: (516) 671-2370 - Fax: (516) 609-8271
NVLAP ID#101618-0; NY ELAP ID#10865

Laboratory Report
AGL17519

Bulk Asbestos Analysis by Polarized Light Microscopy

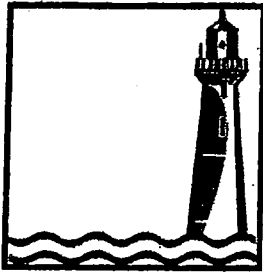
Client: Broad Street Development
Address: 61 Broadway 14th Floor, Suite 1407
New York NY 10006
Job Number: 3613
Date Received: 10/19/2005
Date Analyzed: 10/21/2005
Job Location: 1438 3rd Ave.
Collected By: Linda Ultee
Collected: 10/19/2005

Lab ID Field ID	Sample Location	Sample Description	Asbestos Detected	Asbestos Type (%)	Non-Asbestos Constituents
0017519-009 03613-03A	Boiler Flue Insulation	Insulation, Brown, Homogeneous, Fibrous Note: Friable	No		Mineral Wool 3% Non-Fibrous Material 97%
0017519-010 03613-03B	Boiler Flue Insulation	Insulation, Brown, Homogeneous, Fibrous Note: Friable	No		Mineral Wool 3% Non-Fibrous Material 97%
0017519-011 03613-03C	Boiler Flue Insulation	Insulation, Brown, Homogeneous, Fibrous Note: Friable	No		Mineral Wool 15% Non-Fibrous Material 85%

Sean Wallace

SIGNED FOR AMBIENT GROUP, INC. BY:

This report relates only to the materials tested and must not be reproduced except in full with the approval of the laboratory.
This laboratory report shall not be used to claim product endorsement by NVLAP or any agency of the U.S. Government.
Samples are analyzed according to the EPA Test Method and are subject to the inherent limitations of Polarized Light Microscopy and interference of matrix components.



Environmental Building
Solutions, LLC

295 Madison Avenue, Suite 1826
New York, NY 10017
(646) 290-5925 Phone
(212) 867-9715 Fax
jleitner@ebsllcnyc.com

March 20, 2006

Mr. Hy Chalme'
Residential Development Manager
Broad Street Development, LLC
61 Broadway, Suite 1407
New York, NY 10006

Re: 1438 3rd Avenue

Dear Mr. Chalme':

A representative from Environmental Building Solutions, LLC collected samples of roofing from the upper roof at the reference building on June 12, 2006. The purpose of collecting these samples was to have them analyzed for asbestos content.

The samples were collected by penetrating the entire material being sampled and then submitted via chain of custody to AmeriSci of New York for analysis via EPA 600/M4-82-020 per 40 CFR 763 and ELAP Protocol 198.1.

The roof was comprised of a felt upper layer followed by approximately 3 inches of Styrofoam board followed by approximately 2 inches of hot tar/felt. Results of all samples revealed that the hot tar/felt layer was positive for asbestos. The upper felt layer was not asbestos containing material.

Chain of custody and sample results are attached.

Thank you for the opportunity to be of service.

Sincerely,
Signed for Environmental Building Solutions, LLC by:


John J. Leitner
Principal

98862

Project 05111

June 13, 2006

Environmental Building Solutions, LLC
Attn: Michael Borello
295 Madison Avenue
Suite 1826
New York, NY 10017

RE: Environmental Building Solutions, LLC
Job Number 206062619
P.O. # 05111
05111

Dear Michael Borello:

Enclosed are the results of Asbestos Analysis - Bulk Protocol of the following Environmental Building Solutions, LLC samples, received at AmeriSci on Monday, June 12, 2006, for a 24 hour turnaround:

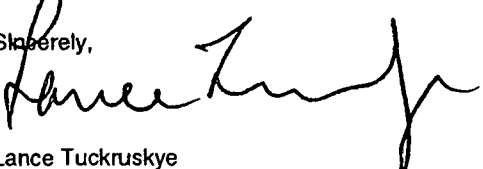
01, 02, 03, 04

The 4 samples, placed in Zip Lock Bag, were shipped to AmeriSci via Hand Delivered. Environmental Building Solutions, LLC requested ELAP PLM/TEM analysis of these samples.

The results of the analyses which were performed under NYSDOH ELAP Lab Certification # 10984 following ELAP Protocols 198.1 PLM Friable and/or 198.6 for PLM NOB. ELAP Protocol 198.4 TEM NOB guidelines are presented within the Summary Table of this report. The presence of matrix reduction data in the Summary Table normally indicates an NOB sample. For NOB samples the individual matrix reduction, combined PLM and TEM analysis results are listed in the Summary Bulk Asbestos Analysis Results in Table I. Complete PLM results for individual samples are presented in the PLM Bulk Asbestos Report. This combined report relates ONLY to sample analysis expressed as percent composition by weight and percent asbestos. This report must not be used to claim product endorsement or approval by these laboratories, NVLAP, ELAP or any other associated agency. The National Institute of Standards and Technology Accreditation requirements, mandates that this report must not be reproduced, except in full without the written approval of the laboratory. This report may contain specific data not covered by NVLAP or ELAP accreditations respectively, if so identified in relevant footnotes.

AmeriSci appreciates this opportunity to serve your organization. Please contact us for any further assistance or with any questions.

Sincerely,



Lance Tuckrusky
QA/QC Compliance Officer



AmeriSci New York

117 EAST 30TH ST.

NEW YORK, NY 10016

TEL: (212) 679-8600 • FAX: (212) 679-3114

PLM Bulk Asbestos Report

Environmental Building Solutions,
LLC

Attn: Michael Borello
295 Madison Avenue
Suite 1826
New York, NY 10017

Date Received 06/12/06

Date Examined 06/13/06

ELAP Number 11480

RE 0511

AmeriSci Job No. 206062619

P.O. # 05111

Page 1 of 2

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
01	206062619-01	No	NAD ¹
Location: 32nd Fl.- Roof Felt			
Description: Black, Homogeneous, Non-Fibrous, Bulk Material			
Asbestos Types:			
Other Material: Fibrous glass Trace, Non-fibrous 7.4 %			
02	206062619-02	No	NAD ¹
Location: 32nd Fl.- Roof Felt			
Description: Black, Homogeneous, Non-Fibrous, Bulk Material			
Asbestos Types:			
Other Material: Non-fibrous 10.0 %			
03	206062619-03	Yes	1.6 % ¹
Location: 32nd Fl.- Roof Tar			
Description: Black, Homogeneous, Non-Fibrous, Bulk Material			
Asbestos Types: Chrysotile 1.6 %			
Other Material: Non-fibrous 4.7 %			
04	206062619-04	No	NAD ¹
Location: 32nd Fl.- Roof Tar			
Description: Black, Homogeneous, Non-Fibrous, Bulk Material			
Asbestos Types:			
Other Material: Fibrous glass Trace, Non-fibrous 3.6 %			

See Reporting notes on last page

PLM Bulk Asbestos Report

0511

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
------------------	---------	------------------	------------------

Reporting Notes:

(1) PLM analysis of NOB inert material

Analyzed by: Aline Fontaine

*NAD/NSD =no asbestos detected;NA =not analyzed;NA/PS=not analyzed/positive stop;PLM Bulk Asbestos Analysis by EPA 600/M4-82-020 per 40 CFR 763 (NVLAP Lab #200546-0) and ELAP PLM Analysis Protocol 198.1 for New York friable samples and 198.6 for NOB samples (NYSDOH ELAP Lab#11480);Note:PLM is not consistently reliable in detecting asbestos in floor coverings and similar non-friable organically bound materials. TEM is currently the only method that can be used to determine if this material can be considered or treated as non asbestos-containing in NY State (also see EPA Advisory for floor tile,FR 59,146,38970,8/1/94). National Institute of Standards and Technology Accreditation requirements mandate that this report must not be reproduced except in full without the approval of the lab. This PLM report relates ONLY to the items tested. AIHA# 102843.

Reviewed By:

AmeriSci Job #: 206062619

Client Name: Environmental Building Solutions, LLC

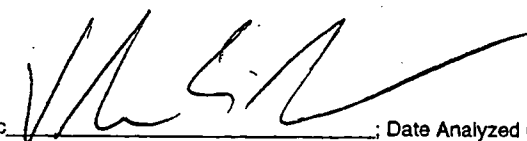
Page 1 of 1

Table I
Summary of Bulk Asbestos Analysis Results

05111

AmeriSci Sample #	Client Sample# Location	HG Area	Sample Weight (gram)	Heat Sensitive Organic %	Acid- Soluble Inorganic %	Insoluble Non-Asbestos Inorganic %	** Asbestos % by PLM/DS	** Asbestos % by TEM
01	01 32nd Fl.- Roof Felt		0.081	66.7	25.9	7.4	NAD	NAD
02	02 32nd Fl.- Roof Felt		0.06	60.0	30.0	10.0	NAD	NAD
03	03 32nd Fl.- Roof Tar		0.575	89.0	4.7	4.7	Chrysotile 1.6 %	NA
04	04 32nd Fl.- Roof Tar		0.697	92.1	4.3	3.5	NAD	Chrysotile Trace

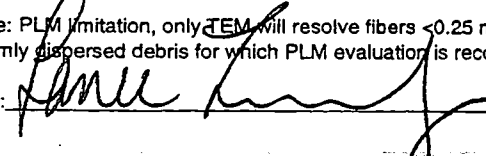
D-62

Analyzed by: Victor Slopac ; Date Analyzed 6/13/06

Quantitative Analysis (Semi/Full); Bulk Asbestos Analysis - PLM by EPA 600/M4-82-020 per 40 CFR (NVLAP Lab#200546-0); TEM (Semi/Full) by EPA 600/R-93/116 (not covered by NVLAP

for beginning weights of <0.1 grams should be considered as qualitative only; Qualitative Analysis: Asbestos analysis results of "Present" or "NVA = No Visible Asbestos" represents results for Qualitative PLM or TEM Analysis only (no accreditation coverage available from any regulatory agency for qualitative analyses); AIHA Lab#102843. NVLAP# 200546-0

Warning Note: PLM limitation, only TEM will resolve fibers <0.25 micrometers in diameter. TEM bulk analysis is representative of the fine grained matrix material and may not be representative of non-uniformly dispersed debris for which PLM evaluation is recommended (i.e. soils and other heterogenous materials).

Reviewed By: 

Date/Time: 6/12/06 11:30am
Date/Time: 6/12/06 12:12
Date/Time:
Date/Time:

AMERI SCI

Street Address: Environmental Building Solutions, LLC
295 Madison Avenue, Suite 1826
City: New York, NY 10017

ite/Secondary Fax #:

Special Instructions or Comments:

Project:-

Project Address:

Project #: 05111

Project Manager:

Analysis: ☐ PLM Only ☐ TEM Only ☒ ~~UNY~~ ELAP PLM/TEM with NOB Prep.
☐ ASTM Dust (microvac) ☐ ASTM Dust (Wipe) } ☐ Other (describe in comments)

Turnaround Time: 24 hour Material Type: ☒ Bulk ☐ Dust ☐ Water

Sampled By: *John Fithne* Date Sampled: *6/12/06*

ANALYZE EACH LAYER OF ROOF TAR

[illegible]

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Roslyn Engineering Associates, P.C.

545 Eighth Ave., 14th Floor, New York, NY 10018
Telephone (212) 760-1260 Fax (212) 760-1266

July 10, 2006

81st & 3rd Owner LLC

Broad Street Development LLC
61 Broadway, Suite 1407
New York, NY 10006

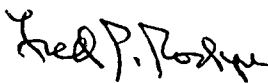
Re: Condominium Offering Plan; 81st & 3rd, New York, NY

Roslyn Engineering hereby reports for purposes of the condominium plan for this property and for the inclusion in the offering plan, on the status of the Local Law 11/98 Cycle 6 statement for the façade:

No report is now required. A report will be issued and filed with the New York City Department of Buildings when all of the work on the exterior facades has been completed.

Assuring you of my cooperation, I remain:

Very truly yours,



Fred P Roslyn, PE
President



Roslyn Engineering Associates, P.C.

545 Eighth Ave., 14th Floor, New York, NY 10018

Telephone (212) 760-1260 Fax (212) 760-1266

July 10, 2006

81st & 3rd Owner LLC

Broad Street Development LLC
61 Broadway, suite 1407
New York, NY 10006

Re: Condominium Offering Plan: 81st & 3rd, New York, NY

Roslyn engineering hereby reports on the status of the LL#11/98 Cycle 6 façade repairs that have been completed to date represents approximately 40% of the total amount of work to be done.

The work has been done on the West facade only on balcony repairs and caulking of windows, doors and air conditioner sleeves.

Assuring you of my cooperation, I remain:

Very truly yours,

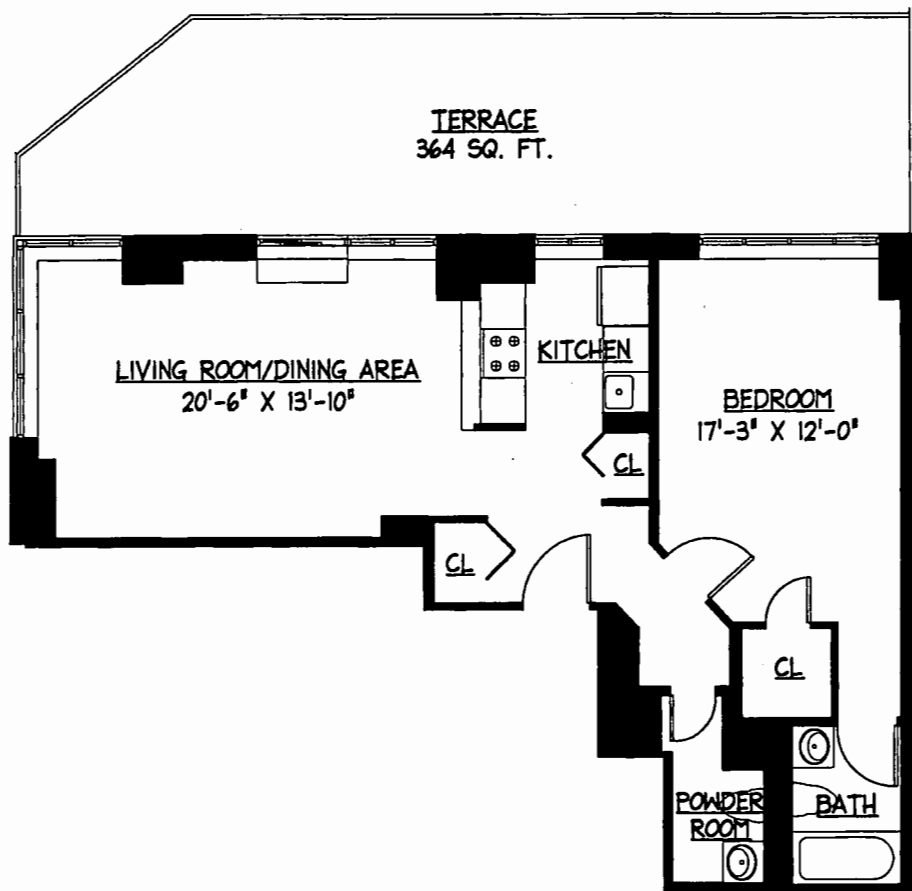
Fred P. Roslyn

Fred P Roslyn, PE
President

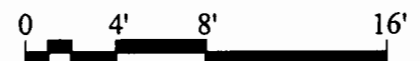




KEY PLAN

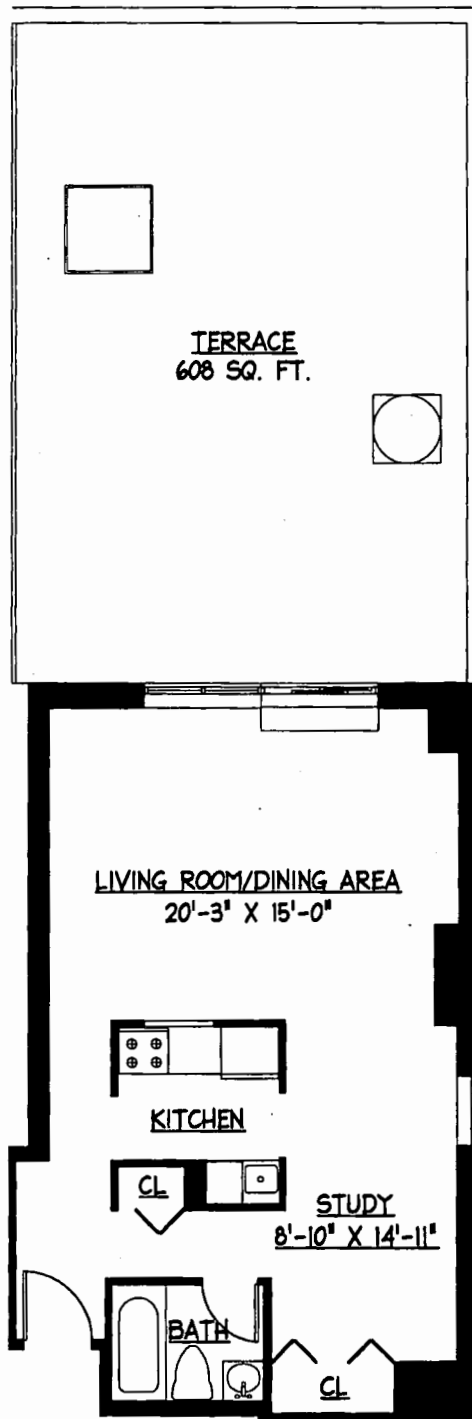


RESIDENTIAL UNIT #2A 779 SQ. FT.
TERRACE.... 364 SQ.FT.



The Unit Layout, square footage and dimensions are approximate and subject to normal construction variances and tolerances. Square footage exceeds the usable floor area. This floor plan is based on typical field measurements. Minor inaccuracies between this floor plan and the actual Unit Layout will not excuse a Purchaser from completing the purchase of a Unit without abatement in price and without recourse against the Sponsor. Sponsor reserves the right to make changes to a Unit in accordance with the Offering Plan.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

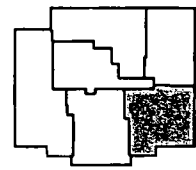


RESIDENTIAL UNIT #2B 650 SQ. FT.
TERRACE.... 608 SQ.FT.

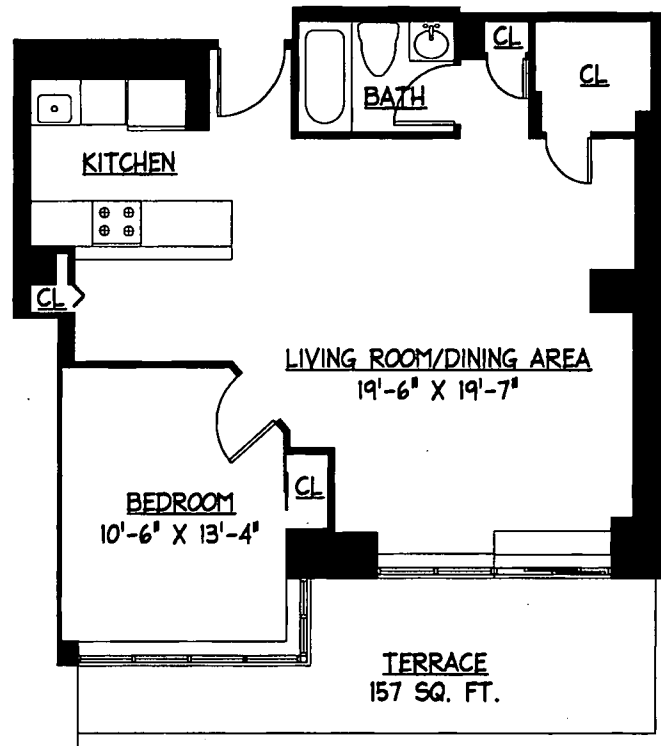


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

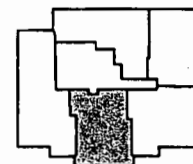


RESIDENTIAL UNIT #2C 741 SQ. FT.
TERRACE.... 157 SQ.FT.

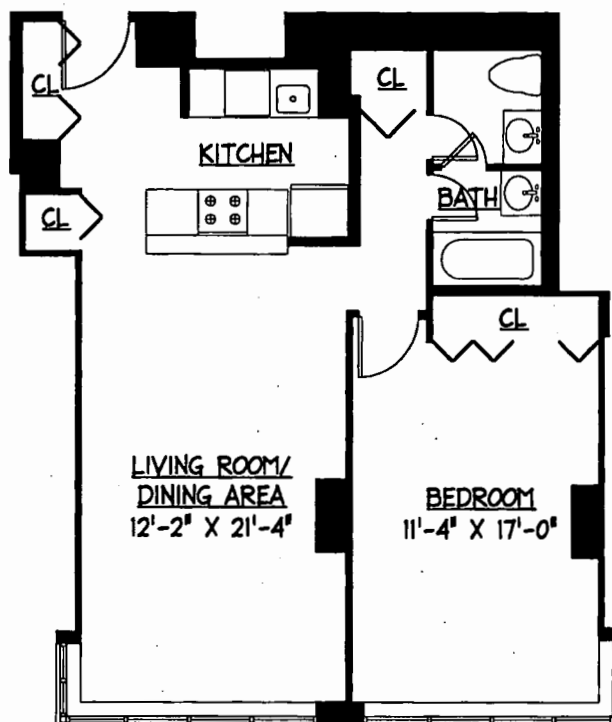


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

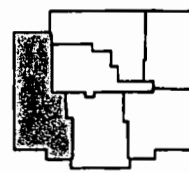


RESIDENTIAL UNIT #2D 743 SQ. FT.

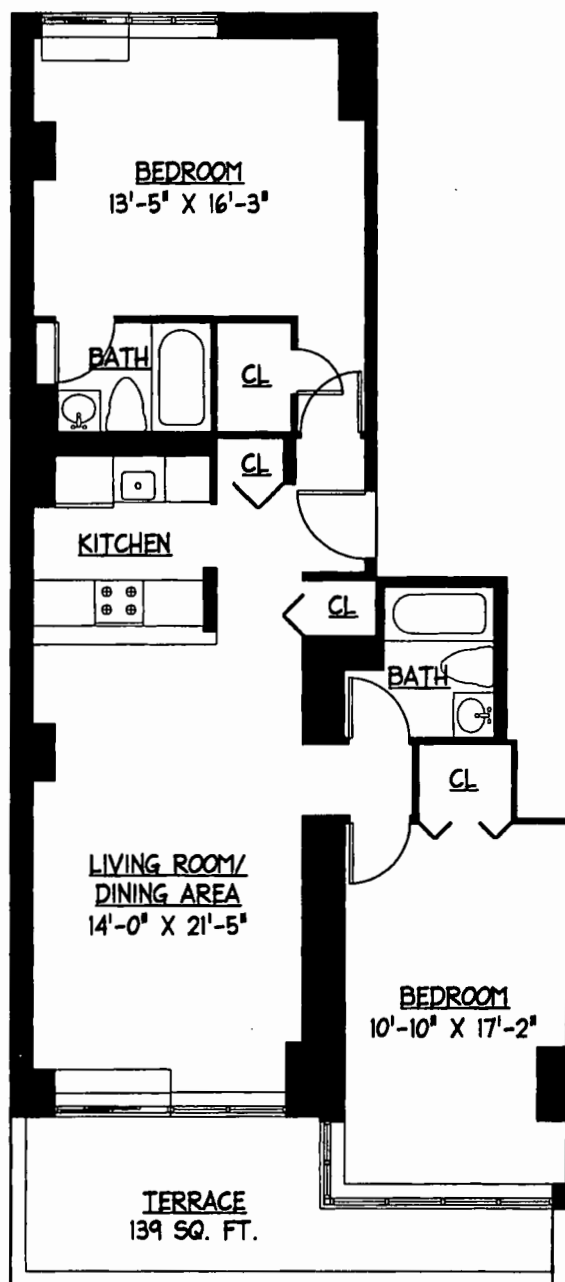


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

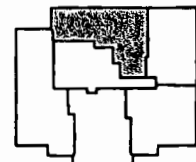


RESIDENTIAL UNIT #2E 1,014 SQ. FT.
TERRACE 139 SQ. FT.

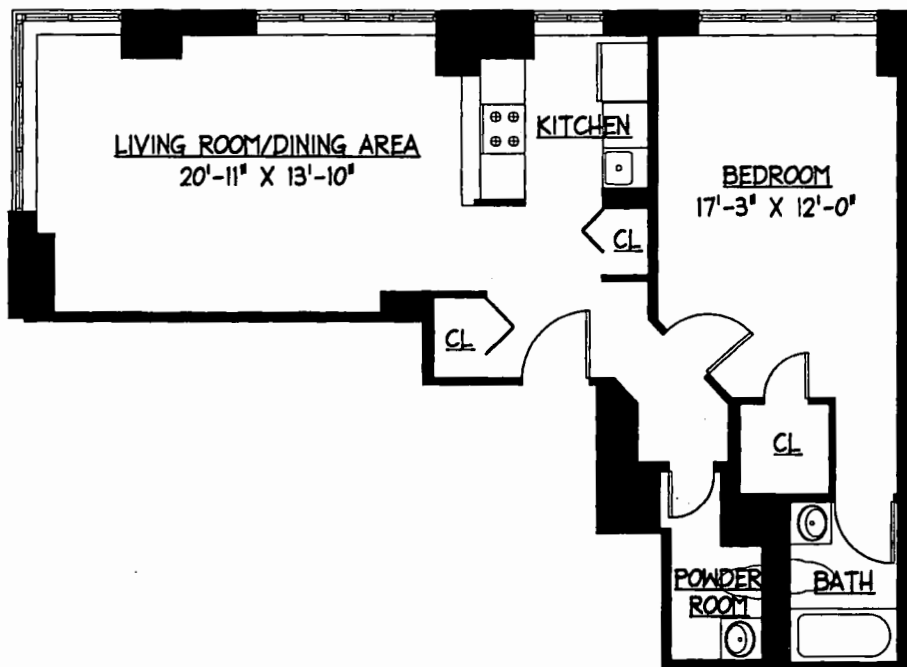


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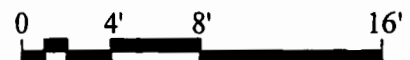
THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN



RESIDENTIAL UNIT #3A, 4A 779 SQ. FT.
RESIDENTIAL UNIT #5A, 6A, 7A, 8A 773 SQ. FT.

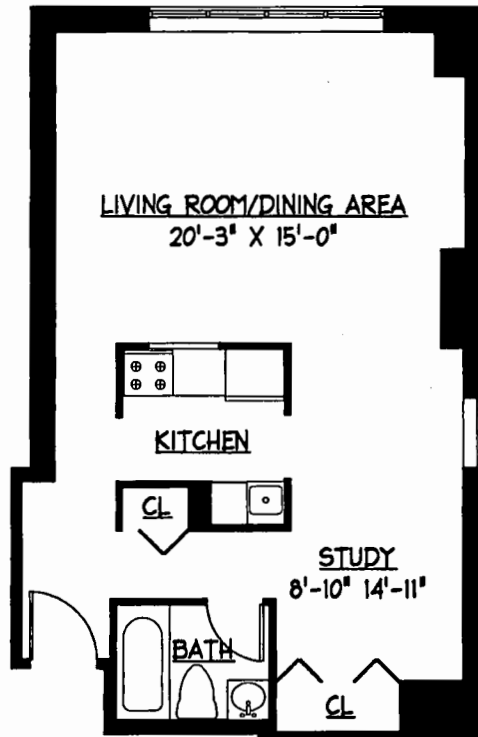


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN



RESIDENTIAL UNIT #3B, 4B 650 SQ. FT.

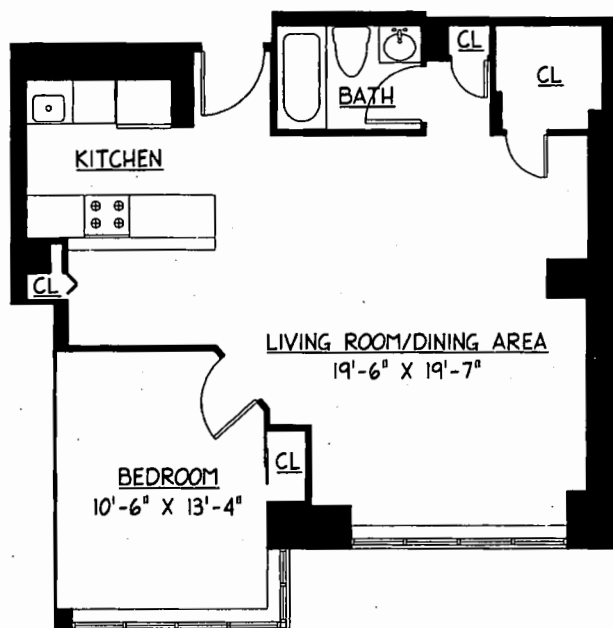


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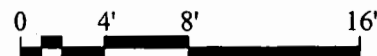
THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

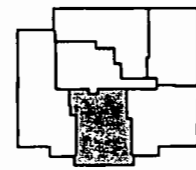


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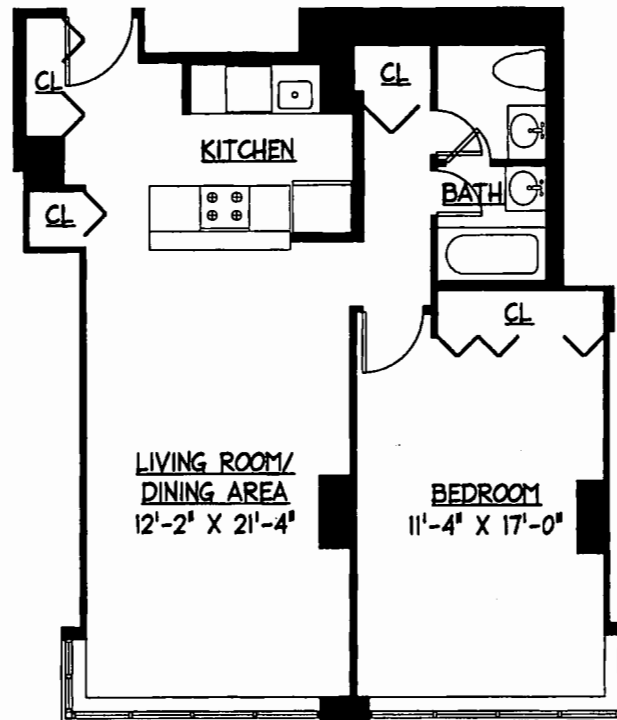


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN



RESIDENTIAL UNIT #3D, 6D 739 SQ. FT.

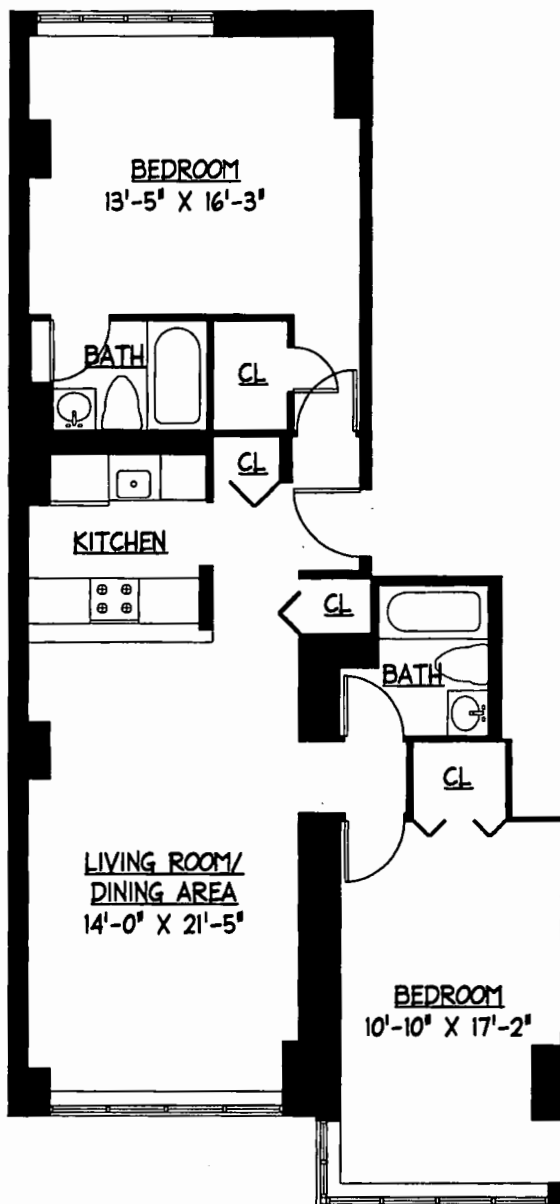


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THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK
 E-9



KEY PLAN



RESIDENTIAL UNIT #3E, 4E, 5E, 6E, 7E, 8E 1,014 SQ. FT.

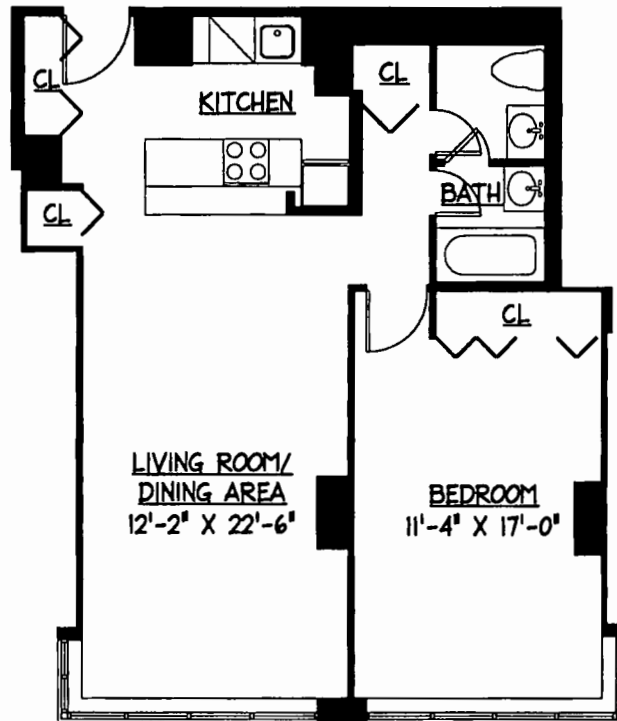


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THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

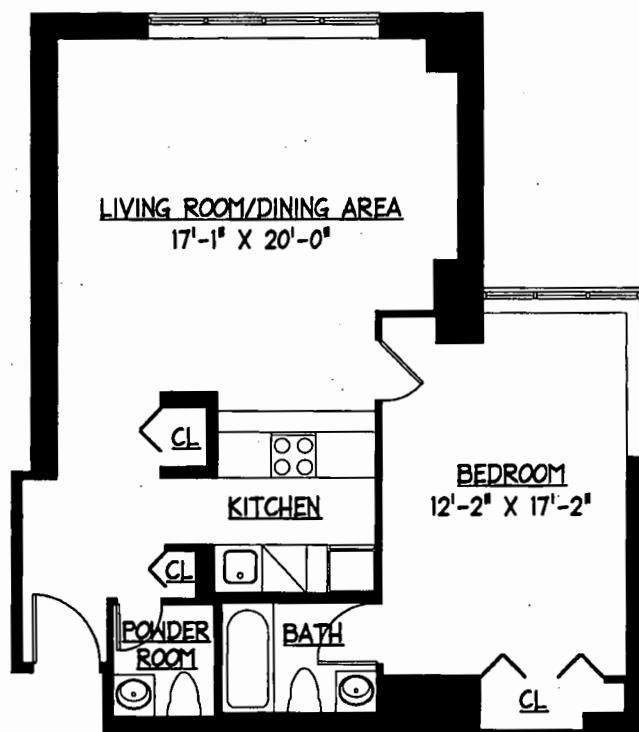
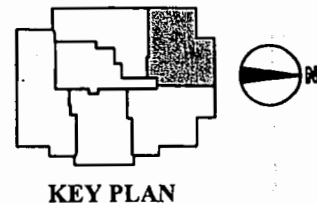


RESIDENTIAL UNIT #4D, 5D, 7D, 8D 752 SQ. FT.



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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK
E-11

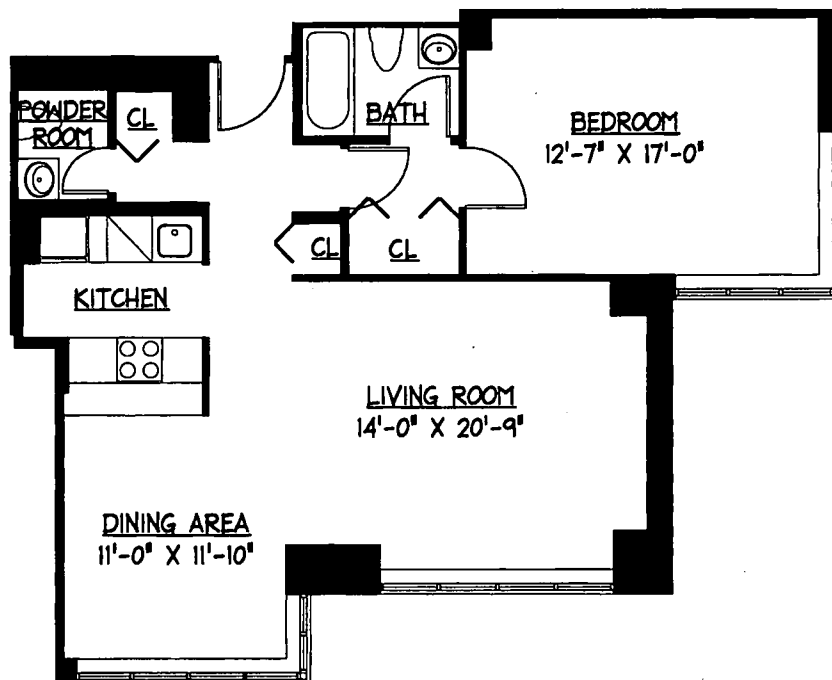
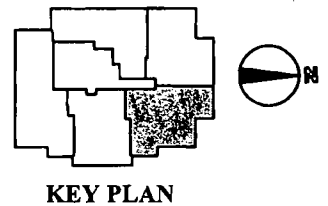


RESIDENTIAL UNIT #5B, 6B, 7B, 8B 783-SQ. FT.

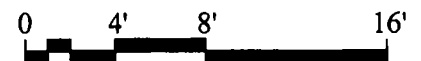


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK

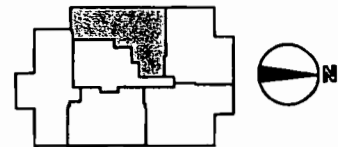


RESIDENTIAL UNIT #5C, 6C, 7C, 8C 849 SQ. FT.

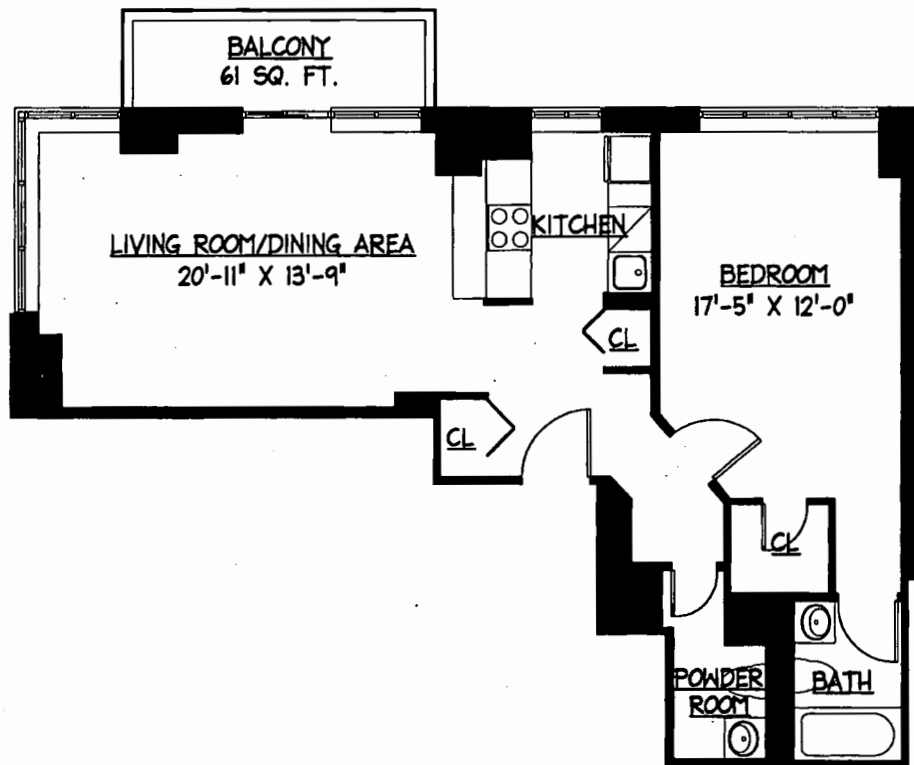


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

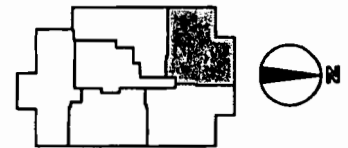


RESIDENTIAL UNIT #9A, 10A, 11A, 12A, 13A, 14A,
15A, 16A, 17A, 18A, 19A, 20A, 21A, 22A, 23A, 24A,
25A, 26A, 27A, 28A, 29A, 30A, 31A 771 SQ. FT.
BALCONY.... 61 SQ. FT.

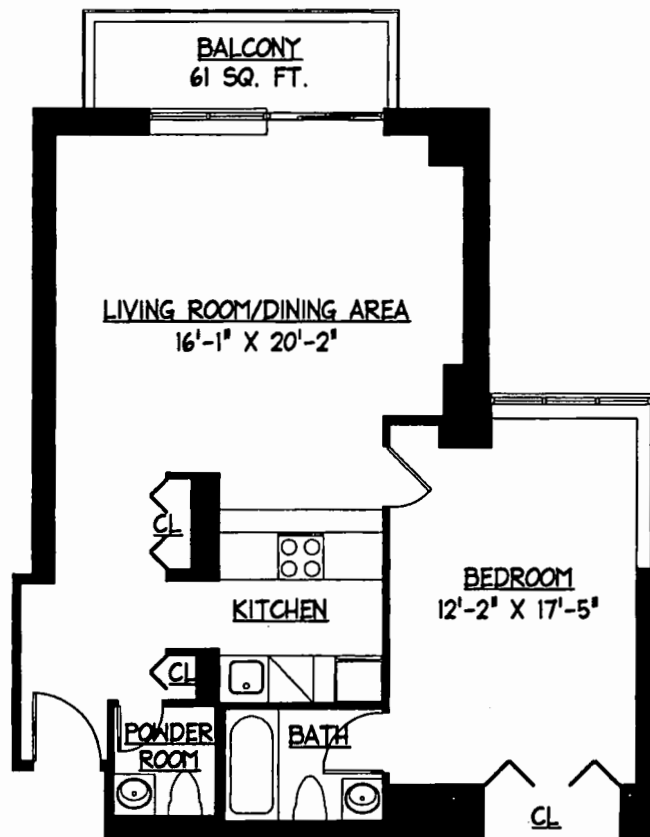


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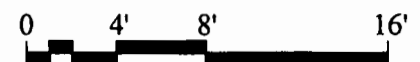
THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

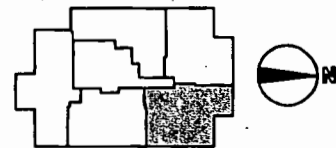


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15B, 16B, 17B, 18B, 19B, 20B, 21B, 22B, 23B, 24B,
25B, 26B, 27B, 28B 790 SQ. FT.
BALCONY.... 61 SQ. FT.

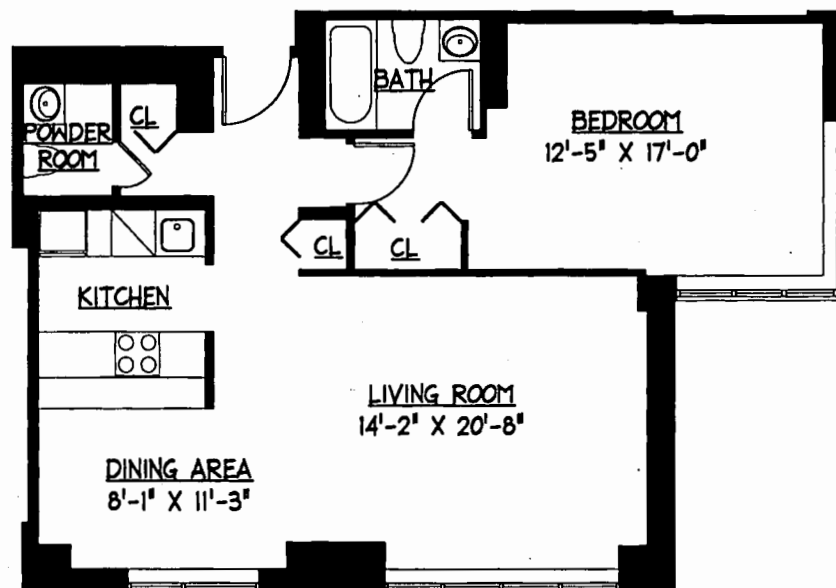


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN



RESIDENTIAL UNIT #9C 815 SQ. FT.

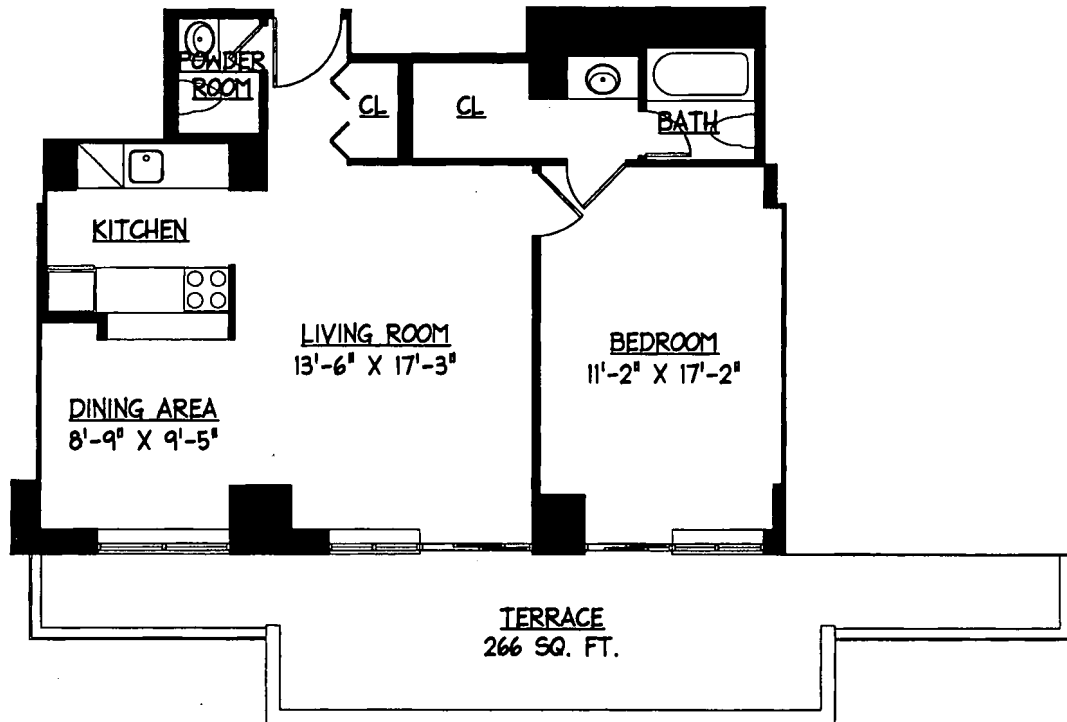


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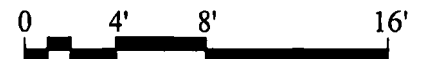
THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

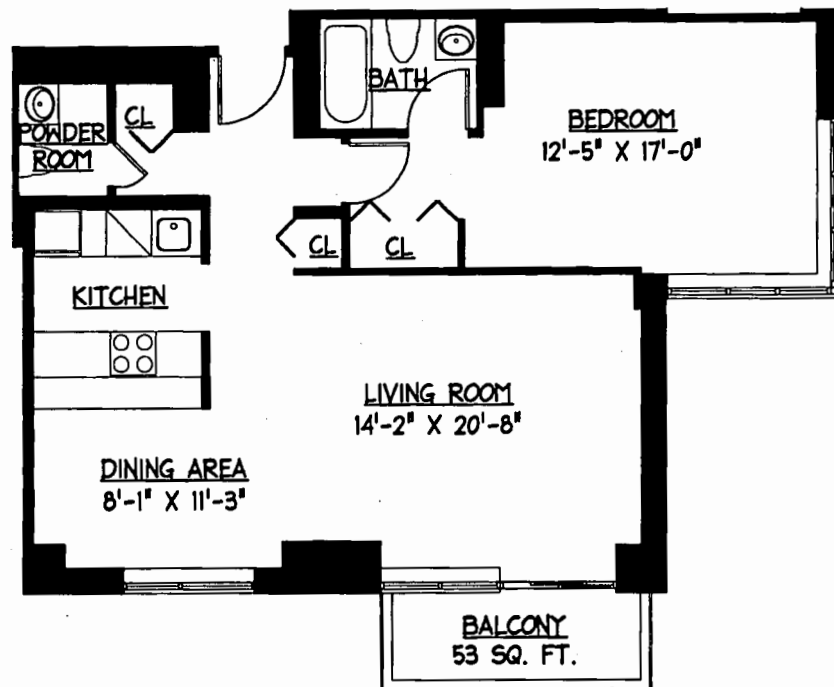
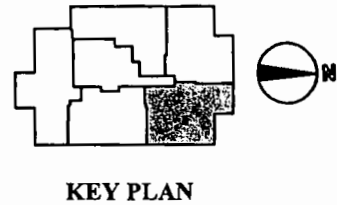


RESIDENTIAL UNIT #9D 741 SQ. FT.
TERRACE 266 SQ. FT.



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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



RESIDENTIAL UNIT #10C, 11C, 12C, 13C, 14C, 15C, 16C,
17C, 18C, 19C, 20C, 21C, 22C 815 SQ. FT.
BALCONY 53 SQ. FT.

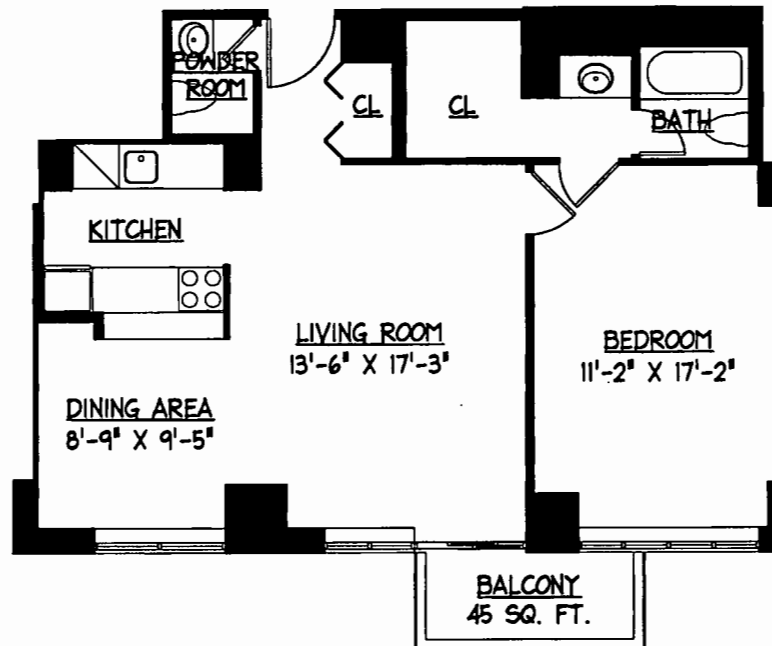


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

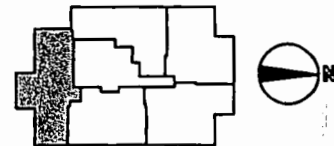


RESIDENTIAL UNIT #10D, 13D, 14D, 19D,
20D, 23D, 25D, 26D 756 SQ. FT.
BALCONY 45 SQ. FT.

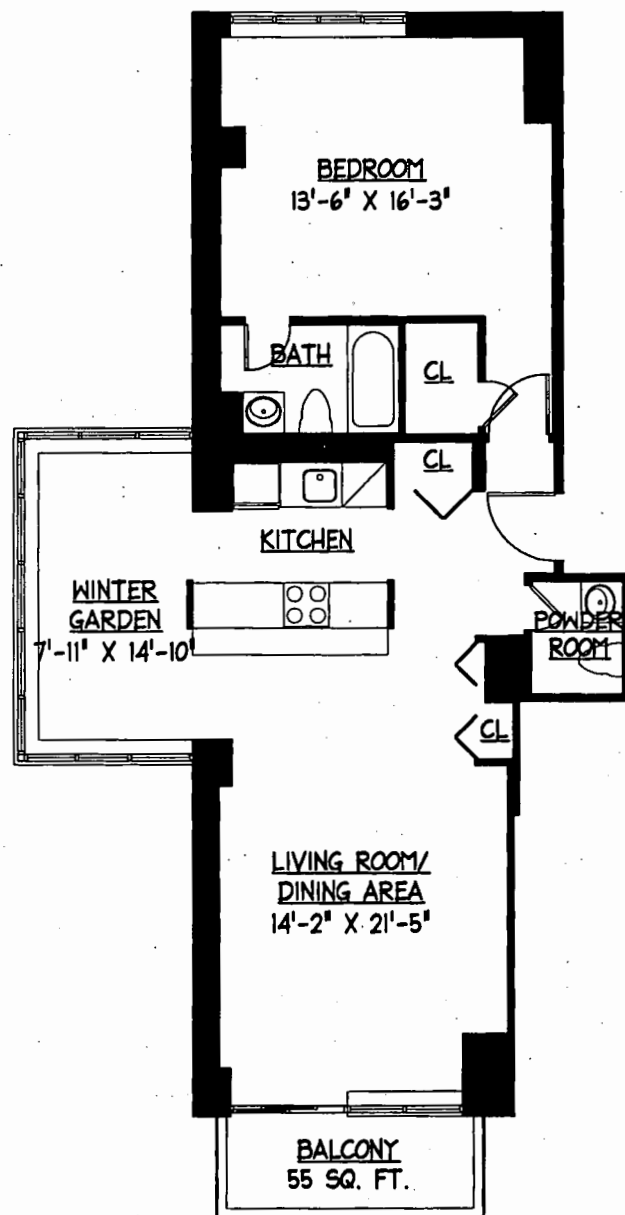


The Unit Layout, square footage and dimensions are approximate and subject to normal construction variances and tolerances. Square footage exceeds the usable floor area. This floor plan is based on typical field measurements. Minor inaccuracies between this floor plan and the actual Unit Layout will not excuse a Purchaser from completing the purchase of a Unit without abatement in price and without recourse against the Sponsor. Sponsor reserves the right to make changes to a Unit in accordance with the Offering Plan.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

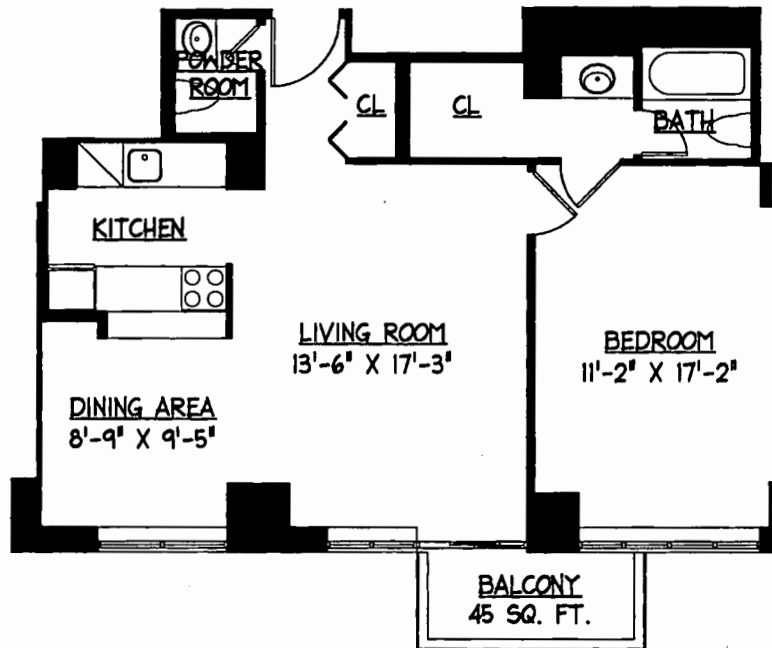
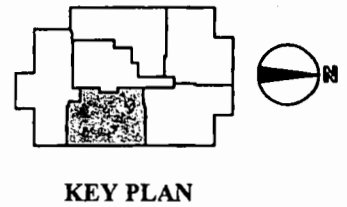


RESIDENTIAL UNIT #10E, 11E, 12E, 13E, 14E, 15E, 16E,
17E, 18E, 19E, 20E, 21E, 22E 903 SQ. FT.
BALCONY 55 SQ. FT.



The Unit Layout, square footage and dimensions are approximate and subject to normal construction variances and tolerances. Square footage exceeds the usable floor area. This floor plan is based on typical field measurements. Minor inaccuracies between this floor plan and the actual Unit Layout will not excuse a Purchaser from completing the purchase of a Unit without abatement in price and without recourse against the Sponsor. Sponsor reserves the right to make changes to a Unit in accordance with the Offering Plan.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK
E-20



RESIDENTIAL UNIT #12D, 15D, 18D, 21D, 24D, 27D,
28D 741 SQ. FT.

BALCONY 45 SQ. FT.

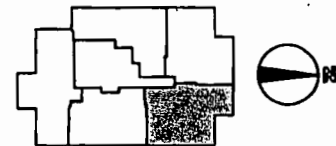
RESIDENTIAL UNIT #11D, 16D, 17D, 22D 745 SQ. FT.

BALCONY 45 SQ. FT.

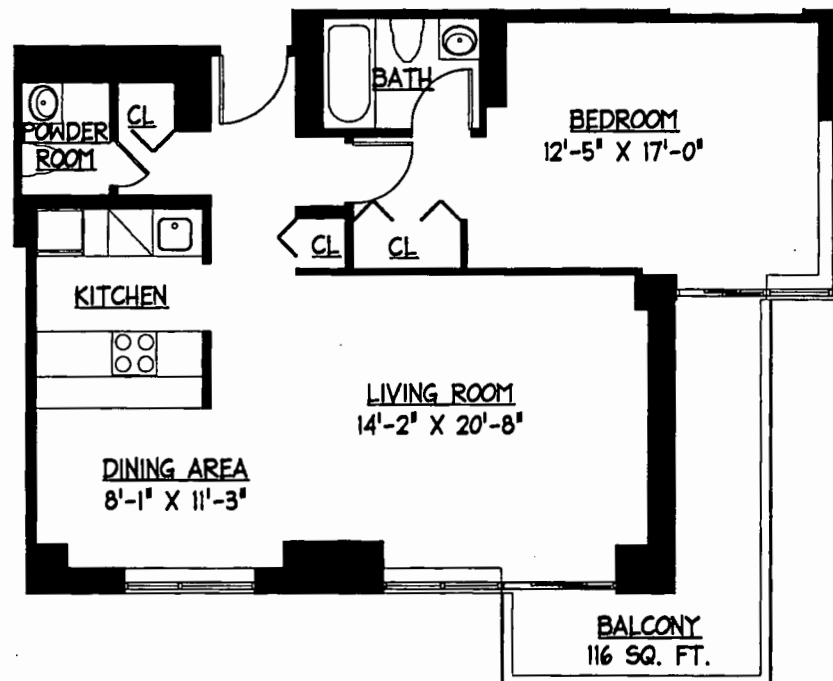


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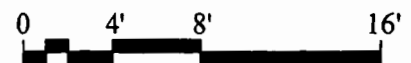
THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

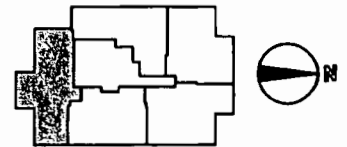


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BALCONY 116 SQ. FT.

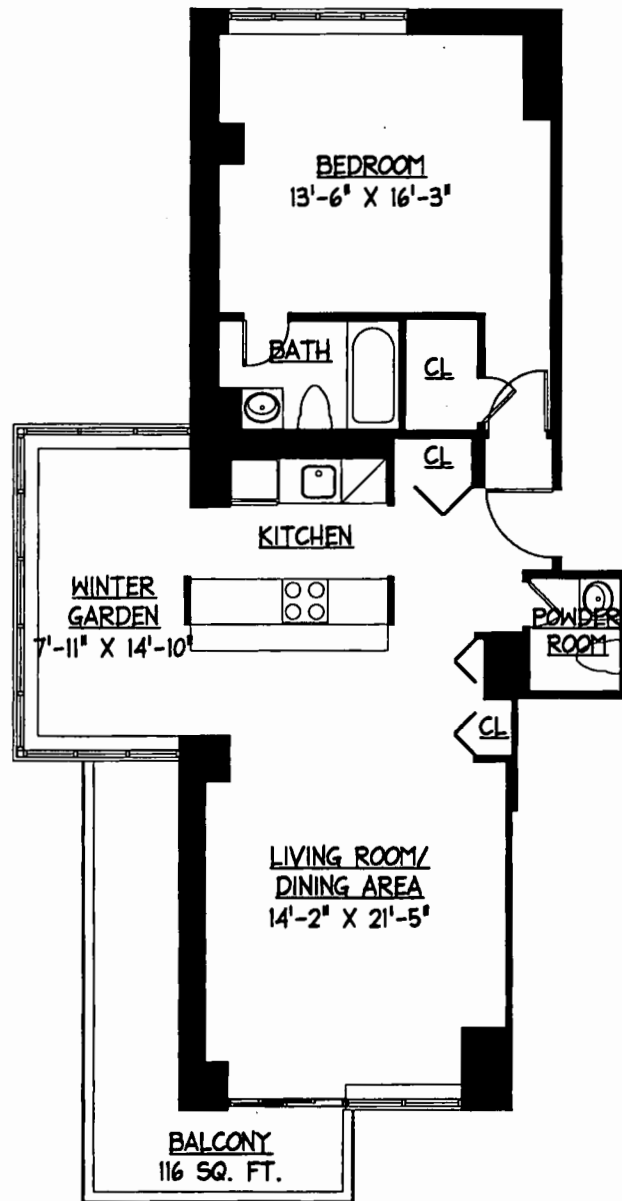


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

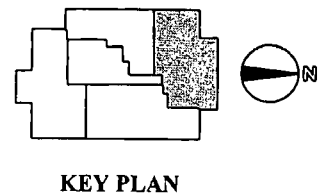
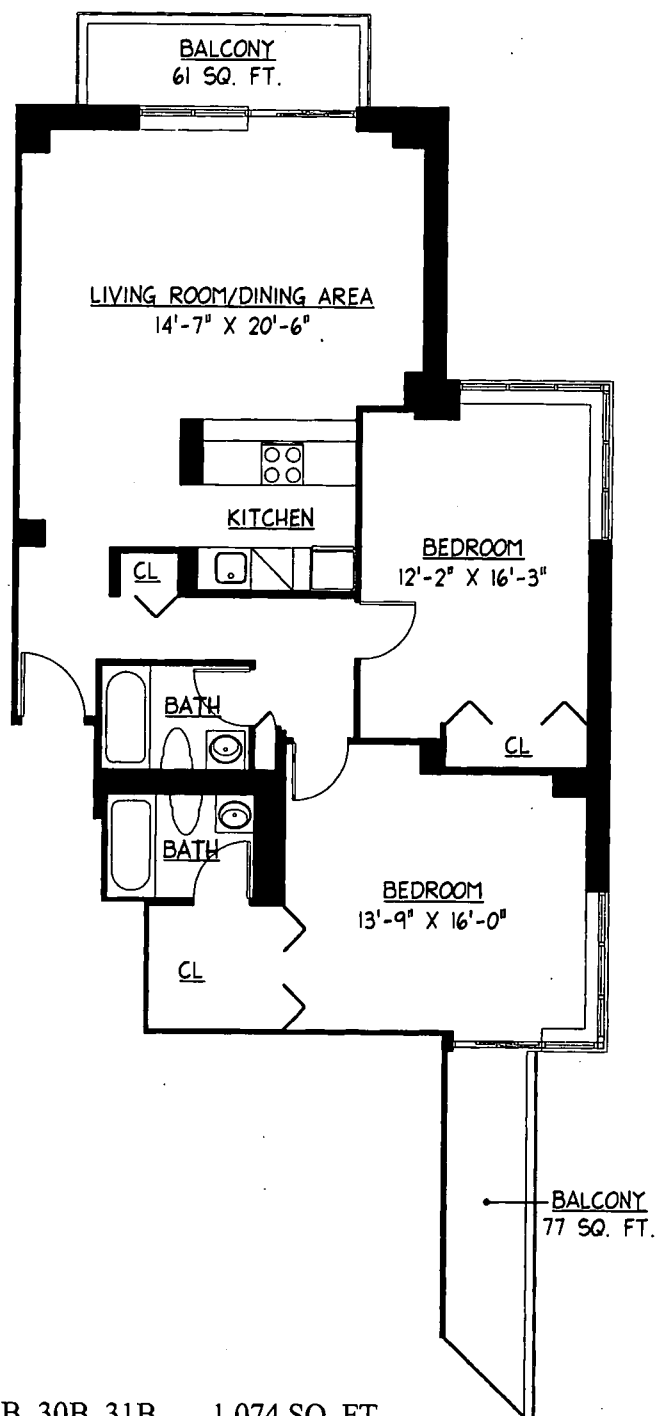


RESIDENTIAL UNIT #23E, 24E, 25E, 26E, 27E, 28E 903 SQ. FT.
BALCONY 116 SQ. FT.

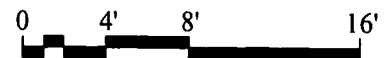


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



RESIDENTIAL UNIT #29B, 30B, 31B 1,074 SQ. FT.
 BALCONY #1.... 61 SQ. FT.
 BALCONY #2.... 77 SQ. FT.

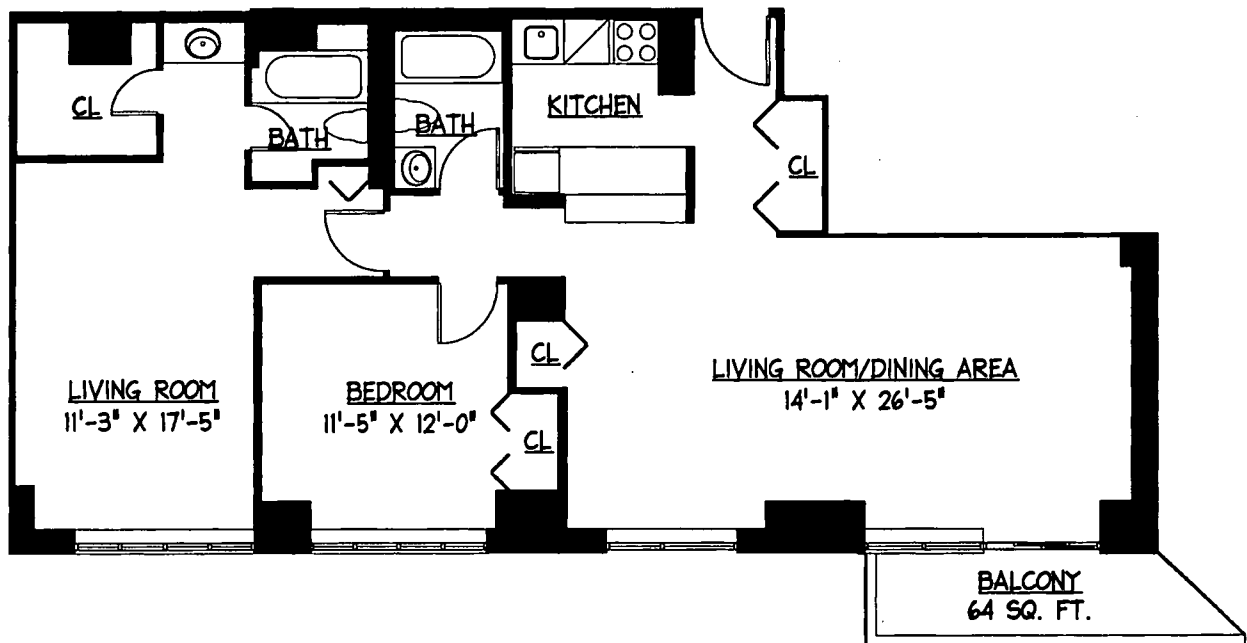


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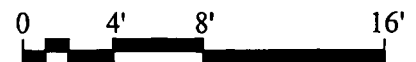
THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

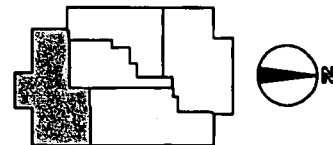


RESIDENTIAL UNIT #29C, 30C 1,074 SQ. FT.
BALCONY 64 SQ. FT.

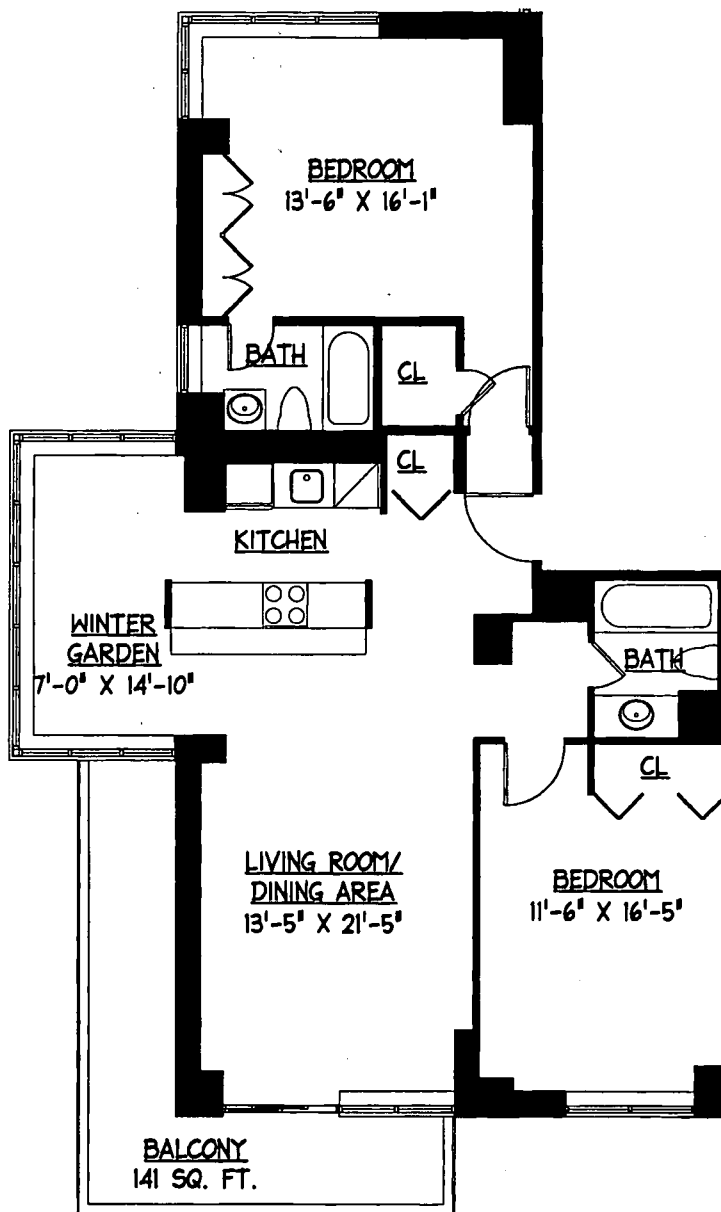


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK
E-25



KEY PLAN



RESIDENTIAL UNIT #29E, 30E, 31E 1,100 SQ. FT.
BALCONY 141 SQ. FT.



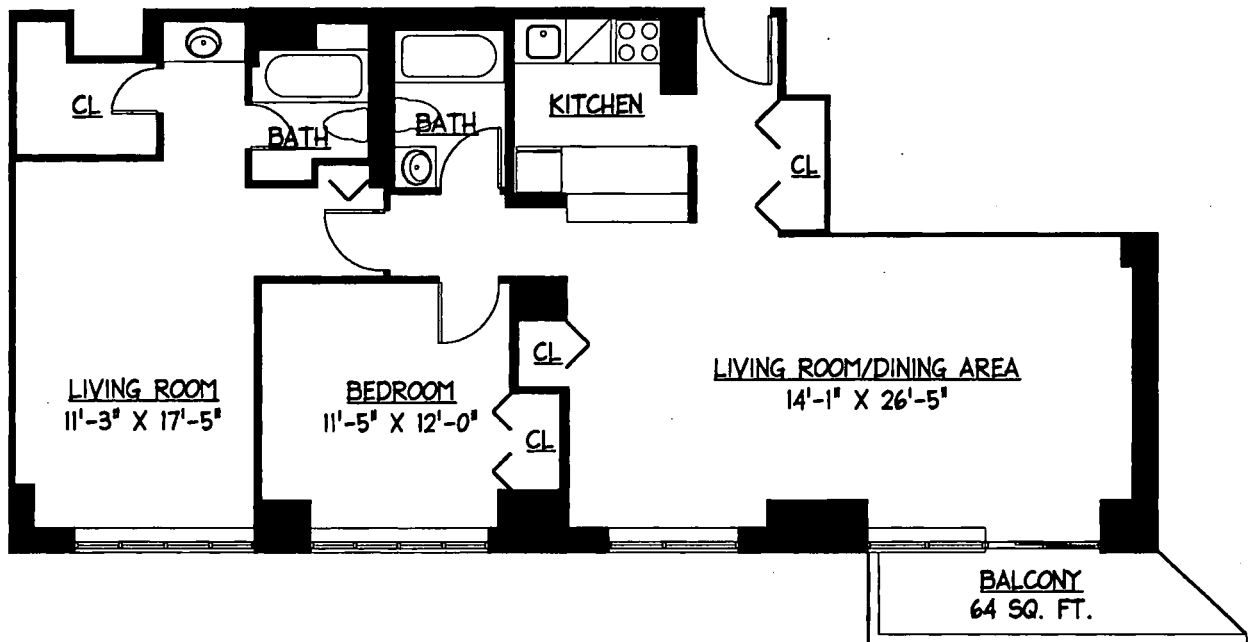
The Unit Layout, square footage and dimensions are approximate and subject to normal construction variances and tolerances. Square footage exceeds the usable floor area. This floor plan is based on typical field measurements. Minor inaccuracies between this floor plan and the actual Unit Layout will not excuse a Purchaser from completing the purchase of a Unit without abatement in price and without recourse against the Sponsor. Sponsor reserves the right to make changes to a Unit in accordance with the Offering Plan.

THE 1438 THIRD AVENUE CONDOMINIUM

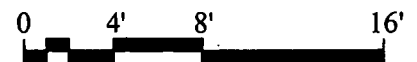
1438 THIRD AVENUE NEW YORK, NEW YORK



KEY PLAN

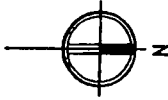


RESIDENTIAL UNIT #31C 1,068 SQ. FT.
BALCONY 64 SQ. FT.

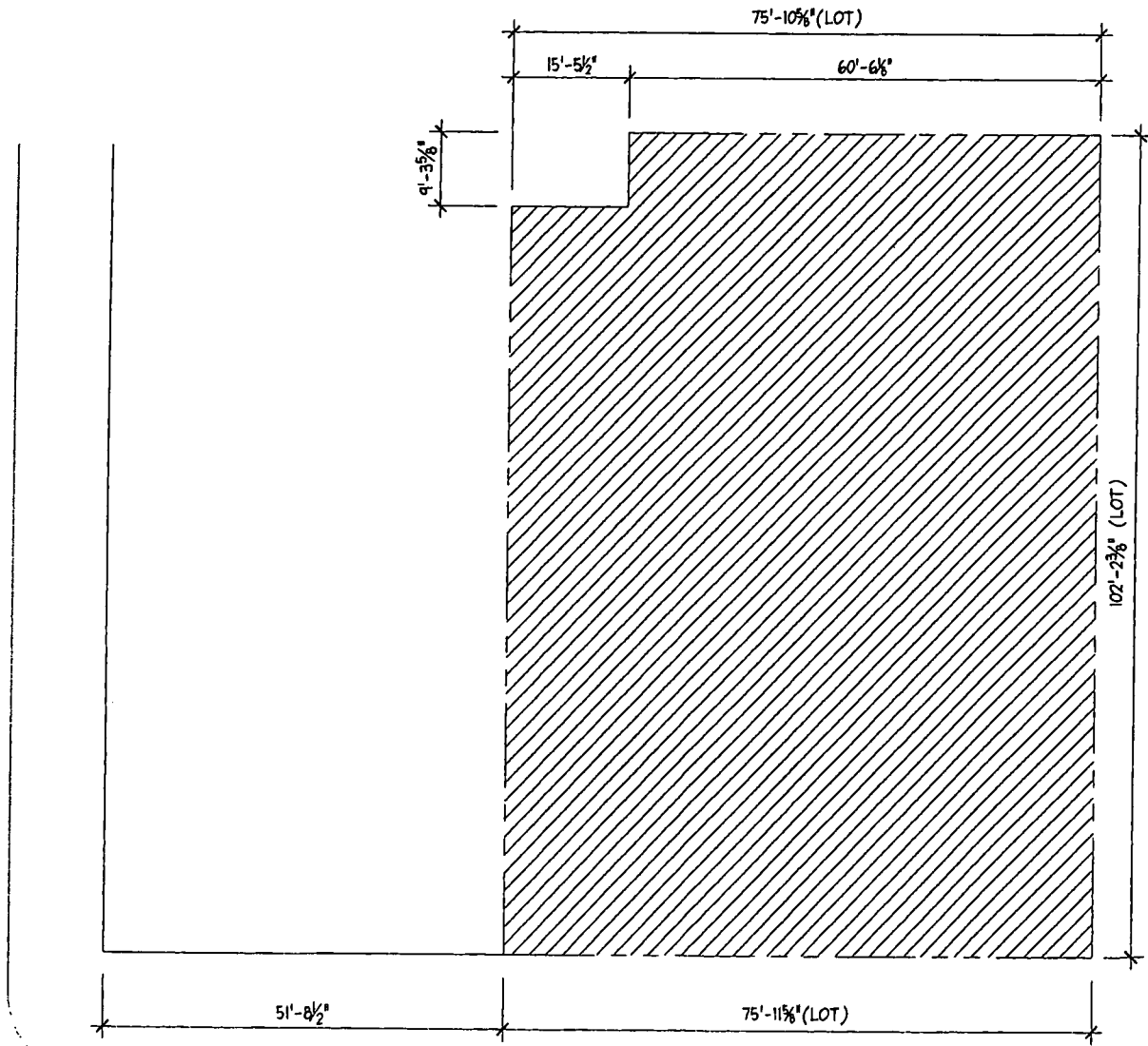


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THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



EAST 81ST STREET

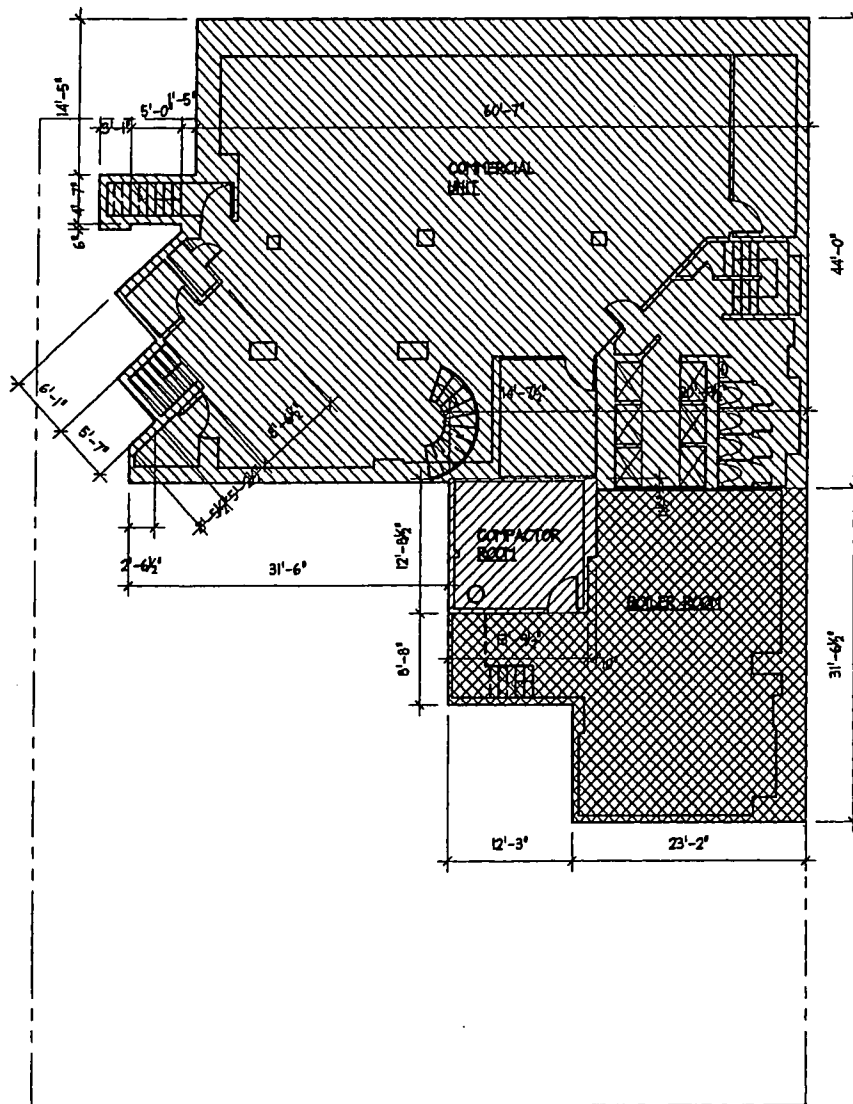
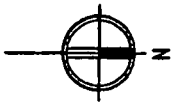


THIRD AVENUE

PLOT PLAN

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



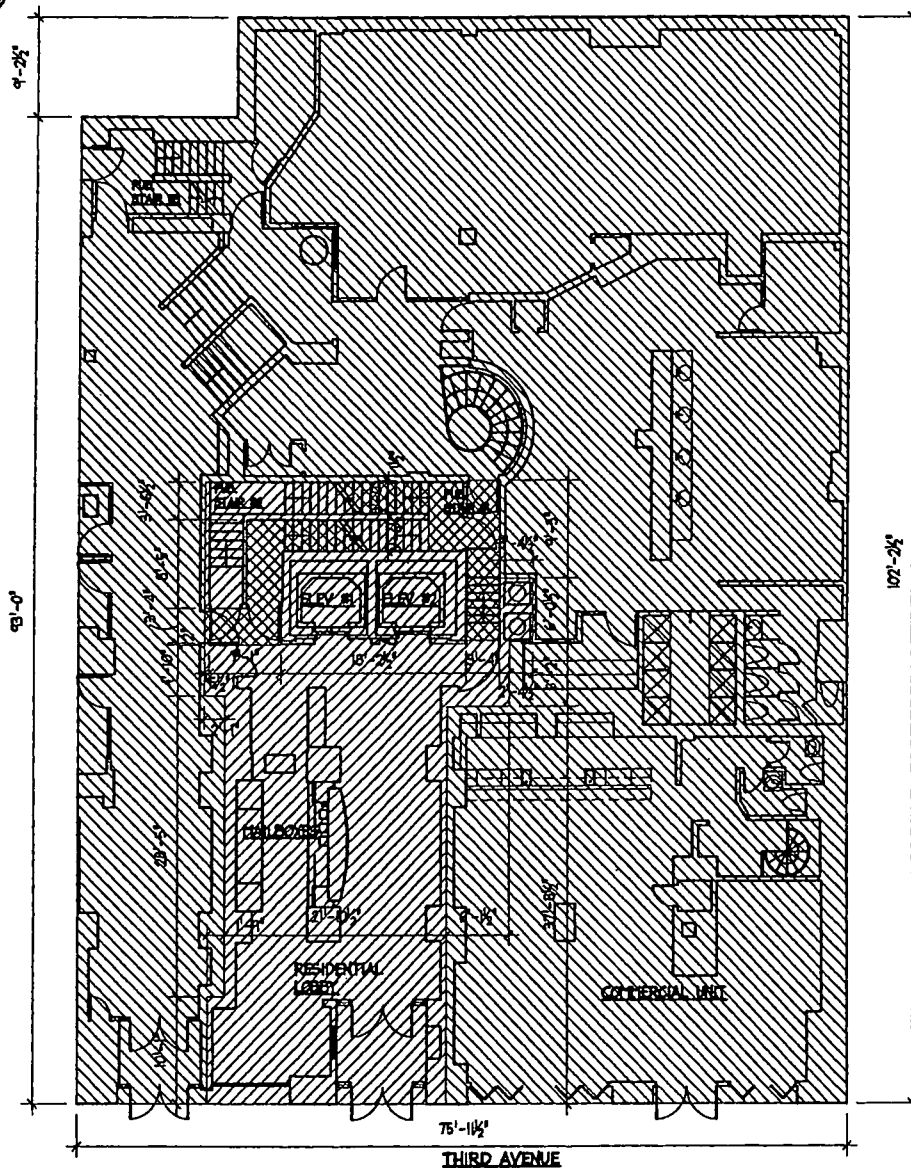
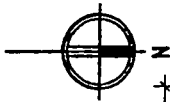
SUB-CELLAR FLOOR PLAN

LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



FIRST FLOOR PLAN

LEGEND:



RESIDENTIAL UNIT



RESIDENTIAL LIMITED COMMON ELEMENTS



RESIDENTIAL COMMON ELEMENTS



STORAGE UNIT



GENERAL COMMON ELEMENTS

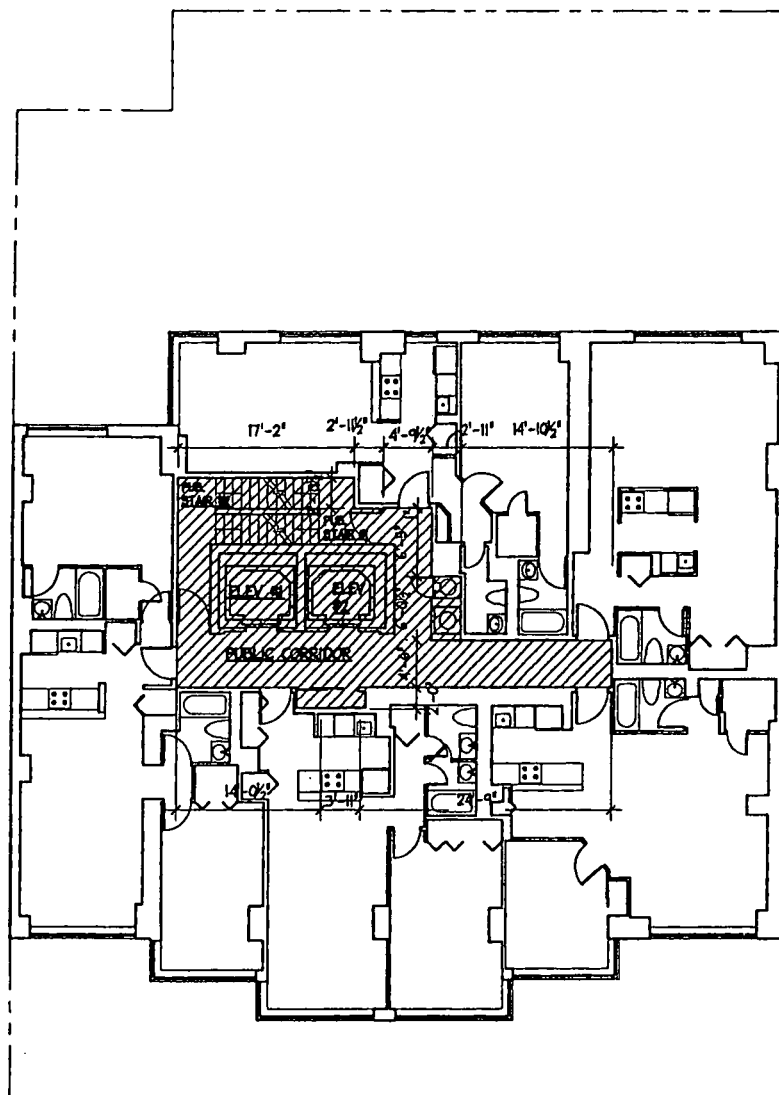
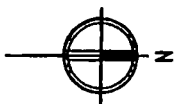


COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM

1438 THIRD AVENUE NEW YORK, NEW YORK



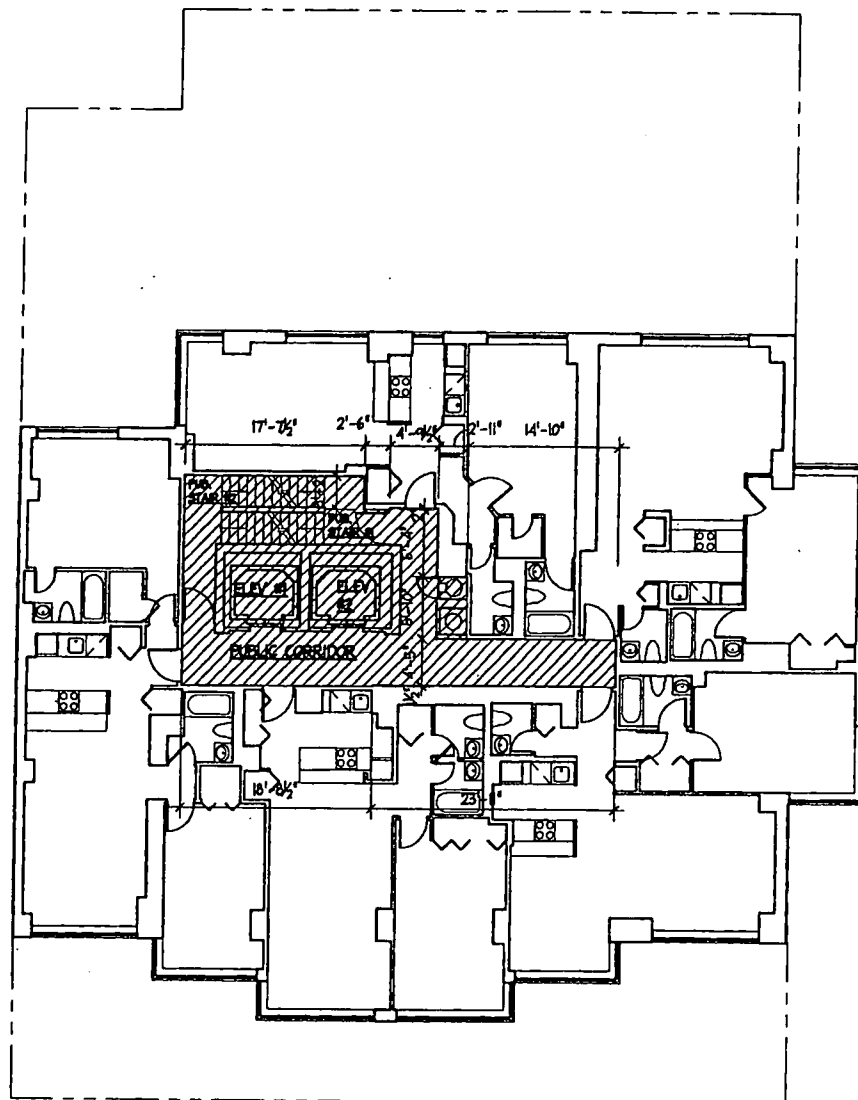
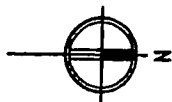
3rd & 6th FLOOR PLAN

LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

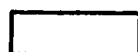
ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK



4th, 5th, 7th & 8th FLOOR PLANS

LEGEND:



RESIDENTIAL UNIT



RESIDENTIAL LIMITED COMMON
ELEMENTS



RESIDENTIAL COMMON ELEMENTS



STORAGE UNIT



GENERAL COMMON ELEMENTS

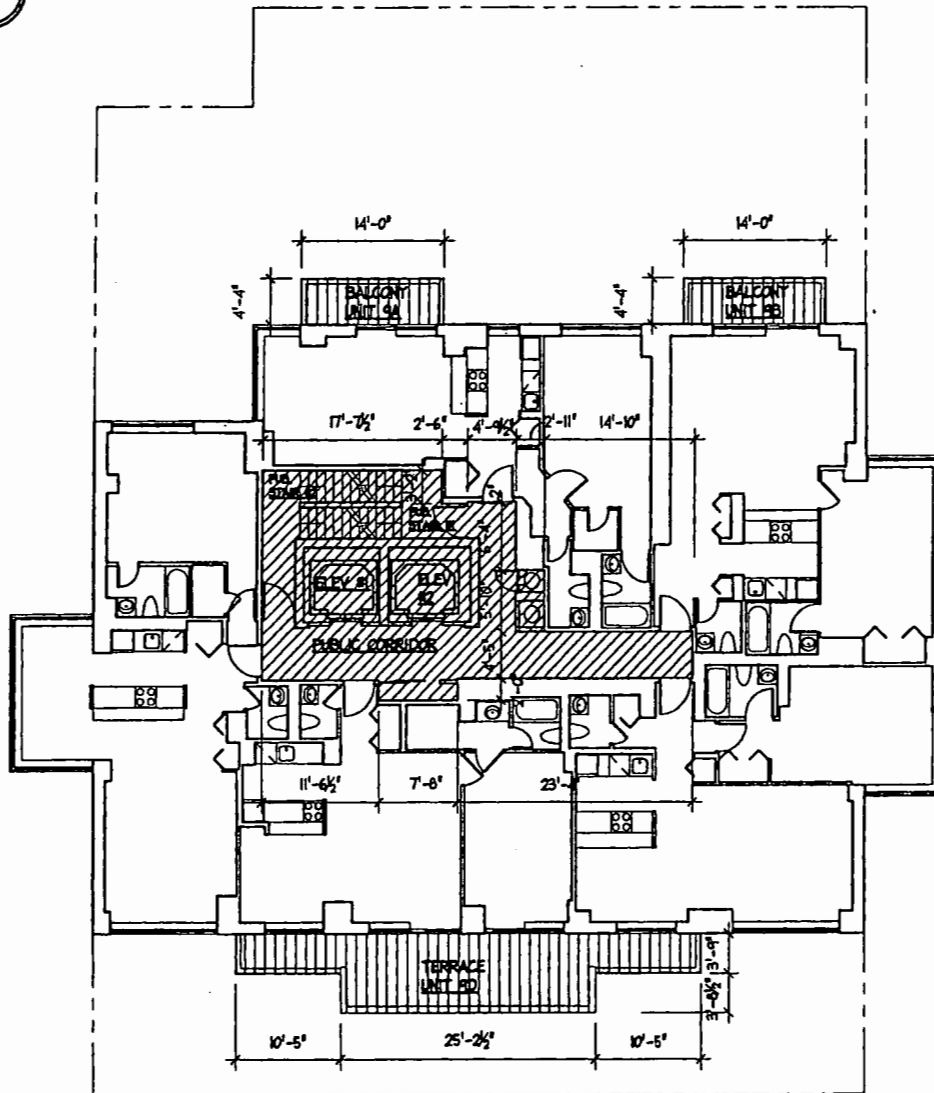
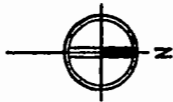


COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM

1438 THIRD AVENUE NEW YORK, NEW YORK



9th FLOOR PLAN

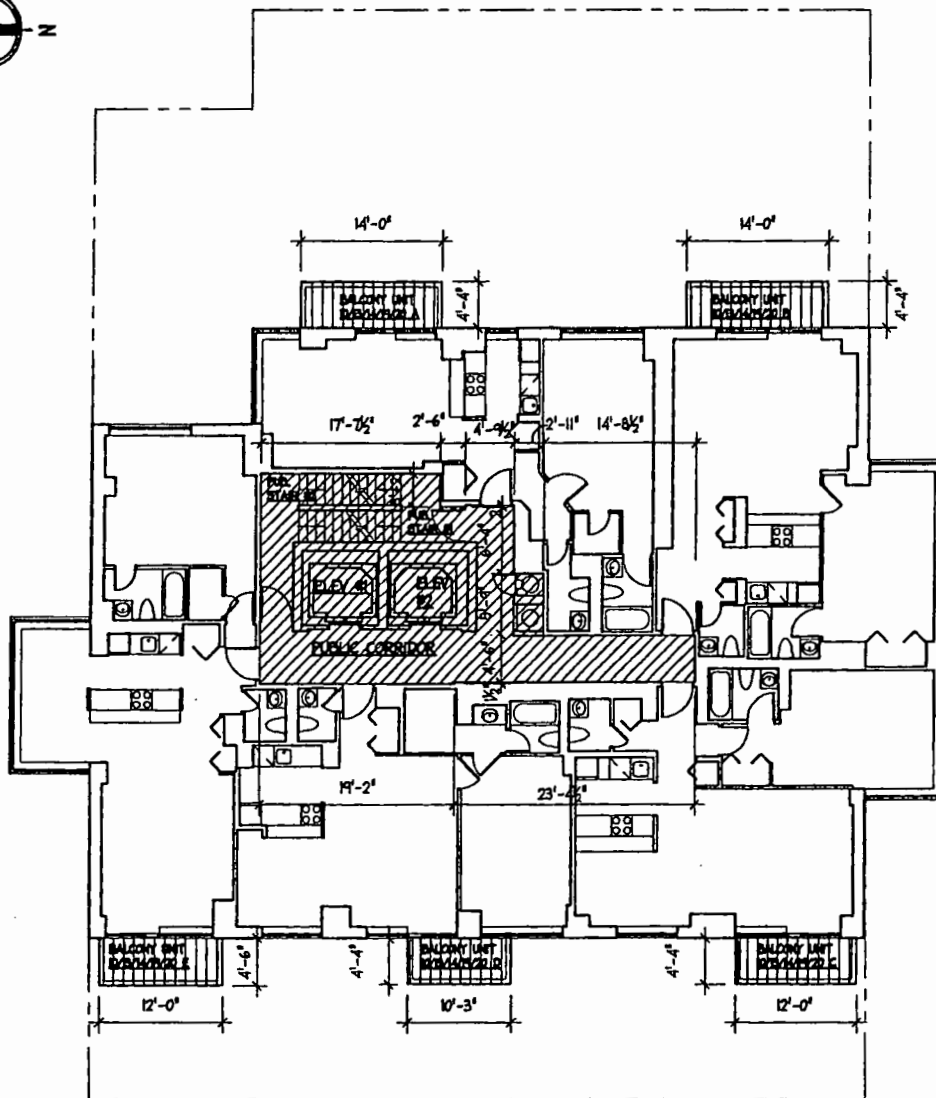
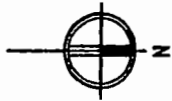
LEGEND:

	RESIDENTIAL UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS

	STORAGE UNIT
	GENERAL COMMON ELEMENTS
	COMMERCIAL UNIT

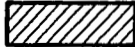
ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE, NEW YORK, NEW YORK
 E-35



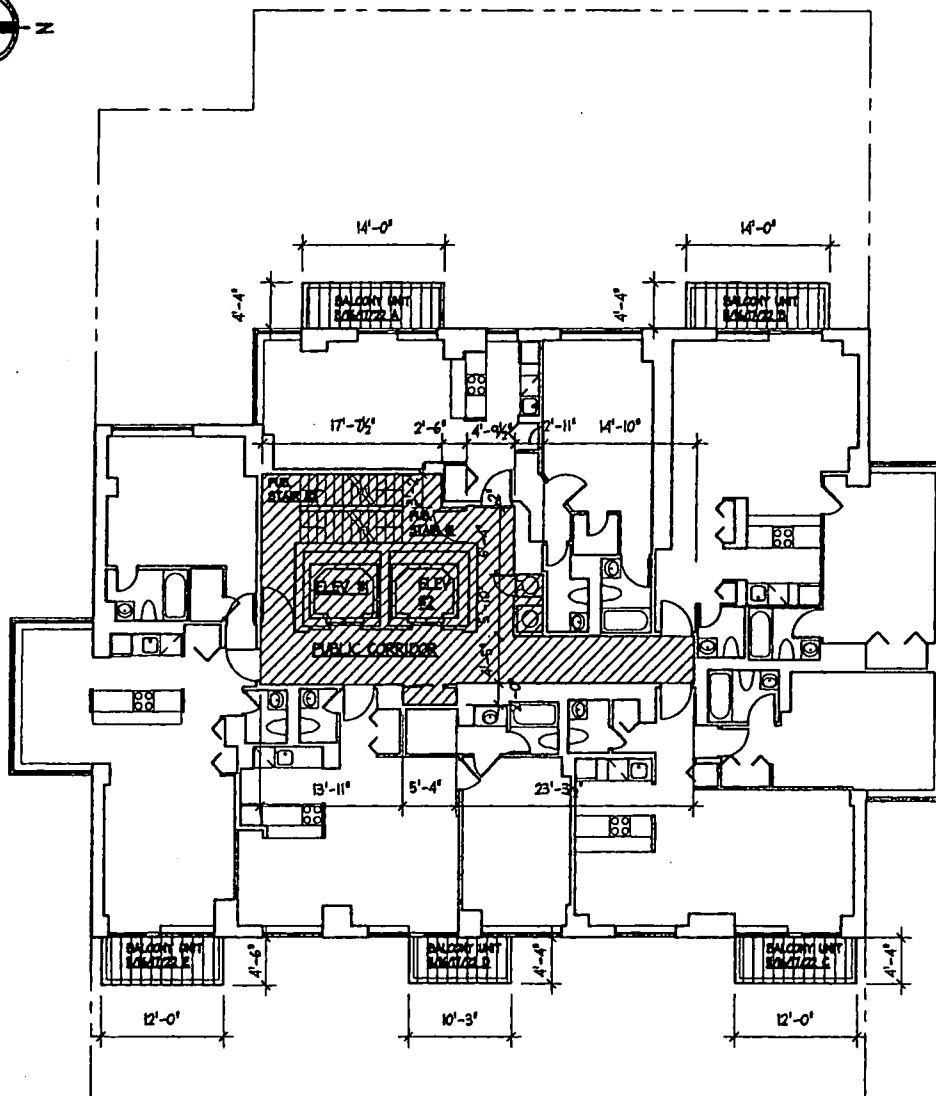
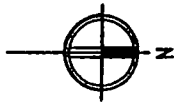
10th, 13th, 14th, 19th & 20th FLOOR PLANS

LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK



11th, 16th, 17th, & 22nd FLOOR PLANS

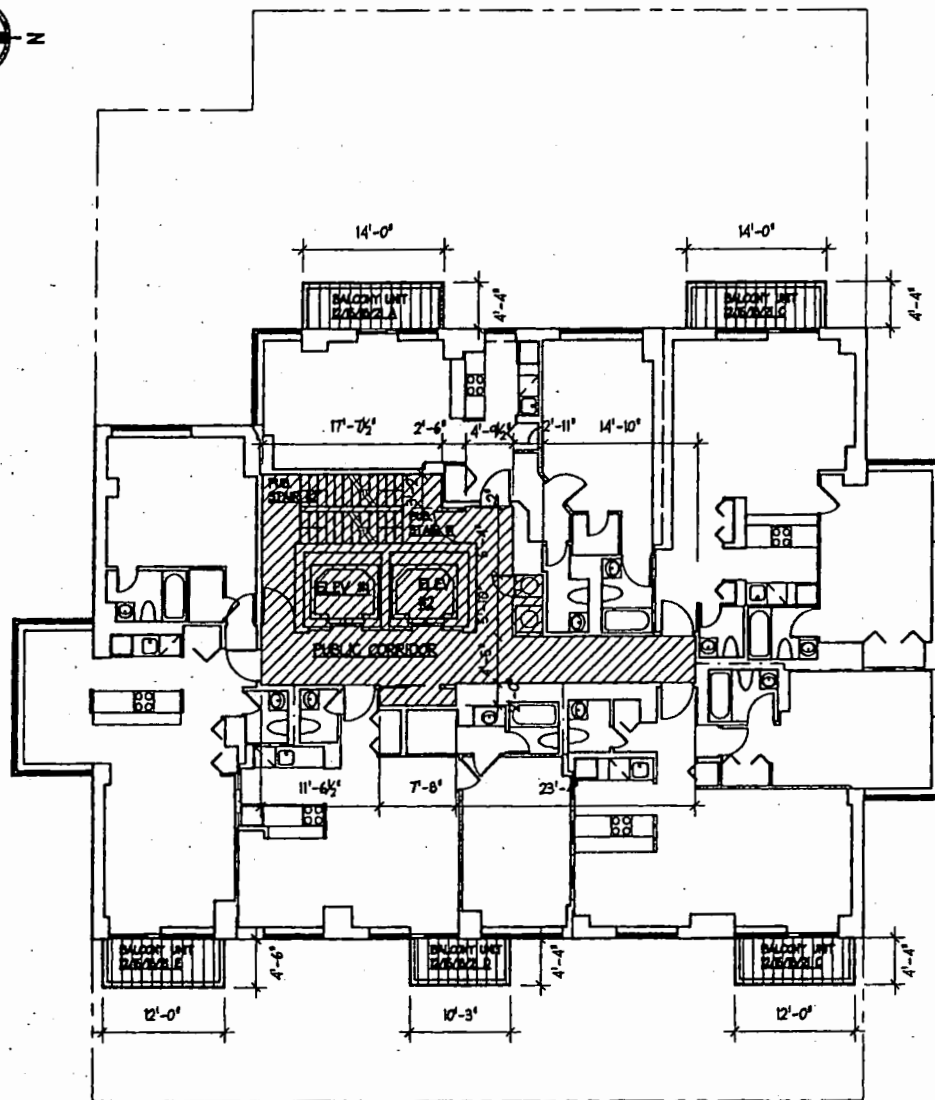
LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM

1438 THIRD AVENUE, NEW YORK, NEW YORK



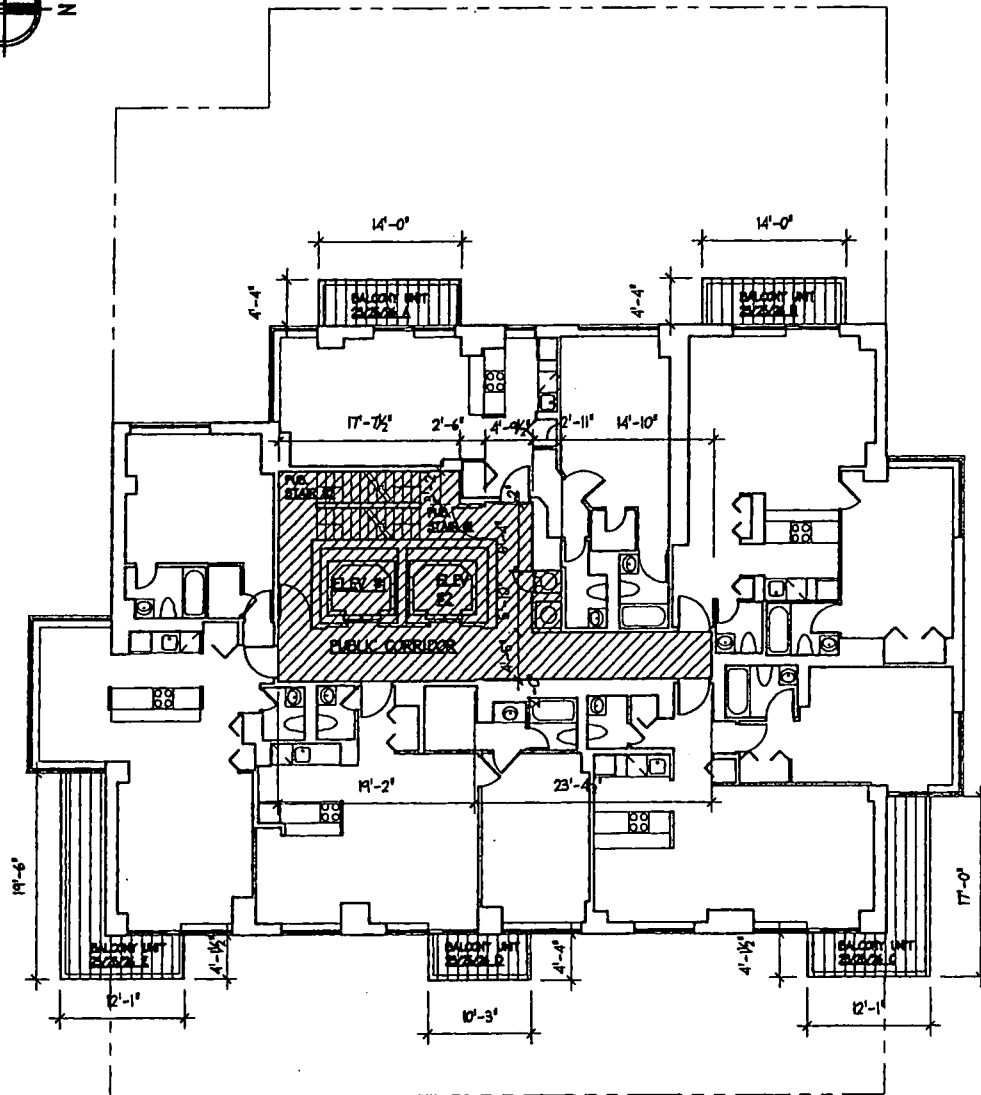
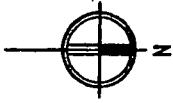
12th, 15th, 18th, & 21st FLOOR PLANS

LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE, NEW YORK, NEW YORK



23rd, 25th, 26th FLOOR PLANS

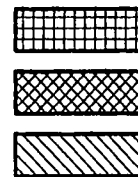
LEGEND:



RESIDENTIAL UNIT

RESIDENTIAL LIMITED COMMON ELEMENTS

RESIDENTIAL COMMON ELEMENTS



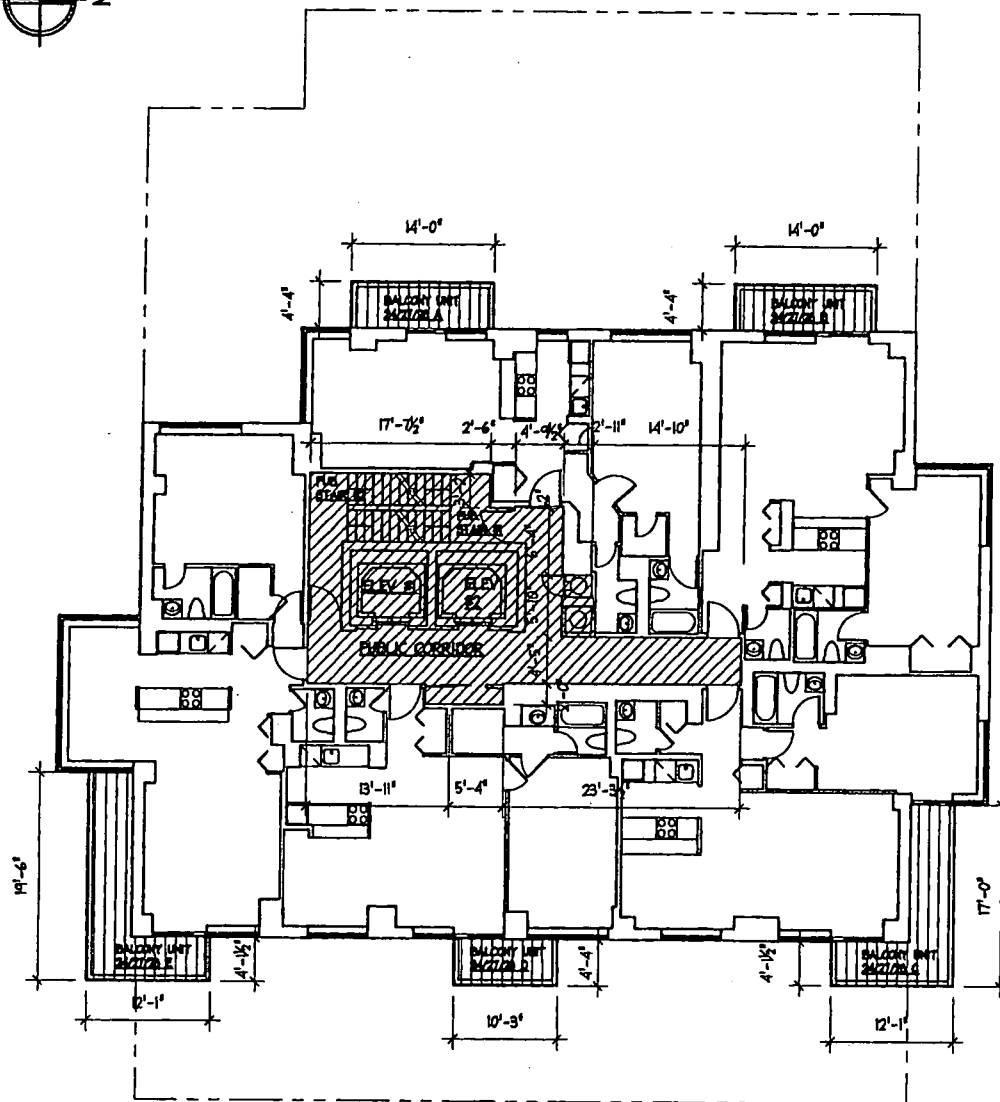
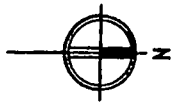
STORAGE UNIT

GENERAL COMMON ELEMENTS

COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK



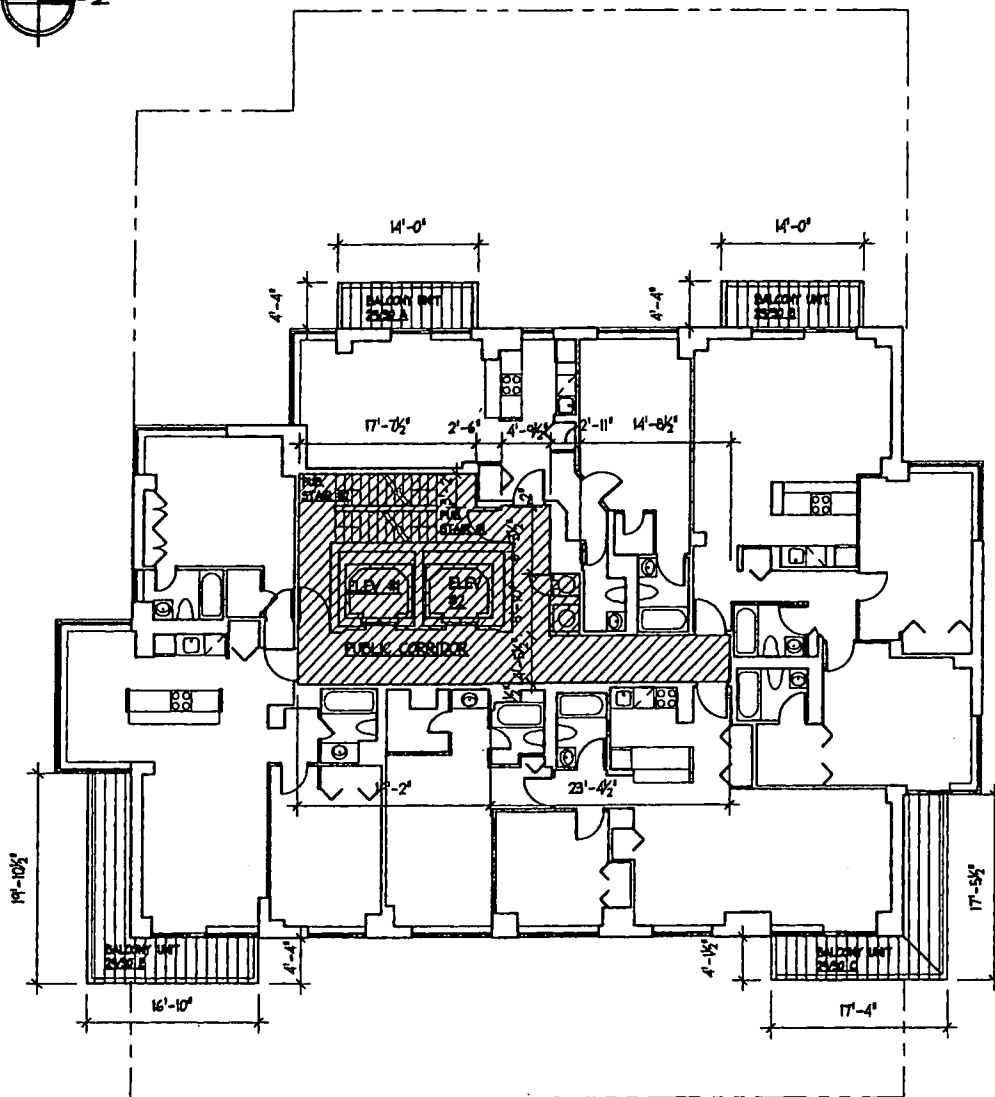
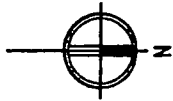
24th, 27th, 28th FLOOR PLANS

LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE NEW YORK, NEW YORK
 E-40



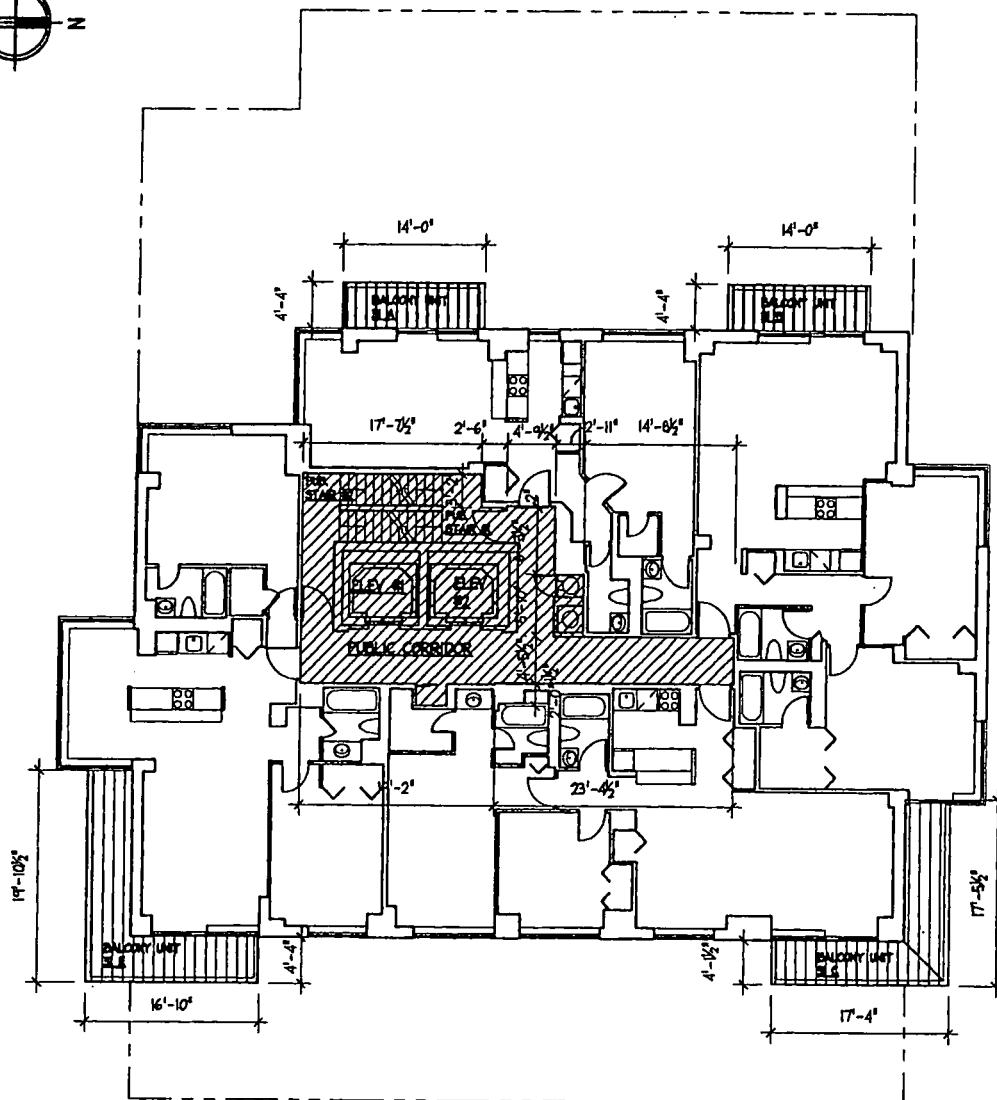
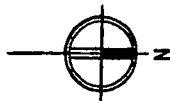
29th & 30th FLOOR PLANS

LEGEND:

	RESIDENTIAL UNIT		STORAGE UNIT
	RESIDENTIAL LIMITED COMMON ELEMENTS		GENERAL COMMON ELEMENTS
	RESIDENTIAL COMMON ELEMENTS		COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
 1438 THIRD AVENUE, NEW YORK, NEW YORK
 E-41



31st FLOOR PLAN

LEGEND:



RESIDENTIAL UNIT



RESIDENTIAL LIMITED COMMON ELEMENTS



RESIDENTIAL COMMON ELEMENTS



STORAGE UNIT



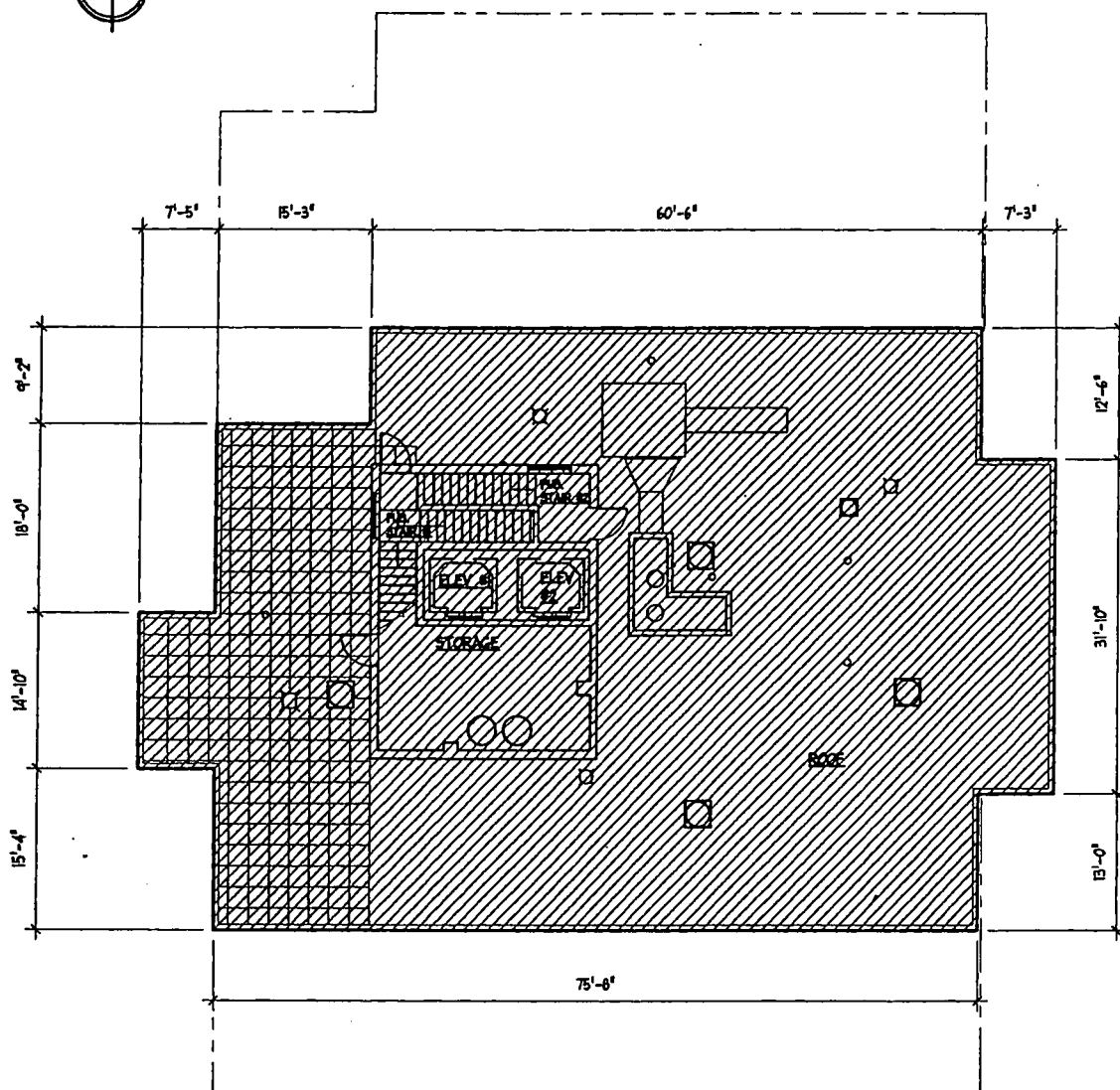
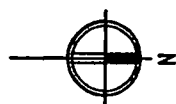
GENERAL COMMON ELEMENTS



COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE, NEW YORK, NEW YORK



ROOF PLAN

LEGEND:



RESIDENTIAL UNIT



RESIDENTIAL LIMITED COMMON
ELEMENTS



RESIDENTIAL COMMON ELEMENTS



STORAGE UNIT



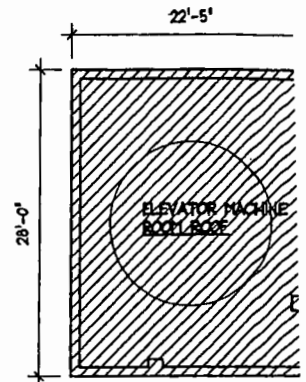
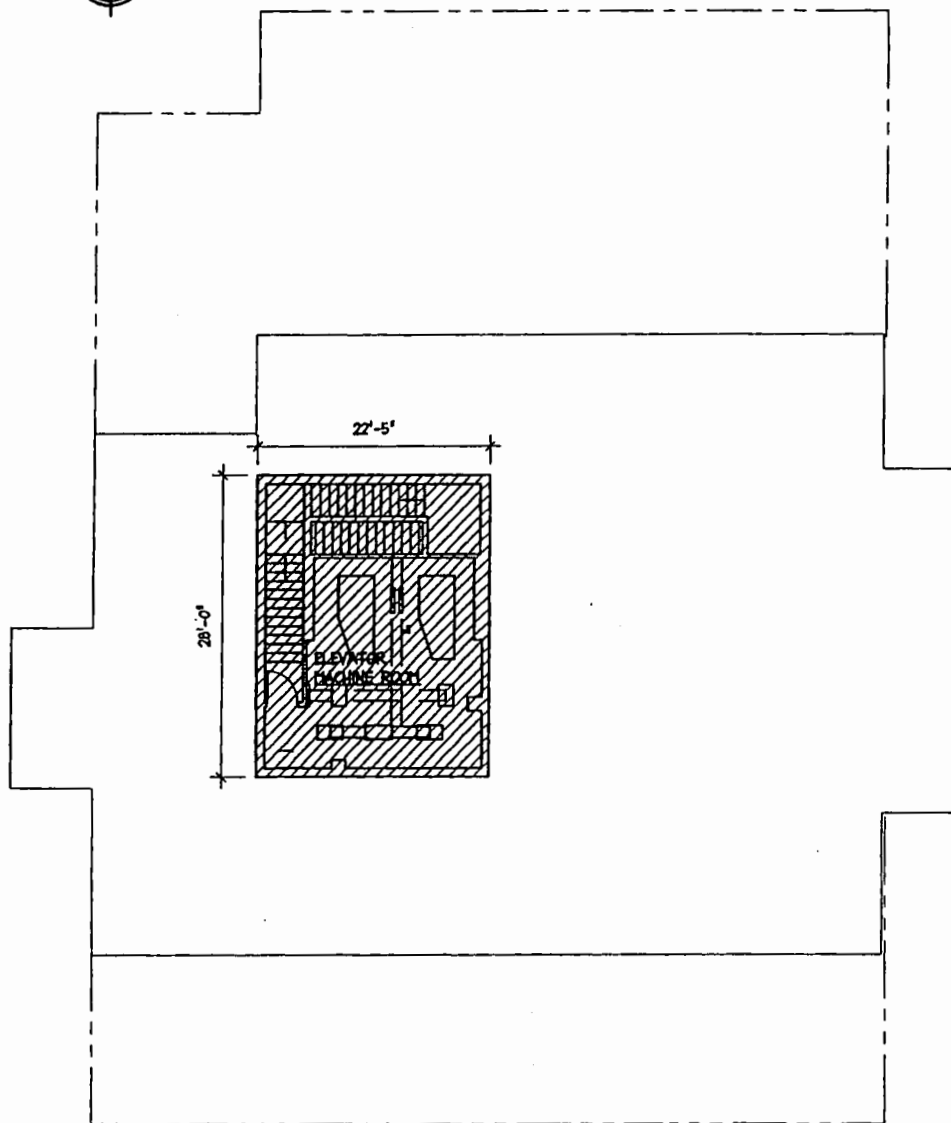
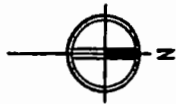
GENERAL COMMON ELEMENTS



COMMERCIAL UNIT

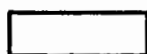
ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE, NEW YORK, NEW YORK



ELEVATOR MACHINE ROOM PLAN / ROOF PLAN

LEGEND:



RESIDENTIAL UNIT



RESIDENTIAL LIMITED COMMON
ELEMENTS



RESIDENTIAL COMMON ELEMENTS



STORAGE UNIT



GENERAL COMMON ELEMENTS



COMMERCIAL UNIT

ALL DIMENSIONS APPROXIMATE.

THE 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE NEW YORK, NEW YORK

DECLARATION

Establishing a Plan for Condominium Ownership
of Premises known as

THE
1438 THIRD AVENUE
CONDOMINIUM

1438 Third Avenue
NEW YORK, NY 10028

Pursuant to Article 9-B of the Real Property Law
of the State of New York

Name: **THE 1438 THIRD AVENUE CONDOMINIUM**

Sponsor: **81ST AND 3RD OWNER LLC**

The land affected by the within instrument
lies in Section 5, Block 1510, Lot 35
on the tax map of the Borough of Manhattan
County of New York, City and State of New York

Date: _____, 200_

Record and return to:

CUTLER MINIKES & ADELMAN LLP
708 Third Avenue, 17th Floor
New York, NY 10017
Attn: Richard B. Adelman, Esq.

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DECLARATION OF CONDOMINIUM

of

THE 1438 THIRD AVENUE CONDOMINIUM

(Pursuant to Article 9-B of the Real Property Law of the State of New York)

81ST AND 3RD OWNER LLC, a Delaware Limited Liability Company maintaining an office at 61 Broadway, Suite 1407, New York, New York 10006 (hereinafter referred to as "Sponsor"), does hereby declare as follows:

1. Submission of Property. Sponsor hereby submits the Land, more particularly described in Exhibit A annexed hereto, together with the Building and improvements thereon erected owned by Sponsor in fee simple absolute, (the "Property") to the provision of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act") in order to establish a regime of condominium ownership as more particularly set forth herein and in the By-Laws of the Condominium annexed hereto and made a part hereof.

2. Location of Land. The Land on which the Building is situated is located at 1438 Third Avenue on the west side of Third Avenue distant 51'-8-1/2" north from the corner formed by the intersection of Third Avenue and East 81st Street in the Borough of Manhattan in the County of New York in the City and State of New York.

3. Description of Building. The building is a single structure consisting of a below grade sub-cellar, a below grade cellar and floors 1st through 31st. The height of the building is approximately 287'-0" from grade at Third Avenue to the 31st floor roof. The Commercial Unit has entrances for the two stores on Third Avenue and encompasses areas located on the sub-cellar, cellar and first floor and a stairwell to and portion of the roof on the second floor. The 1st through 31st floors contain, in the aggregate, one hundred forty-seven (147) Residential Units.

4. Name of the Condominium. The Condominium shall be know as the "**The 1438 Third Avenue Condominium.**"

5. The Units. Annexed hereto and made a part hereof as Exhibit B is a list of the Units in the Building, the Unit designations, tax lot numbers, locations, percentage of interest in the Common Elements, approximate areas, number of rooms and Common Elements to which each has immediate access, all as shown on the floor plans of the Building certified by CMA Design Studio, P.C. (the "Floor Plans") filed in the office of the City Register, New York County, simultaneously with the recording of this Declaration as Condominium Plan No. ____.

6. Dimensions of the Units.

A. Commercial Unit. The Commercial Unit consists of the two stores shown and designated on the Sub-Cellar, Cellar, First Floor and Second Floor Plans (the "Stores"). The Commercial Unit is measured horizontally from the exterior side of the facade or exterior Building walls or glass windows at the Building Line and/or Property line enclosing the Unit, or from the midpoint of the interior demising walls separating the Unit from another Unit, or from the public side of the interior demising walls separating the Unit from the public corridors or public stairs, or from the mechanical space side of interior demising walls separating the Unit from an elevator or other mechanical equipment space or any other

Common Elements. Vertically, the Commercial Unit consists of the space between the top of the wood joists and the underside of the ceiling wood joists. The Commercial Unit includes: (a) the interior walls, partitions, floors, floor coverings and ceilings within, affixed, attached or appurtenant to such Unit; (b) any and all equipment, fixtures and appliances (including without limitation, heating and cooling units, plumbing, plumbing facilities, sinks, toilets, refrigerators, ovens, ranges, dishwashers and any other appliances) affixed, attached or appurtenant to such Unit and benefitting only that Unit; (c) the doors leading to such Unit from the vestibule or hallway and all other interior doors appurtenant to the Unit, (d) doors, windows and storefronts appurtenant to the exterior of the Unit, including panes, casements and frames; (e) second floor commercial stair and second floor rear yard roof; and (f) all other facilities in the Building which exclusively serve or benefit or are exclusively necessary for the existence, maintenance, operation or safety of the Commercial Unit.

- B. Residential Units. Each Residential Unit consists of the area measured horizontally from the exterior side of the facade or exterior Building walls or glass windows at the Building Line and/or Property line enclosing the Unit, or from the midpoint of the interior demising walls separating the Unit from another Unit, or from the public side of the interior demising walls separating the Unit from the public corridors or public stairs, or from the mechanical space side of interior demising walls separating the Unit from an elevator or other mechanical equipment space or any other Common Elements. Vertically, each Residential Unit consists of the space between the top of the finish floor and the underside of the wood joists at the ceiling. Each Residential Unit includes: (a) the interior walls, partitions, floors, floor coverings and ceilings within, affixed, attached or appurtenant to such Unit; (b) any and all equipment, fixtures and appliances (including without limitation, heating and cooling units, plumbing, plumbing facilities, sinks, bathtubs, toilets, refrigerators, ranges, dishwashers and any other appliances) affixed, attached or appurtenant to such Unit and benefitting only that Unit; (c) the doors leading to such Unit from the vestibule or hallway and all other interior doors appurtenant to the Unit and (d) doors and windows appurtenant to the exterior of the Unit, including panes, casements and frames.

7. Common Elements. The Common Elements of the Condominium consist of the entire Property, including the Land and all parts of the Building, other than the Residential Units and the Commercial Unit. The Common Elements include General Common Elements, Residential Common Elements and Residential Limited Common Elements.

- A. General Common Elements. Unless they are expressly included as part of a Unit, or as Residential Common Elements or Residential Limited Common Elements, the following will be included in the General Common Elements:
- i. the Land on which the Building is erected and all other Land within the boundaries of the Property, including but not limited to the sidewalks contiguous to the Building all other improved and unimproved areas not within the Units together with all easements, rights and privileges appurtenant thereto;
 - ii. all foundations, columns, girders, joists, beams and supports and load bearing partitions, whether or not shown as cross-hatched on the Floor Plans;
 - iii. all exterior walls of the Building, including any columns or other structural elements embedded therein, but excluding any lath and rough or finished plaster or

any sheet rock surface on the Unit side of such walls;

- iv. all cement block walls and partitions separating the Commercial Unit from corridors, elevator shafts, stairs and other mechanical equipment spaces, except the lath and/or plaster or sheet rock or other facing material on the Unit side thereof; the block work or studs (as the case may be) of all walls and partitions separating the Commercial Unit from any Residential Units and the plaster and lath or sheet rock on the face of such wall within any corridor, elevator shaft, stair or mechanical equipment space, as the case may be;
- v. all wood framed floors, concrete floors and concrete ceilings;
- vi. except for such portions as are part of the Commercial Unit or are Residential Common Elements, the entire sub-cellar and cellar;
- vii. all roofs, bulkheads, leaders and roof drains, except roof areas that are Residential Common Elements or Residential Limited Common Elements;
- viii. all central and appurtenant installations for services such as power, light, gas, hot and cold water, and heat (including all pipes, ducts, chutes, wires, cables and conduits used in connection therewith, whether located in common areas or in Units but excluding installations made by the owner or tenant of the Commercial Unit for their exclusive use) and all other mechanical equipment which service the Commercial Unit as well as the Residential Units;
- ix. all central and appurtenant installations for services such as telephone, television and compacting (including all pipes, ducts, chutes, wires, cables and conduits used in connection therewith, whether located in common areas or in Units but excluding installations made by the owner or tenant of the Commercial Unit for their exclusive use) and all other mechanical equipment which service the Commercial Unit as well as the Residential Units;
- x. all sewer pipes;
- xi. all other parts of the Property and all apparatus and installations existing in the Building or on the Property for common use or necessary or convenient to the existence, maintenance or safety of the Property.

B. Residential Common Elements. Certain portions of the Common Elements are limited and restricted in use and benefit to the Residential Unit Owners, subject to the right of the Board of Managers to enter upon any Residential Common Element to make structural repairs, improvements or replacements to said Residential Common Elements and subject to the By-Laws and Rules and Regulations of the Condominium. The Residential Common Elements include, without limitation, the following:

- i. all cement block walls and partitions separating Residential Units from corridors, elevator shafts, stairs and other mechanical equipment spaces, except the lath and/or plaster or sheet rock or other facing material on the Unit side thereof; the block work or studs (as the case may be) of all walls and partitions separating Residential Units and the plaster and lath or sheet rock on the face of such wall within any

- corridor, elevator shaft, stair or mechanical equipment space, as the case may be;
- ii. the two (2) passenger elevators (including elevator component parts, shafts, pits, equipment and machine rooms and equipment);
 - iii. the compactor/refuse room in the sub-cellar and the laundry room and storage room in the cellar;
 - iv. all central and appurtenant installations for services such as power, light, telephone, television, gas, hot and cold water, heat and compacting (including all pipes, ducts, chutes, wires, cables and conduits used in connection therewith, whether located in common areas or in Units but excluding installations made by the owner or tenant of the Commercial Unit for their exclusive use) and all other mechanical equipment which exclusively service the Residential Units;
 - v. the residential section entrance on Third Avenue, the exterior canopy, residential lobby, package rooms, passages, corridors, stairs and stairways, including all fire stairs located on the cellar and first floor and above of the Building;
 - vi. all roof areas and yards, except roof areas or yards that are Residential Limited Common Elements, that are used exclusively by the Residential Unit Owners for recreational purposes or otherwise; and
 - vii. all other apparatus, installations, systems, equipment and facilities in the Building which serve or benefit the Residential Units solely.
- C. Residential Limited Common Elements. Certain portions of the Common Elements are limited and restricted in use to specific Unit Owners, subject to the right of the Board of Managers to enter upon any Limited Common Element to make structural repairs, improvements or replacements to said Residential Limited Common Elements and subject to the By-Laws and Rules and Regulations of the Condominium. The Residential Limited Common Elements include, without limitation, the following, which shall be for the exclusive use of such Unit Owner, and such Owners' tenants, guests and invitees: any terrace, balcony or roof terrace to which a Unit has sole access.
- D. Costs of Maintenance of Common Elements. The cost of maintenance, repair and replacement of Common Elements, including, but not limited to, Residential Common Elements and Residential Limited Common Elements, shall be borne by all Unit Owners as a Common Expense of the Condominium, in proportion to their respective interest in the Common Elements and will be included in the Common Charges. Notwithstanding the foregoing, pursuant to Section 339-m of the Condominium Act, certain costs and expenses, including costs and expenses relating to Residential Common Elements and Residential Limited Common Elements, have been specially allocated and apportioned based on special or exclusive use or availability or exclusive control of common areas by particular Unit Owners, as set forth in Article V of the By-Laws.
- E. Limits on Use of the Common Elements. The Common Elements may not be divided. There shall be no partition or division of any Common Element, except as provided in this Declaration and the By-Laws, nor shall there be any alteration of the Common Interest appurtenant to each Unit without the unanimous consent of all affected Unit Owners.

8. Determination of Common Interest. The respective percentage interest of each Unit in the Common Elements has been determined based upon floor space subject to location of such space and additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for the exclusive or shared use and the overall dimensions of the particular Unit. The aggregate common interest for all Units is 100%.

9. Use of the Units. As more particularly set forth in the By-Laws, the Residential Units may be used only as residences and professional and ancillary business uses as permitted by law, except that Sponsor or its designee may, without the permission of the Board of Managers, use one or more Units as model apartments and offices for selling, renting, management, operation and promotion of the Units owned by Sponsor or its designee or for any lawful purpose. The Commercial Unit and any Units resulting from the subdivision thereof may be used for retail business, commercial and professional purposes or for any other lawful purpose in the sole discretion of Sponsor or other owner of the Commercial Unit.

10. Encroachments. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements as a result of construction of the Building, or if any encroachment shall occur hereafter as a result of (a) settling or shifting of the Building, or (b) alteration or repair to the Common Elements made by or with the consent (when required by the By-Laws) of the Board of Managers or made by a Unit Owner in accordance with this Declaration or the By-Laws, or (c) repair or restoration of the Building (or any portion thereof) of a Unit or of the Common Elements after damage or destruction by fire or other casualty, or (d) condemnation or eminent domain proceedings of all or any portion of the Building or a Unit or the Common Elements, then in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building shall stand, provided that the creation of such encroachment was not intentional and that it does not materially impair the utilization of the portion of the Building encroached upon for its intended and assigned purpose.

11. Easements for the Enjoyment of the Common Elements. Subject to the terms of the By-Laws and the Rules and Regulations:

- A. Each Unit Owner (including Sponsor, as long as Sponsor owns any Unit, and Sponsor's designees) shall have an easement, in common with all the other Unit Owners, for ingress and egress through, and for the reasonable use and enjoyment of, all the Common Elements, except the Residential Limited Common Elements appurtenant to the other Units, and the Common Elements shall be subject to such easement, for the reasonable purposes for which they are intended but without encroaching upon the rights of other persons to do so.
- B. Each Residential Unit Owner (including Sponsor, as long as Sponsor owns any Residential Unit, and Sponsor's designees) shall have an easement, in common with all the other Residential Unit Owners, for ingress and egress through, and for the reasonable use and enjoyment of, all the Residential Common Elements, and such Residential Common Elements shall be subject to such easement, for the reasonable purposes for which they are intended but without encroaching upon the rights of other persons to do so.
- C. Each Unit Owner shall have, in common with all other Unit Owners, an easement to use any of the Common Elements, and all pipes, wires, ducts, cables, conduits, public utility lines and all other utility distribution systems, whether or not Common Elements, located in, over, under, through, adjacent to, or upon any other Unit or the Common Elements to the extent that such Common Element and utility distribution system serves, or is necessary to the

service of, his Unit, and each Unit and all of the Common Elements shall be subject to such easement.

- D. The Condominium Board shall have an easement and a right of access to each Unit and to the Common Elements to inspect the same, to remove violations therefrom and to install, operate, maintain, repair, alter, rebuild, restore and replace any of the Common Elements located in, over, under, through, adjacent to, or upon the same, and each Unit and the Common Elements shall be subject to such easement and right of access.
- E. Each Unit shall have an easement of subjacent support and necessity and such easements shall be subject to the same easements in favor of all of the other Units and the Common Elements.
- F. Each Unit Owner whose Unit has one or more of the appurtenant Residential Limited Common Elements shall have an exclusive easement for the use thereof.
- G. The Owner of the Commercial Unit shall have an easement, without the permission of the Board of Managers, to erect upon the Common Elements and maintain a chimney or exhaust flue from any store within the Commercial Unit which may be necessary or desirable in connection with any lawful use of the Commercial Unit, and any replacement thereof, provided that such chimney or exhaust flue complies with all applicable laws and municipal regulations. All costs for such chimney or exhaust flue and any necessary permits therefore shall be the responsibility of such Unit Owner.
- H. The Owner of the Commercial Unit shall have an easement, without the permission of the Board of Managers, to use the sidewalks surrounding portions of the Building for purposes permitted by law, provided that such use of the sidewalk complies with all applicable laws and municipal regulations, and neither the Board of Managers nor any other Unit Owner shall have any interest in any rent or other compensation that the Commercial Unit Owner may receive in connection therewith. All costs for such use of the sidewalk shall be the responsibility of such Commercial Unit Owner.
- I. The Owner of the Commercial Unit shall have the right to maintain, erect, alter, repair or replace from time to time, at its sole discretion and without the permission of the Board of Managers, exterior signage in the customary form used for such commercial establishments provided that such signs comply with all applicable laws and municipal regulations. All costs for such signs and any necessary permits therefore shall be the responsibility of such Commercial Unit Owner.
- J. Sponsor and its designee and the Commercial Unit Owner shall have an easement without being subject to any fee or charge (i) to maintain a sales office and/or model Units, (ii) to erect, maintain, repair and replace from time to time, including but not limited to the right, to the extent not prohibited by law, to use one or more portions of the Common Elements, as designated by Sponsor, in its discretion, one or more freestanding and other selling, directional and informational signs on the Property as it deems necessary for the purposes of advertising the sale or lease of Units of such size and content as Sponsor shall determine, in, on about and adjacent to the Building (including on the exterior walls thereof) and the Property, and (iii) for access to Units and Common Elements consistent with the purposes of the Plan, as same may be amended, and Sponsor's rights and obligations thereunder, including, without limitation, the right to develop, reconfigure, renovate, maintain repair,

refurbish, offer, sell and lease Units, together with their interest in the Common Elements, and such easement shall continue until such time as all Units have been conveyed to purchasers thereof.

- K. The easements and rights of access granted in this Section 10 shall be exercised in such manner as will not unreasonably interfere with the use of the Units for their permitted purposes. Such entry shall be permitted on not less than one (1) day's notice, except that no such notice shall be required in the event of any repair or replacements immediately necessary for the preservation or safety of the Building, for the safety of the occupants therein, or to avoid the suspension of necessary service of the Building. The user of any easement granted in this Section 10 shall have the responsibility of repairing any damage resulting therefrom. No fee or charge may be imposed by the Board of Managers for any easement granted herein.
- L. The Board of Managers shall have the right to grant such additional electric, gas, steam and other utility easements or relocate any existing utility easements as it shall deem necessary or desirable for the proper operation and maintenance of the Building or any portion thereof; provided that such additional utilities or the relocation of existing utilities will not unreasonably interfere with the permitted uses of the Units.
- 12. Alterations, Additions, Improvements and Changes to the Units.
 - A. Each Unit Owner will be responsible at his sole cost and expense for maintaining and repairing his Unit. Except as set forth in Section 12B and 12C below, no Unit Owner shall make any structural alteration, addition or improvement in or to his Unit or its appurtenant Residential Limited Common Elements, whether structural or nonstructural, including subdividing the Unit and altering the boundary walls between any two Units, and if appropriate, reapportioning among the subdivided Unit affected by such subdivision their percentage interests in the Common Elements without the prior written approval of the Condominium Board and further provided that (a) the Unit Owner shall comply with all applicable laws, ordinances and regulations, and the By-Laws, (b) the percentage interest in the Common Elements of any other Unit is not affected unless Sponsor or the owner of such affected Unit shall consent thereto and (c) the Unit Owner shall agree to hold the Condominium Board and all other Unit Owners harmless from any liability arising therefrom. All responsibility with respect to any such alteration, addition or improvement shall remain with the Unit Owner until conveyance of the Unit, at which time such responsibility shall pass to and be assumed by the transferee and the successors and assignees of such transferee.
 - B. Sponsor or its designees and every subsequent owner of the Commercial Unit shall have the right, without the consent of the Board of Managers or other Unit Owners or the holders of Unit mortgages to: (i) make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon the Commercial Unit; (ii) subdivide the Commercial Unit into separate Units and combine Units resulting from the subdivision of the Commercial Unit into single Units; (iii) alter boundary walls between one or more of the subdivided Commercial Units; and (iv) apportion among the subdivided or combined Commercial Unit their appurtenant interest in the Common Elements; provided, however, that in each instance the Commercial Unit Owner(s) shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold the Board of Managers and all other Unit Owners

harmless from any liability arising therefrom. The provisions of this subparagraph (B) may not be amended, added to or deleted, without the consent of the Owner of the Commercial Unit and, if applicable, the Owners of the Units arising from the subdivision of the Commercial Units. All responsibility with respect to any such alteration, addition or improvement shall remain with the Commercial Unit Owner until conveyance of the Unit, but shall not pass to or be assumed by the transferee and the successors and assignees of such transferee.

- C. Sponsor or its designee shall have the right, without the consent of the Board of Managers, other Unit Owners or holders of Unit mortgages, to: (i) make alterations, additions or improvements, structural and non-structural, ordinary and extraordinary, interior and exterior, in, to and upon any Residential Unit owned by it; (ii) change the layout and/or number of rooms in such Residential Units (iii) change the size and/or number of such Residential Units by subdividing a Unit, combining separate Units (including those resulting from such subdivision or otherwise) into one or more Residential Units, altering the boundary walls between Units or otherwise; and (iv) reapportion among such Residential Units affected by such change their appurtenant interests in the Common Elements; provided, however, that in each instance Sponsor or its designee shall comply with all laws and ordinances having jurisdiction and shall agree to hold the Board of Managers and all other Units Owners harmless from any liability arising therefrom. All responsibility with respect to any such alteration, addition or improvement shall remain with Sponsor until conveyance of the Unit, but shall not pass to or be assumed by the transferee and the successors and assignees of such transferee.

13. Acquisition of Units by the Condominium Board. If (a) any Unit Owner surrenders his Unit, together with its Appurtenant Interests, to the Condominium Board pursuant to the terms of the By-Laws or of section 339-x of the Condominium Act; or (b) the Condominium Board, pursuant to the terms of the By-Laws or otherwise, either (i) acquires or leases a Unit, together with its Appurtenant Interests, or (ii) purchases a Unit, together with its Appurtenant Interests, at a foreclosure or other similar sale, then, in any such event, title or the leasehold estate, as the case may be, in and to any such Unit and its Appurtenant Interests shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective Common Interests. The lease covering any Unit leased by the Board of Managers, or its designee, corporate or otherwise, shall be held by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective Common Interests.

14. Power of Attorney to the Condominium Board.

- A. Each Unit Owner, by acceptance of a deed or otherwise, succeeding to title to a Unit shall be deemed to have nominated, constituted and appointed the Condominium Board as such Unit Owner's attorney-in-fact, which power is irrevocable and coupled with an interest and with power of substitution, (a) to acquire any Unit, together with its Appurtenant Interest, whose Owner desires to sell, convey, transfer, assign, or surrender the same or which becomes the subject of a foreclosure or other similar sale, in the name of the Board or its designees on behalf of all Unit Owners; (b) to convey, sell, lease, mortgage or otherwise deal with any such Unit so acquired; and (c) to execute, acknowledge and deliver (i) any declaration or other instrument affecting the Condominium which the Condominium Board deems necessary or appropriate to comply with any law or regulation applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium or (ii) any consent, covenant, restriction, easement, or declaration, or any amendment

thereto, affecting the Condominium or the Common Elements that the Condominium Board deems necessary or appropriate or as may be required under this Declaration or the By-Laws, or (iii) any tax protests or tax certiorari proceedings affecting the Units.

- B. In confirmation of the foregoing power of attorney, each Unit Owner, upon the request of the Condominium Board, shall duly execute, acknowledge and deliver to the requesting party, for recording in the Register's Office, a Unit Owner's Power of Attorney in the form set forth as Exhibit E to this Declaration.

15. Termination of the Condominium. The Condominium shall continue until (a) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the By-Laws or (b) such time as withdrawal of the Property from the provisions of the Condominium Act if authorized by a vote of eighty (80%) percent or more in aggregate Common Interest of all Unit Owners. No such vote under clause (b) in the preceding sentence shall be effective without the written consent (which consent shall be not unreasonably withheld or delayed) of the Mortgage Representatives, if any. In the event said withdrawal is authorized as aforesaid, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective Common Interest, provided, however, that no payment shall be made to a Unit Owner until there has first been paid from out of such Unit Owner's share of such net proceeds all liens of his Unit, in the order of priority of such liens.

16. Covenant of Further Assurances.

- A. Any party which is subject to the terms of this Declaration, whether such party is a Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member or officer of the Condominium Board or otherwise, shall, at the expense of any such other party requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action as such other party may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction, including to effectuate rights or easements reserved to Sponsor or its designee or the Commercial Unit Owner, whether with or without consent of the Board of Managers.
- B. If any Unit Owner or any other party subject to the terms of this Declaration fails or refuses to execute, acknowledge or deliver any instrument, or fails or refuses, within 10 days after request therefor, to take any action which such Unit Owner or party is required to take pursuant to this Declaration, then the Condominium Board is hereby authorized as attorney-in-fact for such Unit Owner or other party, which power shall be deemed to be coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner or other party, and such document or action shall be binding on such Unit Owner or other party.

17. Covenants to Run with the Land.

- A. All provisions of this Declaration and By-Laws including, without limitation, the provisions of this Section 17 shall, to the extent applicable and unless otherwise expressly herein or herein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein, and all or any part thereof, or interest therein, and his or her heirs, executors, administrators, legal representatives,

successor and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in or for the benefit of the general public. All present and future Owners and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and the By-Laws, as they may be amended from time to time. The acceptance of title or conveyance or the entering into a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration and By-Laws, as they may be amended from time to time, are accepted and ratified by such Owners or occupants, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

- B. If any provision of this Declaration or the By-Laws is invalid under, or would cause this Declaration and the By-Laws to be insufficient to submit the Property to the provisions of the Condominium Act, such provisions shall be deemed deleted from this Declaration or the By-Laws, as the case may be, for the purpose of submitting the Property to the provisions of the Condominium Act, but shall nevertheless be valid and binding upon and inure to the benefit of the Owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns as covenants running with the land and with every part thereof and interest therein under other applicable laws to the extent permitted under such applicable laws with the same force and effect as if immediately after the recording of this Declaration and the By-Laws, such provision shall be deemed included as part of this Declaration or the By-Laws, as the case may be, for the purposes of submitting the Property to the provisions of the Condominium Act.

18. Amendments to this Declaration.

- A. Subject to the provisions contained herein or in the By-Laws, including those affecting Sponsor and its designees and Unsold Units and the Commercial Unit Owner, any provision of this Declaration may be amended, modified, added to, or deleted by the vote of sixty-six and two-thirds (66-2/3%) percent or more in aggregate Common Interest of all Unit Owners taken in accordance with the provisions of the By-Laws.
- B. Notwithstanding anything herein to the contrary, in the event that the interest of Sponsor or its designee or the Commercial Unit Owner is adversely affected by any such proposed amendment, modification, addition or deletion, or any of the rights, powers, easements, privileges or benefits reserved to Sponsor or its designee or the Commercial Unit Owner are eliminated, changed or impaired thereby, then this Declaration shall not be amended without the written consent of Sponsor, its designee or the Commercial Unit Owner. In the event the allocation of Common Interest appurtenant to a Unit Owner's Unit is altered, then this Declaration shall not be amended without the consent of the affected Unit Owner.
- C. Except as provided in this Section 18 with regard to the right of Sponsor or its designee or the Commercial Unit Owner to amend this Declaration: (i) in the event that the interest any Unit Owner is otherwise adversely affected by any such proposed amendment, modification, addition or deletion, or any of the rights, powers, easements, privileges or benefits reserved to a Unit Owner are eliminated, changed or impaired thereby, then this Declaration shall not be amended without the written consent of the affected Unit Owner, and (ii) no amendment, modification, addition, or deletion pursuant to Section 18A which adversely affects the lien of any mortgage on a Unit shall be effective without the written consent of the affected

Permitted Mortgagees, if any, which consent shall not be unreasonably withheld or delayed.

- D. No amendment, modification, addition, or deletion shall be effective until recorded in the Register's Office. Any such amendment, modification, addition or deletion shall be executed by the Condominium Board as attorney-in-fact for the Unit Owners, which power shall be deemed to be coupled with an interest, and the Condominium Board is hereby authorized by the Unit Owners so to act as their attorney-in-fact. Any amendment to this Declaration, whether on behalf of the Unit Owners or by the Condominium Board, may be executed by any President, Vice President and the Secretary or an Assistant Secretary of the Condominium. If the Amendment requires the approval of a specific percentage of Unit Owners pursuant to the terms of this Declaration or the By-Laws, then there shall be attached to such amendment an original executed Secretary's Certificate, certifying that the requisite number and percentage of Unit Owners approved the amendment at a duly constituted meeting or (when permitted in this Declaration or the By-Laws) in writing without a meeting, in which Certificate shall be described the number and percentage of Unit Owners so consenting and (if voted upon at a meeting) the date and time of the meeting.
- E. Sponsor or its designee or the Commercial Unit Owner hereby reserves the right to amend or (on request of Sponsor or its designee or the Commercial Unit Owner) to require the Board of Managers to duly execute and record, in the City Register's Office, and elsewhere if required by law, an amendment or amendments to this Declaration (together with such other documents, plans and maps as may be required to effectuate same), at any time, without the requirement of a vote and without the approval or consent of any Unit Owner, mortgagee or Mortgage Representatives, for the purposes of: (i) changing the designation, the approximate square foot area and the number of rooms in an unsold Unit, (ii) documenting any changes to the Commercial Unit or any Residential Unit permitted pursuant to Sections 12B or 12C of this Declaration, or (iii) making insubstantial changes to this Declaration. All expenses in connection with the preparation, recording and filing of any such amendment shall be paid by Sponsor or its designee or the Commercial Unit Owner, as applicable.
- F. The provisions of this Section 18 of the Declaration may not be amended or deleted in whole or in part without the consent of Sponsor or its designee or the Commercial Unit Owner so long as Sponsor or its designee or the Commercial Unit Owner owns any Unit.

19. Consents of Sponsor, Commercial Unit Owner and the Condominium Board. Wherever the consent, approval, satisfaction, or permission of Sponsor or its designee is required under this Declaration or the By-Laws, such consent, approval, satisfaction, or permission shall not be required when Sponsor or such designee no longer owns any Units. All consents required to be given by Sponsor or the Condominium Board shall be given in writing. Wherever the consent, approval, satisfaction or permission of Sponsor or its designee, or the Commercial Unit Owner is required, the granting of such consent, approval, permission or acknowledgment of satisfaction shall be solely in the discretion of the party whose consent, approval, satisfaction or permission is required and no standard of reasonableness shall be imposed on such party.

20. Persons to Receive Service. The Secretary of State of the State of New York is hereby designated as agent to receive service of process in any action which may be brought against the Condominium.

21. Incorporation by Reference. The terms, covenants, conditions, descriptions and other

information contained in (i) the property description annexed hereto as Exhibit A; (ii) the description of the Units annexed hereto as Exhibit B; (iii) the table of definitions annexed hereto as Exhibit C; (iv) the By-Laws annexed hereto as Exhibit D; (v) the Unit Owner's Power of Attorney annexed hereto as Exhibit E; and (vi) the Floor Plans are, by this reference, each incorporated herein and made a part of this Declaration as if the same were set forth at length in the text hereof.

22. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

23. Severability. Subject to the provisions of Section 17B, if any provision of this Declaration is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Declaration and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Declaration shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law.

24. Successors and Assigns. The rights and/or obligations of Sponsor as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of Sponsor or, with consent of Sponsor, any transferee of all of the then Unsold Units. Subject to the foregoing, Sponsor shall have the right, at any time, in its sole discretion, to assign or otherwise transfer its interest herein, whether by merger, consolidation, lease, assignment, or otherwise.

25. Definitions; Certain References.

- A. All terms used in this Declaration and the By-Laws shall have the meanings set forth on Exhibit C annexed hereto.
- B. A reference in this Declaration to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural and vice versa, unless the context otherwise requires.
- C. The terms "herein" or "hereunder" or similar terms used in this Declaration refer to this entire Declaration and not to the particular provision in which the terms are used.
- D. Unless otherwise stated, all referenced herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Declaration.

26. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be executed as of _____, 200__.

81ST AND 3RD OWNER LLC

By: _____

)

) SS.:

)

Notary Public

Exhibit A to
The Declaration of

THE 1438 THIRD AVENUE CONDOMINIUM

PROPERTY DESCRIPTION

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County, City and state of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Third Avenue, distant 51 feet 8-1/2 inches northerly from the northwesterly corner of 81st Street and 3rd Avenue;

RUNNING THENCE, northerly along the westerly side of Third Avenue, 75 feet 11-5/8 inches to a point;

THENCE, westerly and at right angles to the westerly side of Third Avenue, 102 feet 2-3/8 inches to a point;

THENCE, southerly and parallel with the westerly side of Third Avenue, 60 feet 6-1/8 inches;

THENCE, easterly parallel to East 81st Street, 9 feet 2-2/3 inches;

THENCE, southerly again parallel with the westerly side of Third Avenue, 15 feet 4-1/2 inches;

THENCE, easterly parallel with East 81st Street, 93 feet to the point of place **BEGINNING**

Premises known as 1438 Third Avenue, New York, NY 10028.

Exhibit B to
The Declaration of

THE 1438 THIRD AVENUE CONDOMINIUM

DESCRIPTION OF THE UNITS

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
2A		West side of building	779.00	779.00	364.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Terrace	0.8253%
3A		West side of building	79.00	779.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5625%
4A		West side of building	779.00	779.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5625%
5A		West side of building	773.00	773.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5582%
6A		West side of building	773.00	773.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5582%
7A		West side of building	773.00	773.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5582%
8A		West side of building	773.00	773.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5582%
9A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
10A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
11A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
12A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
13A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
14A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
15A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
16A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
17A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
18A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
19A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
20A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
21A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
22A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
23A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
24A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
25A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
26A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
27A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
28A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
29A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
30A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
31A		West side of building	771.00	771.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6008%
2B		Northwest corner of building	650.00	650.00	608.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas, Terrace	0.9084%
3B		Northwest corner of building	650.00	650.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.4694%
4B		Northwest corner of building	650.00	650.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.4694%
5B		Northwest corner of building	783.00	783.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5654%
6B		Northwest corner of building	783.00	783.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5654%
7B		Northwest corner of building	783.00	783.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5654%
8B		Northwest corner of building	783.00	783.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5654%
9B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
10B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
11B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
12B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
13B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
14B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
15B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
16B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
17B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
18B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
19B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
20B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
21B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
22B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
23B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
24B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
25B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
26B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
27B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
28B		Northwest corner of building	790.00	790.00	61.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6145%
29B		Northwest corner of building	1,074.00	1,074.00	138.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8752%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
30B		Northwest corner of building	1,074.00	1,074.00	138.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8752%
31B		Northwest corner of building	1,074.00	1,074.00	138.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8752%
2C		Northeast corner of building	741.00	741.00	157.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Terrace	0.6484%
3C		Northeast corner of building	741.00	741.00	0.00	2.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5351%
4C		Northeast corner of building	741.00	741.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5351%
5C		Northeast corner of building	849.00	849.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.6130%
6C		Northeast corner of building	849.00	849.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.6130%
7C		Northeast corner of building	849.00	849.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.6130%
8C		Northeast corner of building	849.00	849.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.6130%
9C		Northeast corner of building	815.00	815.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5885%
10C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
11C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
12C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
13C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
14C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%

Unit Desig nation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
15C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
16C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
17C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
18C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
19C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
20C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
21C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
22C		Northeast corner of building	815.00	815.00	53.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6268%
23C		Northeast corner of building	815.00	815.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6723%
24C		Northeast corner of building	815.00	815.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6723%
25C		Northeast corner of building	815.00	815.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6723%
26C		Northeast corner of building	815.00	815.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6723%
27C		Northeast corner of building	815.00	815.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6723%
28C		Northeast corner of building	815.00	815.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6723%
29C		Northeast corner of building	1,074.00	1,074.00	64.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8217%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
30C		Northeast corner of building	1,074.00	1,074.00	64.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8217%
31C		Northeast corner of building	1,068.00	1,068.00	64.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8174%
2D		East side of building	743.00	743.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5365%
3D		East side of building	739.00	739.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5336%
4D		East side of building	752.00	752.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5430%
5D		East side of building	752.00	752.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5430%
6D		East side of building	739.00	739.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5336%
7D		East side of building	752.00	752.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5430%
8D		East side of building	752.00	752.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.5430%
9D		East side of building	741.00	741.00	266.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Terrace	0.7271%
10D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
11D		East side of building	745.00	745.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5704%
12D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
13D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
14D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
15D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
16D		East side of building	745.00	745.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5704%
17D		East side of building	745.00	745.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5704%
18D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
19D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
20D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
21D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
22D		East side of building	745.00	745.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5704%
23D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
24D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
25D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
26D		East side of building	756.00	756.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5784%
27D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
28D		East side of building	741.00	741.00	45.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.5676%
2E		South side of building	1,014.00	1,014.00	139.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Terrace	0.8326%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
3E		South side of building	1,014.00	1,014.00	0.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas	0.7322%
4E		South side of building	1,014.00	1,014.00	0.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas	0.7322%
5E		South side of building	1,014.00	1,014.00	0.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas	0.7322%
6E		South side of building	1,014.00	1,014.00	0.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas	0.7322%
7E		South side of building	1,014.00	1,014.00	0.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas	0.7322%
8E		South side of building	1,014.00	1,014.00	0.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas	0.7322%
9E		South side of building	903.00	903.00	0.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas	0.6520%
10E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
11E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
12E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
13E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
14E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
15E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
16E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
17E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%

Unit Designation	Tax Lot No.	Location	Approx. Unit Unadjusted Sq. Ft.	Approx. Unit Adjusted Sq. Ft.	Approx. Limited Common Element Net Sq. Ft.	No. of Rooms	Common Elements to which Unit has Immediate Access	Percentage Interest in Common Elements
18E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
19E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
20E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
21E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
22E		South side of building	903.00	903.00	55.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.6918%
23E		South side of building	903.00	903.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.7358%
24E		South side of building	903.00	903.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.7358%
25E		South side of building	903.00	903.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.7358%
26E		South side of building	903.00	903.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.7358%
27E		South side of building	903.00	903.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.7358%
28E		South side of building	903.00	903.00	116.00	3.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.7358%
29E		South side of building	1,100.00	1,100.00	141.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8961%
30E		South side of building	1,100.00	1,100.00	141.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8961%
31E		South side of building	1,100.00	1,100.00	141.00	4.0	Stairs, Elevators, Public Halls and Cellar Areas, Balcony	0.8961%

Residential Subtotal	147	121,044.00	121,044.00	8,837.00	449.0		93.7850%
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Unit			Approx.	Approx.	Approx.			Percentage
Design	Tax Lot		Unit	Unit	Limited		Common Elements to	Interest in
nation	No.	Location	Unadjusted	Adjusted	Common	No. of	which Unit has	Common
			Sq. Ft.	Sq. Ft.	Element	Rooms	Immediate Access	Elements
Commercial		1	14,192.00	8,607.00			Stairs, Sub-Cellar and	6.2150%
Unit							Cellar Areas	
Total		148	135,236.00	129,651.00	8,837.00	449.0		100.0000%

Exhibit C to
The Declaration of

THE 1438 THIRD AVENUE CONDOMINIUM

DEFINITIONS

1. "Applicable Rent Laws" or "Rent Laws" refers to the Rent, Eviction and Rehabilitation Regulations of the City Housing and Development Administration, the New York City Rent Stabilization Law of 1969, the Code adopted pursuant thereto, the Emergency Tenant Protection Act of 1974, the Omnibus Housing Act of 1983, the Rent Regulation Reform Act of 1997, all as amended, and regulations promulgated thereunder, and Section 352-eeee of the General Business Law, singly or collectively as the context may require.

2. "Appurtenant Interest" shall mean, with respect to any Unit, the undivided interest of the owner thereof pursuant to the terms of Section 339-x of the Condominium Act in and to: (i) the Common Elements; (ii) any other Units owned or leased at the time in question by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners; (iii) any proceeds of the sale or lease of Units of the nature described in subdivision (ii) above; and (iv) any other assets of the Condominium.

3. "Building" shall mean the building situated on the Land and any structures attached thereto and known as 1438 Third Avenue, New York, NY 10028.

4. "By-Laws" shall mean the By-Laws of the Condominium, which are annexed to the Declaration, as the same may be amended from time to time pursuant to the terms thereof.

5. "Closing of Title" shall mean the date upon which a deed for a Unit is first issued and/or the date a Unit and its appurtenant Common Interest are conveyed pursuant to a Purchase Agreement.

6. "Commercial Unit" shall mean the "Unit", as such term is defined in the Condominium Act (or Units resulting from the subdivision thereof) located in the Building, which Unit is more particularly described in Article 6A, and Exhibit B to, the Declaration and in the Floor Plans.

7. "Commercial Unit Owner" shall mean the Person who holds fee title, of record, to a Commercial Unit at the time in question.

8. "Common Elements" shall mean, collectively, the General Common Elements, the Residential Limited Common Elements and the Residential Common Elements, and shall consist of all parts of the Property other than the Units.

9. "Common Charges" or "Assessments" shall mean the charges allocated and assessed by the Condominium Board to all the Unit Owners, pro-rata in accordance with their respective Common Interest (except as otherwise provided in the Declaration or in the By-Laws), to meet the Common Expenses.

10. "Common Expenses" shall mean all cost and expenses to be incurred generally by the Unit Owners, pursuant to the Declaration and/or the By-Laws, and except as specially allocated pursuant to the Declaration and/or the By-Laws, in connection with: (i) the repair, maintenance, replacement, restoration and operation of, and any alteration, addition, or improvement to, the Common Elements; (ii) the establishment and/or maintenance of a general operating reserve fund for working capital, for replacements with respect

to the Common Elements, or to make up any deficit in the Common Charges for any prior year(s); (iii) the purchase, lease, or sublease by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, of any Unit whose owner has elected to sell, lease, transfer, or convey the same or that is to be sold at a foreclosure or other sale and (iv) generally, the conduct of the affairs of the Condominium.

11. "Common Interest" shall mean the proportionate undivided interest, expressed as a numerical percentage, in the Common Elements, appertaining to each Unit, as determined in accordance with the Declaration. The Common Interest attributable to each Unit is set forth on Exhibit B to this Declaration.

12. "Condominium" shall mean The 1438 Third Avenue Condominium, which was established pursuant to the terms of the Declaration and is to be governed pursuant to the terms of the By-Laws.

13. "Condominium Act" shall mean Article 9-B of the Real Property Law of the State of New York, as the same may be amended from time to time.

14. "Condominium Board" shall mean the governing body of the Condominium, whose members shall be selected pursuant to the terms of Articles 2 and 3 of the By-Laws.

15. "Condominium Documents" shall mean the Declaration, the By-Laws and the Rules and Regulations.

16. "Declaration" shall mean the declaration executed by Sponsor for the purposes of submitting the Property to the provisions of the Condominium Act and establishing a regime for the condominium ownership thereof.

17. "Family Members" shall mean the spouse, children (natural and adopted), stepchildren, grandchildren, siblings, parents, parents-in-law, grandparents, sons-in-law or daughters-in-law of a Person.

18. "First Closing" shall mean the first date upon which title to a Residential Unit is conveyed to a purchaser pursuant to the terms of the Plan.

19. "Floor Plans" shall mean the floor plans of the Units certified by CMA Design Studio, P.C. and filed in the Register's Office simultaneously with the recording of the Declaration, together with any supplemental floor plans thereto.

20. "Initial Control Period" shall mean the period ending on the earlier of: (i) the closing of title with purchasers under the Plan to Residential Units having more than fifty percent of the aggregate Common Interests appertaining to all Residential Units or (ii) five years after the First Closing.

21. "Institutional Lender" shall mean (i) a savings bank, savings and loan association, bank or trust company, insurance company, real estate investment trust, mortgage trust, or a group of lenders which shall include one of the foregoing, or (ii) a federal, state, municipal, teacher's or union employee, welfare, pension or retirement fund or system.

22. "Institutional Mortgage" shall mean any first mortgage covering one or more Units that is a Permitted Mortgage and the initial holder of which is either Sponsor or its designee or an Institutional Lender.

23. "Insurance Trustee" shall mean a bank or a trust company, in either event having both an office in the City of New York and a capital surplus or undivided profits of \$250,000,000 or more, from time

to time appointed to serve as such by the Condominium Board.

24. "Land" shall mean all that certain tract, plot, piece and parcel of land situate, lying and being in the County of New York, City and State of New York, as more particularly described in Exhibit A to the Declaration.

25. "Law" shall mean the laws and ordinances of any or all of the federal, state or municipal governments, the rules, regulations, orders and directives of any or all departments, subdivisions, bureaus, agencies, or offices thereof or of any other governmental, public, or quasi-public authorities having jurisdiction over the Property and/or the Condominium, and/or the direction of any public officer pursuant to law.

26. "Majority of Unit Owners" shall mean those Unit Owners having more than fifty (50%) percent of the total authorized votes of all Unit Owners (determined in accordance with the terms of Section 3.8 of the By-Laws) who are present, in person or by proxy, and voting at any duly constituted meeting of the Unit Owners at which a quorum is present.

27. "Managing Agent" shall mean a Person employed by the Condominium Board pursuant to Section 2.3 of the By-Laws, who shall undertake to perform the duties and services that the Condominium Board shall direct and who shall have whatever powers the Condominium shall delegate, subject to the limitations contained in Section 2.3 of the By-Laws.

28. "Mortgage Representatives" shall mean the representatives of the holders of all mortgages encumbering Units, designated by the holders of Institutional Mortgages in accordance with the terms of Section 6.6 of the By-Laws.

29. "Permitted Mortgage" shall mean any mortgage covering one or more Units that is placed thereon in compliance with the terms contained in Sections 6 and 7 of the By-Laws.

30. "Permitted Mortgagee" shall mean any holder of a Permitted Mortgage at the time in question.

31. "Person" shall mean any natural person, partnership, corporation, limited liability company, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government or any department or agency thereof, or any other entity.

32. "Plan" shall mean that certain plan pursuant to which the Property is converted to condominium ownership and which was accepted for filing by the Department of Law of the State of New York pursuant to Section 352-e of the General Business Law of the State of New York.

33. "Property" shall mean the Land, the Building (and any structures attached thereto), all other improvements erected or to be erected on the Land, all easements, rights and appurtenances pertaining thereto and all other property real, personal or mixed, used or intended to be used in connection therewith.

34. "Register's Office" shall mean the New York County office of the Register of the City of New York.

35. "Residential Common Element" shall mean those certain portions of the Land and the Building (other than the Units) that are limited and restricted in use and benefit to the Residential Unit Owners to the exclusion of the Commercial Unit Owner, as more particularly described in Section 7B of the

Declaration.

36. "Residential Common Expenses" shall mean all cost and expenses specially allocated pursuant to the Declaration and/or the By-Laws to be shared by Residential Unit Owners.

37. "Residential Limited Common Elements" shall mean those certain portions of the Land and the Building (other than the Units) that are to be used by the owners of one or more specified Units to the exclusion of all other Unit Owners, as more particularly described in Section 7C of the Declaration.

38. "Residential Unit" shall mean any of the one hundred forty-seven (147) "Units", as such term is defined in the Condominium Act (or Units resulting from the subdivision or combination thereof) located in the Building, which Unit is more particularly described in Article 6B, and Exhibit B to, the Declaration and in the Floor Plans.

39. "Residential Unit Owner" shall mean any Person who holds fee title, of record, to one or more Residential Units at the time in question.

40. "Rules and Regulations" shall mean the rules and regulations of the Condominium which are annexed as an addendum to the By-Laws, as any of the same may be amended, modified, added to, or deleted from time to time pursuant to the terms of the By-Laws, provided that they are not in conflict with the terms of the Condominium Act, the Declaration, or the By-Laws.

41. "Selling Agent" shall mean any Person employed by Sponsor or its designee in connection with the sale or leasing of the Unsold Units or the Commercial Unit.

42. "Sponsor" shall mean shall mean 81 st And 3rd Owner LLC or any of Sponsor's successors or assigns.

43. "Sponsor-designee" (alternatively referred to as "designee of Sponsor") shall mean any person or entity designated by Sponsor to acquire title to a Unit. A "Sponsor-designee" shall have the right to designate a person or entity to succeed to its rights and any such designee shall also be deemed a "Sponsor-designee."

44. "Unit" shall mean any of the Residential Units or the Commercial Unit.

45. "Unit Owner" shall mean any of the Residential Unit Owners or the Commercial Unit Owners, at the time in question.

46. "Unsold Unit" shall mean any Residential or Commercial Unit owned by Sponsor or its designee at the time in question.

BY-LAWS
OF
THE
1438 THIRD AVENUE
CONDOMINIUM

(Part II of the Declaration)

[Date]

Prepared by:
CUTLER MINIKES & ADELMAN LLP
708 Third Avenue, 17th Floor
New York, NY 10017
Attn: Richard B. Adelman, Esq.

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**BY-LAWS
OF
THE 1438 THIRD AVENUE CONDOMINIUM**

**ARTICLE I
GENERAL**

Section 1.1 Unit Ownership. The Land situated at 1438 Third Avenue, Borough of Manhattan, City of New York, State of New York more particularly described on Exhibit A of the Declaration recorded in the Office of the Register of the City of New York, New York County simultaneously herewith and the Building constructed on said land (the Land and Building hereinafter collectively called the "Property") have been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the recording of the Declaration simultaneously herewith. The Condominium thereby created shall hereafter be known as The 1438 Third Avenue Condominium. The one hundred forty-seven (147) Residential Units and one (1) Commercial Unit are more fully described in the Declaration and are hereinafter referred to as the "Unit(s)". Unless otherwise provided herein, all terms used in these By-Laws shall have the same meaning as ascribed thereto in the Declaration.

Section 1.2 Applicability of By-Laws. These By-Laws are applicable to the Property and to the use and occupancy thereof. The term "Property" as used herein shall include the Land, the Building and all other improvements thereon (including the Units and the Common Elements), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Article 9-B of the Real Property Law of the State of New York.

Section 1.3 Application. All present and future Unit Owners, mortgagees, lessees, sublessees and occupants of Units, and their employees and guests, as well as all other Persons who may use the Property in any manner, are and shall be subject to the Declaration, these By-Laws and the Rules and Regulations, as each of the same may be amended from time to time. The acceptance of a deed or other instrument of conveyance, or the succeeding to title to, or the execution of a lease or sublease for, or the act of occupancy of, a Unit shall constitute an agreement that the provisions of the Declaration, these By-Laws and the Rules and Regulations, as each of the same may be amended from time to time, are accepted, ratified and will be complied with.

Section 1.4 Office. The office of the Condominium and of the Board of Managers shall be located at the Property or at such other place in the City of New York reasonably convenient thereto as may be designated from time to time by the Board of Managers.

**ARTICLE 2
BOARD OF MANAGERS**

Section 2.1 Number and Qualification. The affairs of the Condominium shall be governed by the Board of Managers. The initial Board of Managers shall consist of three individuals to be designated from time to time by Sponsor until their successors shall have been elected by the Unit Owners at the first meeting of Unit Owners held pursuant to Section 3.1 of these By-Laws, at which time the Board shall be comprised of seven (7) members. The number of members of the Board of Managers may not be increased without the consent of the owner of the Unsold Units for so long as there remains one (1) Unsold Unit. Except for members designated or elected by Sponsor or its designee or the Commercial Unit Owner, all

members of the Board of Managers shall be either: (i) individual Unit Owners; (ii) individual Permitted Mortgagees; (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Unit Owners or Permitted Mortgagees; or (iv) adult Family Members of any of the foregoing. One Member of the seven member Board of Managers will be elected exclusively by the Commercial Unit Owner(s) which will not otherwise participate, as owner of the Commercial Unit, in the election of other members of the Board of Managers. However, no Unit Owner may be elected to serve on the Board of Managers if the Board of Managers has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such election.

Section 2.2 Powers and Duties. The Board of Managers shall have all of the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium and may do all such acts and things on behalf of the Condominium except those which by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the Unit Owners. The powers and duties of the Board of Managers include, but shall not be limited to:

(A) Operation, care, upkeep and maintenance of the Common Elements, including but not limited to (i) entering Units, when necessary, provided that an effort is made to minimize inconvenience to the Unit Owner, in connection therewith, and (ii) purchasing supplies and equipment, entering into contracts and generally having the powers of a manager in connection with the operation of the Property.

(B) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.

(C) Collection of common charges and assessments from the Unit Owners and imposition and collection of reasonable late charges for late payment thereof.

(D) Employment and dismissal of the personnel necessary for the maintenance and operation of the Property.

(E) Adoption and amendment of Rules and Regulations covering the details of the operation and use of the Property.

(F) Levying fines against Unit Owners for violations of the Rules and Regulations governing the operation and use of the Property. Such fines may be collected as if they were additional Common Charges owed by the Unit Owner against whom such fines were levied.

(G) Opening and maintaining bank accounts on behalf of the Condominium and designating the signatories required therefor. The Condominium may authorize a manager or Managing Agent to be the signatory on such accounts.

(H) Purchasing, leasing or otherwise acquiring in the name of the Board of Managers or its designee, corporate or otherwise, and on behalf of all Unit Owners, or producing purchasers to acquire or tenants to lease, for such party's own account, Units offered for sale or lease or Units surrendered by their owners to the Board of Managers.

(I) Purchasing Units at foreclosure or other judicial sale in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners.

(J) Acquiring, in the name of the Board of Managers or its designee, corporate or otherwise, on

behalf of the Unit Owners, rights and interests in real and personal property for use in connection with the ownership and operation of the Property.

(K) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of members of the Board of Managers) or otherwise dealing with Units acquired by, and subleasing Units leased by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners.

(L) Organizing corporations to act as the designees of the Board of Managers in acquiring title to, or leasing of, Units and in acquiring rights, title and interest in real and personal property for use in connection with the ownership and operation of the Property, on behalf of all Unit Owners.

(M) Leasing laundry rooms and other portions of the Common Elements and granting licenses for vending machines.

(N) Obtaining and reviewing insurance for the Property, including the Units, pursuant to the terms of Section 5.2 hereof;

(O) Adjusting and settling claims under insurance policies obtained pursuant to the terms of Section 5.2 hereof, and executing and delivering releases on such adjustment and settlement on behalf of all Unit Owners, all holders of mortgages and other liens on Units and all holders of any other interest in the Property;

(P) Representing the Unit Owners in any proceedings, negotiations, settlements or agreements relating to losses or proceeds from condemnation, destruction or liquidation of all or part of the Condominium or from termination of the Condominium.

(Q) Making repairs, additions and improvements to, or alterations of, the Property, including but not limited to repairs to and restoration of the Property in accordance with the other provisions of these By-Laws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings, and applying, as necessary, for construction, alteration or other approvals, to any and all municipal authorities having jurisdiction over the Condominium.

(R) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements, provided, however, that (i) no lien to secure repayment of any sum borrowed may be created on any Unit or its Appurtenant Interests without the consent of the owner of such Unit Owner; and (ii) any borrowing of any sum in excess of \$25,000 for any one purpose must be approved by a majority of the Unit Owners present and voting at a meeting at which a quorum is present. If any sum borrowed by the Board of Managers pursuant to this Section is not repaid by the Board of Managers, a Unit Owner who pays to the creditor thereunder such proportion thereof as its interest in the Common Elements bears to the aggregate Common Interests of all Unit Owners shall be entitled to obtain from the creditor a release of any judgment or other lien that the said creditor shall have filed, or shall have the right to file, against such Unit Owner's Unit. The other Unit Owners shall cooperate in all ways necessary in order to obtain such release.

(S) Provided the prior consent of at least 66-2/3% in Common Interest of all Unit Owners is obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, the Board of Managers shall have the power to convert General Common Elements to Residential Limited Common Elements or to convert Residential Limited Common Elements to General Common Elements.

(T) Enforcing by legal means the terms, covenants and conditions contained in the Condominium Documents and bringing and defending actions pertinent to the operation of the Property.

(U) Applying to the Tax Commission of the City of New York for a reduction in the assessed valuation of Units, prosecuting and settling as it may deem advisable any such action, including payment of any costs which may be incurred in such proceedings, on behalf of all Unit Owners as part of a single application.

(V) Establishing a reserve fund to be used only for capital expenditures and establishing such other working capital funds for such uses as the Board of Managers, in its discretion, may establish.

(W) Establishing reasonable fees for the processing of sale, lease or lease renewal applications, applications for consent to alterations by Residential Unit Owners, Certificates of Termination of the Right of First Refusal and for other services agreed to by the Board of Managers.

(X) Enforcing obligations of the Unit Owners, allocating profits and expenses, carrying out any other duties imposed upon the Board of Managers pursuant to the Declaration and these By-Laws, and doing anything and everything else necessary and proper for the sound management of the Condominium.

Section 2.3 Managing Agent.

(A) The Board of Managers may employ a Managing Agent to serve at a compensation established by the Board of Managers and to perform such duties and services as the Board of Managers shall authorize or direct, including, but not limited to, the duties listed in Sections 2.2(A), (C), (D) and (Q) hereof. The Board of Managers may delegate to the Managing Agent all of the powers granted to the Board of Managers by these By-Laws other than the powers set forth in Sections 2.2(B), (E), (G), (H), (I) (J), (K), (L), (M), (O), (P), (R), (S) and (W) hereof.

(B) All Residential Units occupied by non-purchasing tenants will be managed by the same managing agent who manages all other Units in the Condominium, and the owner of Residential Units occupied by non-purchasing tenants shall be deemed to have irrevocably appointed the Managing Agent (or the Board of Managers if no managing agent is employed by the Condominium) to provide to non-purchasing tenants all services and facilities required by law, and the Managing Agent (or the Board of Managers if no managing agent is to be employed) will provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The purchaser of any Residential Units occupied by non-purchasing tenants (other than Sponsor or its designee) shall agree to deposit with the Managing Agent (or the Board of Managers if no managing agent is to be employed) at the closing, an amount not less than the greater of two months common charges or two months rent to be used as working capital to furnish services required under the non-purchasing tenant's lease and the laws and regulations specified above. Upon notice by the Managing Agent (or the Board of Managers) that the deposit has been diminished, the fund shall be replenished by the Unit Owner within a specified period of time. The failure of the Unit Owner to replenish the fund in a timely fashion shall result in the Board of Managers, on behalf of the Unit Owners having a lien against the dwelling Unit. Interest, if any, earned on the fund shall be the property of the Unit Owner.

(C) The management agreement to be executed by the Condominium Board will provide that the fee payable thereunder for each Unit for management costs in respect of such Units, including but not limited to collection of rent and payment of Common Charges, shall be equal to one (1%) of the annual management fee payable by the Condominium to the Managing Agent. This fee includes the cost of providing all such management services and facilities. Sponsor or its designee shall not be required to use the Condominium Board or the Managing Agent of the Condominium as its agent to deal with its tenants,

including as to billing and collection of rents, granting or renewing of leases or to perform any services other than services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws, and neither the Condominium Board nor the Managing Agent of the Condominium shall have any power to bind or create any obligations for Sponsor or its designee except as expressly set forth herein. Any services provided to such tenant over and above what a Unit Owner is entitled to receive from the Condominium Board and approved by the owner of the Unsold Unit, which approval shall not be unreasonably withheld, will be billed by the Managing Agent at the actual cost of providing such services to the owner of the Unsold Unit, but as to Sponsor or its designee, the Condominium shall be obligated to provide, and to cause the Managing Agent of the Condominium to provide, to Sponsor and its designees all such services required under applicable local law or under General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws without fee or charge of any kind except for such cost of providing such services actually incurred and paid to third parties, and not to the Condominium or the Managing Agent.

Section 2.4 Limitations on the Powers of the Board of Managers or Unit Owners.

(A) Notwithstanding anything to the contrary contained in these By-Laws, so long as Sponsor or its designee or both shall continue to collectively own Units representing 25% or more in aggregate Common Interest, but not longer than five (5) years from the First Closing, neither the Board of Managers, nor the Unit Owners nor the Managing Agent shall take any of the following actions: (i) make any additions, alterations, or improvement to the Common Elements or to any Unit, except those required by Law; (ii) assess any Common Charges or Special Assessments for the creation or replacement of, or the addition to, all or any part of a reserve, contingency, or surplus fund in excess of five (5%) percent in the aggregate of the estimated Common Expenses for any year of operation; (iii) increase the number or change the type of employees from that described in the "Budget for the First Year of Condominium Operation," Schedule B to the Plan (the "Offering Plan Budget"); (iv) enter into any service or maintenance contracts for work not required by law or contemplated in the Offering Plan Budget set forth in the Plan; (v) borrow money on behalf of the Condominium; or (vi) amend the Declaration or these By-Laws except as specifically permitted by such document.

(B) Notwithstanding the foregoing, Sponsor or its designee may not exercise such veto power over expenses described in the Offering Plan Budget or over expenses reasonably required: (i) to comply with applicable laws or regulations, or (ii) to remedy any notice of violation, or (iii) to remedy any work order by an insurer.

Section 2.5 Election and Term of Office: Special Representation.

(A) The terms of office of three members of the Board of Managers designated by Sponsor prior to the first annual meeting of the Unit Owners held pursuant to Section 3.1 of these By-Laws shall expire when the seven individuals to be designated or elected at such meeting are so designated or elected and qualified. The term of office of each of the seven individuals designated or elected and qualified at the first annual meeting of the Unit Owners and at all subsequent annual meetings of Unit Owners shall be for one year or until their successors are elected and qualified.

(B) At all times, the Commercial Unit Owner shall be entitled to designate one (1) member of the Board of Managers or, in the event the Commercial Unit is subdivided, to elect one (1) member of the Board of Managers as provided in Section 3.8(B) hereof.

(C) During the Initial Control Period, and assuming a seven (7) member Board of Managers,

Sponsor or its designee shall have the right to designate the following minimum number of members of the Board of Managers: (a) five (5) members, for so long as the Common Interests attributable to any Units owned by Sponsor or its designee equals, in the aggregate, 65% or more of the Common Interests of all Units; and (b) four (4) member, for so long as the Common Interests attributable to any Units owned by Sponsor or its designee equals, in the aggregate, 50.0001% or more.

(D) After the Initial Control Period, and assuming a seven (7) member Board of Managers, Sponsor or its designee shall have the right to designate the following minimum number of members of the Board of Managers: (a) two (2) members, for so long as the Common Interests attributable to any Units owned by Sponsor or its designee equals, in the aggregate, 15% or more of the Common Interests of all Units; (b) one (1) member, for so long as Sponsor or its designee owns one (1) Residential Unit.

(E) Sponsor or its designee shall not exercise voting control of the Board of Managers, either through its right of designation or through its voting its interests, beyond the Initial Control Period. Neither the exercise of the right of designation or to vote for Board of Managers members under the control of Sponsor or its designee nor any other provision of these By-Laws shall impair the right of Sponsor or its designee or the Commercial Unit Owner to vote for any other candidates for the Board of Managers provided such votes by the Sponsor or its designee do not constitute an exercise of voting control as provided at law. If at any time it is determined to increase or decrease the size of the Board of Managers, the representation of Sponsor or its designee shall be changed proportionally. The right of the Sponsor or its designee to designate members of the Board of Managers as provided in Sections 2.5(C) and (D) above are in addition to the right of the Sponsor or other owner of the Commercial Unit to elect a member of the Board of Managers as provided in these By-Laws.

(F) If at the expiration of the Initial Control Period, a majority of members of the Board of Managers serve by reason of the designations or votes cast by Sponsor or its designee, a special meeting of Unit Owners shall be called within thirty (30) days after the expiration of the Initial Control Period for the purpose of electing a new Board of Managers.

Section 2.6 Removal or Resignation of Members of the Board of Managers. Any member of the Board of Managers may be removed with cause by an affirmative vote of a Majority of Unit Owners. A member of the Board of Managers who has not been designated by Sponsor or its designee or the Commercial Unit Owner may also be removed without cause by an affirmative vote of a Majority of Unit Owners. Any member of the Board of Managers whose proposed removal is to be acted upon at a meeting of the Unit Owners shall be given prior written notice thereof and an opportunity to be present and heard at the meeting. Any member of the Board of Managers may resign his membership at any time by giving written notice thereof to the Board of Managers and, with respect to members of the Board of Managers designated as such or elected by Sponsor or its designee or the Commercial Unit Owner, to Sponsor or such designee or the Commercial Unit Owners. In addition, any member of the Board of Managers who shall cease to be qualified for membership pursuant to the terms of Section 2.1 hereof shall be deemed to have resigned his membership effective as of the date upon which such qualification shall cease.

Section 2.7 Vacancies. Any vacancy on the Board of Managers that is caused by removal, whether with or without cause, or as a result of resignation, shall be filled by an individual who is qualified to be a Manager pursuant to the terms of Section 2.1 hereof by a vote of a majority of the remaining Managers at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the Managers present at such meeting may constitute less than a quorum. Notwithstanding the foregoing, any vacancy on the Board of Managers that is caused by the removal, resignation, or death of a member who was designated as such or elected by Sponsor or its designee shall be filled by an individual designated by Sponsor or such designee; any vacancy on the Board of Managers that

is caused by the removal, resignation, or death of a member who was designated or elected as such by the Commercial Unit Owner shall be filled by an individual designated or elected by the Commercial Unit Owner. Each member of the Board of Managers who is elected thereto or designated as such to fill a vacancy pursuant to the terms of this Section 2.7 shall serve as a member of the Board of Managers for the remainder of the term of the member he replaced and until his successor shall be selected and qualified at the appropriate annual meeting of the Unit Owners.

Section 2.8 Organization Meeting. The first meeting of the Board of Managers following each annual meeting of the Unit Owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by a majority of the members of the Board of Managers and no notice shall be necessary to the newly elected members of the Board of Managers in order legally to constitute such meeting, providing a majority of the whole Board of Managers shall be present thereat.

Section 2.9 Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the Managers, but at least four (4) such meetings shall be held during each fiscal year. Notice of all regular meetings of the Board of Managers shall be given to each Manager by personal delivery, mail, facsimile or overnight delivery service, at least three (3) business days prior to the day named for such meeting.

Section 2.10 Special Meetings. Special meetings of the Board of Managers may be called by the President or Secretary on written request of any of the Managers on three (3) business days' notice to each Manager, given by personal delivery, mail, facsimile or overnight delivery service, which notice shall state the time, place and purpose of the meeting.

Section 2.11 Waiver of Notice. Any Manager may at any time, waive notice of any meeting of the Board of Managers in writing, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Manager at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. Any one or more of the Board of Managers or any committee thereof may participate in a meeting of the Board or committee by means of a conference telephone or similar communications equipment allowing all person participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. If all of the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 2.12 Quorum of Board of Managers. At all meetings of the Board of Managers, a majority of the Managers shall constitute a quorum for the transaction of business, and subject to the provisions of Section 2.2, the votes of a majority of Managers shall constitute the decision of the Board of Managers. If at any meeting of the Board of Managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice. Any action required or permitted to be taken by the Board of Managers may be taken without a meeting if all Managers consent in writing to the adoption of a resolution authorizing such action, and the writing or writings are filed with the proceedings of the Board.

Section 2.13 Fidelity Bonds. The Board of Managers shall obtain adequate fidelity bonds for all officers and employees of the Condominium and of the Managing Agent handling or responsible for Condominium funds. The premium on such bonds shall constitute a Common Expense.

Section 2.14 Compensation. No member of the Board of Managers shall receive any compensation from the Condominium for acting as such.

Section 2.15 Liability of the Board of Managers.

(A) No member of the Board of Managers or officer of the Condominium shall have any personal liability to the Condominium or to any Unit Owner for damages for any breach of duty in his capacity as Manager or officer provided that this provision does not eliminate or limit the liability of a Manager or officer if a judgment or other final adjudication adverse to him or her establishes (i) that his acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law, or (ii) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

(B) The Condominium, through the Unit Owners, shall indemnify to the fullest extent permitted by law any person made, or threatened to be made, a party to an action or proceeding, whether civil or criminal, including an action by or in the right of any corporation of any type of kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any Manager or officer of the Condominium served in any capacity at the request of the Condominium, by reason of the fact that he, his testator or intestate, was a Manager or officer of the Condominium or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity; provided that no indemnification may be made to or on behalf of any Manager or officer if a judgment establishes that his acts were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

(C) The Unit Owners shall indemnify and hold harmless each of the Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium (except as Unit Owners). It is understood and permissible for the original Board of Managers, who may be members of or be employed by Sponsor, to contract with Sponsor and affiliated corporations and entities without incurring any liability for self-dealing, provided that (i) the connection is disclosed in the Offering Plan, or is disclosed to, or known by, the Board or a majority of members thereof or noted in the minutes thereof and the Board shall authorize, approve or ratify such contract or transaction in good faith by a vote of a majority of the Board, excluding such Manager, and (ii) the contract or transaction is upon commercially reasonable terms and condition at the time that the same is authorized, approved, ratified, executed or otherwise consummated. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the Manager shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the Unit Owners in the Common Elements. Every agreement made by the Board of Managers or by the Managing Agent on behalf of the Condominium shall provide that the Manager or the Managing Agent, as the case may be, are acting only as agent for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners.)

(D) Each Unit Owner's liability pursuant to this Section 2.15 shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

Section 2.16 Executive Committee and Other Committees. The Board of Managers may, by resolution duly adopted, appoint an Executive Committee to consist of three (3) or more members of the Board of Managers. Such Executive Committee shall have, and may exercise, all of the powers of the Board of Managers subject to both the exceptions and limitations contained in this Section 2.16 and such additional exceptions and limitations as the Board of Managers may from time to time deem appropriate, during the intervals between the meetings of the Board of Managers insofar as may be permitted by law, except that the Executive Committee shall not have the power to (i) to determine the common charges and expenses required

or payable by the Unit Owners for the affairs of the Condominium, (ii) to adopt or amend the rules and regulations covering the details of the operation and use of the Property, or (iii) to exercise any of the powers set forth in subdivisions (G), (I), (J), (K), (L) and (R) of Section 2.2. In addition, the Board of Managers may by duly adopted resolutions create such other committees as it shall deem appropriate and such committees shall have such powers and authority as the Board of Managers shall vest therein. The members of any such committee shall be appointed by the President. Such committee shall not have the power to do any act which the Executive Committee may not do. The Executive Committee and each other committee shall consist of three or more members of the Board of Managers, at least one of whom shall be a member designated by Sponsor for so long as Sponsor shall have the right to designate or elect one or more members of the Board of Managers.

ARTICLE 3 UNIT OWNERS

Section 3.1 Annual Meetings. Within 30 days after the first anniversary of the First Closing, or at such earlier time as Sponsor deems in the best interest of the parties, Sponsor shall call the first annual meeting of the Unit Owners. At such meeting, the incumbent three-member Board of Managers shall resign and a new seven-member Board of Managers shall be elected by the Unit Owners and/or designated by Sponsor. Thereafter, annual meetings of the Unit Owners shall be held on or about the anniversary of such date each succeeding year. At such meetings the Board of Managers shall be elected by ballot of the Unit Owners and/or designated by Sponsor and the Commercial Unit Owner in accordance with the requirements of Article 2 of these By-Laws. The Unit Owners may also transact such other business of the Condominium as any properly come before them. Prior to the actual meeting at which the Unit Owners elect the Board of Managers as herein provided, Sponsor may call, in its discretion, meetings of the Unit Owners so that the Board of Managers designated by Sponsor can report to Unit Owners, or for such other purpose as the Board determines.

Section 3.2 Place of Meetings. Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 3.3 Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners if so directed by resolution of the Board of Managers or upon a petition signed by Unit Owners and presented representing, in the aggregate, not less than 25% of the Common Interests of all Unit Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 3.4 Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Unit Owners to each Unit Owner of record, at the Property or at such other address as such Unit Owner shall have designated by notice in writing to the Secretary, at least ten (10) but not more than forty (40) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held. If the purpose of any meeting shall be to act upon a proposed amendment to the Declaration or to these By-Laws, the notice of such meeting shall be mailed to all Unit Owners at least twenty (20) days prior to the day fixed for such meeting and shall be accompanied by a copy of the text of such proposed amendment. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 3.5 Adjournment of Meetings. If any meeting of the Unit Owners cannot be held because a quorum has not attended, a majority in Common Interest of the Unit Owners who are present at

such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called. Proxies remain in effect for any such adjourned meeting.

Section 3.6 Order of Business. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting;
- (c) Reading of the minutes of the preceding meeting (unless waived);
- (d) Reports of officers;
- (e) Reports of the Board of Managers;
- (f) Reports of committees;
- (g) Election of inspectors of election (when so required);
- (h) Election of members of the Board of Managers (when so required);
- (i) Unfinished business; and
- (j) New business.

Section 3.7 Title to Units. Title to any Unit may be taken by an individual, in the names of two (2) or more persons as joint tenants, tenants in common, or tenants by the entirety, or in the name of a corporation, partnership, limited liability company or in the name of a fiduciary.

Section 3.8 Voting.

(A) The owner or owners of each Unit (including Sponsor and its designee(s)), or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner, shall be entitled to cast the votes appurtenant to such Unit at all meetings of the Unit Owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the owner or owners so designating. In addition, if two or more Persons own a Unit, they shall designate one Person amongst them to vote the Common Interest appurtenant to their Unit in a writing given to the Secretary of the Condominium, and the vote of such designee shall be binding upon all of such Persons. Failing such a designation, all of such Persons shall mutually vote such Common Interest under one ballot without division, and the concurrence of all such Persons shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being contemporaneously made to the individual presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Each Unit Owner, including Sponsor or its designee or the Board of Managers if either shall then own title to one or more Units, and including the Commercial Unit Owner, shall be entitled to one vote for each .0001% of Common Interest applicable to their Unit(s).

(B) Notwithstanding the terms contained in paragraph (A) hereof, no Unit Owner may vote at any meeting of the Unit Owners if the Board of Managers has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such meeting. The Common Interests of all Units whose owners are precluded from voting pursuant to the terms of this paragraph (b) will be excluded when computing the aggregate Common Interests of all Unit Owners for voting purposes.

Section 3.9 Majority of Unit Owners. As used in these By-Laws the term "majority of Unit Owners" shall mean those Unit Owners having more than 50% of the total authorized votes of all Unit Owners present in person or by proxy and voting at any meeting of the Unit Owners; determined in

accordance with the provisions of Section 3.8 herein.

Section 3.10 Quorum of the Unit Owners. Except as otherwise provided in these By-Laws, the presence, in person or by proxy, of a majority of Unit Owners shall constitute a quorum at all meetings of the Unit Owners.

Section 3.11 Majority Vote. Except when otherwise required by law or otherwise provided in the Declaration or in these By-Laws, whether as to the requirement for a higher percentage or as to the requirement for consent by Sponsor or its designee or the Commercial Unit Owner, the vote of a Majority of Unit Owners shall be binding upon all Unit Owners for all purposes.

Section 3.12 Action Without Meeting. Any action required or permitted to be taken by the Unit Owners may be taken without a meeting if Unit Owners sufficient in Common Interest, as applicable, to approve such an action at a duly constituted meeting of the Unit Owners pursuant to the Declaration or these By-Laws consent in writing to the adoption of a resolution authorizing such action and the writing is filed with the records of the Condominium.

ARTICLE 4 OFFICERS

Section 4.1 Designation. The principal officers of the Condominium shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary. The President and the Vice President, but no other officers, must be members of the Board of Managers. Except for Managers appointed by Sponsor or its designee or by the Commercial Unit Owner, or Assistant Secretaries or Assistant Treasurers who are employees of the Managing Agent, all officers must be Unit Owners, or spouses of Unit Owners, or officers, directors or principals of Unit Owners which are not natural persons.

Section 4.2 Election of Officers. Each of the officers of the Board of Managers shall be elected annually by vote of the Board of Managers taken at the organizational meeting of each new Board of Managers, and shall hold office at the pleasure of the Board of Managers.

Section 4.3 Removal of Officers. Upon the affirmative vote of the Board of Managers, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose, provided notice of the proposed removal was given to the officer and in the notice of the meeting. Any officer whose removal has been proposed shall be given an opportunity to be heard at the meeting. If the President or the Vice President of the Condominium shall cease to be a member of the Board of Managers during his term of office, such officer shall be deemed to have resigned his office effective upon the date upon which his membership shall cease.

Section 4.4 President. The President shall be chief executive officer of the Condominium. He shall preside at all meetings of the Unit Owners and of the Board of Managers. He shall have all of the general powers and duties that are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York (hereinafter referred to as the "BCL"), including, but not limited to, the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Condominium. The President shall be an ex-officio member of all committees of the Board of Managers.

Section 4.5 Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Managers shall appoint some other member of the Board of Managers to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Managers or by the President and shall have such other powers and duties as are usually vested in the office of vice president of a stock corporation organized under the BCL.

Section 4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Board of Managers; he shall have charge of such books and papers as the Board of Managers shall direct; and he shall, in general, perform all of the duties that are incident to the office of secretary of a stock corporation organized under the BCL.

Section 4.7 Treasurer. The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping or supervising the keeping of full and accurate financial records and books of account showing all receipts and disbursements necessary for the preparation of all required financial data. He shall be responsible for the deposit of all funds and other securities in the name of the Board of Managers, or the Managing Agent, in such depositories as may from time to time be designated by the Board of Managers, and he shall, in general, perform all of the duties incident to the office of treasurer of a stock corporation organized under the BCL. He shall disburse Condominium funds in the manner directed by the Board of Managers, making proper vouchers for all disbursements. He shall submit to the President and Board of Managers, at regular meetings of the Board of Managers or whenever they may require it, an account of all his transactions as Treasurer, as well as the financial condition of the Condominium.

Section 4.8 Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any two (2) officers of the Condominium or by such other Person or Persons as may be designated from time to time by the Board of Managers.

Section 4.9 Compensation of Officers. No officer of the Condominium shall receive any compensation from the Condominium for acting as such.

ARTICLE 5 OPERATION OF THE PROPERTY

Section 5.1 Determination of Common Expenses and Fixing of Common Charges. The Board of Managers shall from time to time, and at least annually, prepare a Budget for the Condominium and determine the amount of the common charges payable by the Unit Owners to meet the Common Expenses of the Condominium. In preparing such Budgets from time to time, the Board of Managers shall allocate and assess such Common Charges and expenses among the Unit Owners according to their respective Common Interests, but subject to such different method of allocation as is set forth in the Offering Plan Budget (as defined in Section 2.4(A)) or as may be determined by the Board of Managers to reflect exclusive use or the availability or control of particular Common Elements or services provided by the Condominium. The Board of Managers is authorized to specifically allocate expenses or specific expense items and apportion Common Charges of the Units resulting from changes in use or from changed circumstances. The Common Expenses shall include, without limitation the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of Section 5.2, and the fees and disbursements of the Insurance Trustee, if any. The Common Expenses may also include such

amounts as the Board of Managers may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year. In addition, the Common Expenses may also include such amounts as may be required for the purchase or lease by the Board of Managers or its designee, on behalf of all Unit Owners, of any Unit whose owner had elected to sell or lease such Unit or of any Unit which is to be sold at foreclosure or other judicial sale. The Board of Managers shall advise all Unit Owners promptly, in writing, of the amount of Common Charges payable by each of them as determined by the Board of Managers as aforesaid and shall furnish copies of such budget on which such common charges are based, to all Unit Owners. All costs and expenses which are allocable solely to the repair, maintenance and operation of a particular Unit or Units, as the case may be, shall be borne solely by the owner(s) of such Unit(s). Notwithstanding this section, the power of the Board is subject to the provisions and restrictions contained in Sections 2.2, 5.10 and 5.11 hereof.

Section 5.2 Insurance. The Board of Managers shall be required to obtain and maintain to the extent obtainable, the following insurance: (a) fire insurance with extended coverage normal for a condominium of this type, vandalism and mischief endorsements insuring the Building, including each Unit and the equipment installed therein on the date of recordation of the Declaration or installed thereafter by Sponsor, or replacements thereof, partitions, floors, and ceilings within the Units, together with all service and other machinery contained therein (but not including wall, ceiling or floor decorations or coverings or fixtures, appliances, furniture, furnishings or other personal property supplied or installed by Unit Owners or tenants of Unit Owners) covering the interests of the Condominium, the Board of Managers and all Unit Owners and their mortgagees, as their respective interests may appear, in an amount equal to the agreed upon replacement value of the Building or such other amount as shall be adequate to prevent the Condominium from becoming a coinsurer in the event of casualty loss (exclusive of the costs of excavation and foundations) without deduction for depreciation, as determined by the Board of Managers. Each of said policies shall contain a Condominium Property Endorsement and a New York standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject however, to the loss payment provisions in favor of the Board of Managers or the Insurance Trustee, if any, as herein provided; (b) boiler and machinery insurance; (c) a fidelity bond or bonds in sufficient amounts to fully protect the interest of the Condominium, to be carried on each member of the Board of Managers, officers of the Condominium, managing agent, and any other employees who handle or are responsible for funds of the Condominium; (d) Officers and Directors liability insurance covering officers and members of the Board of Managers; (e) comprehensive general liability insurance covering all claims for bodily injury or property damage arising out of an occurrence in the Common Elements and covering cross liability claims of one insured against another (but not covering the liability of a Unit Owner arising from occurrences within his own Unit); (f) workers, compensation insurance; (g) water damage legal liability; (h) rent insurance in an amount equal to the aggregate of the Common Charge payable to the Board of Managers; (i) elevator collision insurance; and (j) such other insurance as the Board of Managers may determine. The premium for such insurance shall be a Common Expense.

All such policies shall provide that adjustments shall be made by the Board of Managers and that the net proceeds, if \$250,000 or less shall be payable to the Board of Managers, and if more than \$250,000 shall be payable to the Insurance Trustee, to be applied for the purposes of the repairing, restoring or rebuilding the Building unless otherwise determined by the Unit Owners.

All policies of physical damage insurance shall contain waivers (a) of subrogation, (b) of any defense based on coinsurance, (c) of any reduction of pro-rata liability of the insurer as a result of any insurance carried by Unit Owners, and (d) of invalidity arising from any acts of the insured or any Unit Owners, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of Units. The standard mortgagee loss

payable clause shall be attached to all policies. Duplicate originals or certificates of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of Units who have requested same in writing, at least then (10) days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Managers may obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the Building (exclusive of the cost of excavation and foundations) including all of the Units and all of the Common Elements therein, without deduction from depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this Section.

Unit Owners are advised to carry other insurance for their own benefit, provided that all such policies shall contain waivers or subrogation against the Condominium and the Board of Managers and further provide that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Such policies shall be so endorsed as to state that they will in no way conflict with any insurance carried by the Board of Managers.

Section 5.3 Repair or Reconstruction After Fire or Other Casualty. In the event of damage to or destruction of the Building as a result of fire or other casualty, if (a) 75% or more of the Building is destroyed or substantially damaged and 75% or more in Common Interest of the Unit Owners duly and promptly resolve to proceed with repair or restoration, or (b) less than 75% or more of the Building is destroyed or substantially damaged, then in either of such events, the Board of Managers shall arrange for the prompt repair and restoration of the Building (including any damaged Units, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures or other personal property or equipment of the Unit Owners or a tenant of a Unit Owner), and the Board of Managers shall disburse the proceeds of all insurance policies in appropriate progress payments to the contractors engaged in such repairs and restoration. Any cost of such repair and restoration in excess of the net insurance proceeds shall constitute a Common Expense and the Board of Managers shall assess all the Unit Owners for such deficit as part of the Common Charges.

In the event of a repair or restoration pursuant to the first paragraph of this Section 5.3 and in the event that the net proceeds of insurance received by or payable to the Board of Managers shall exceed the cost of such repair or restoration, then, at the option of the Board of Managers, the excess of such insurance proceeds shall be paid by the Board of Managers or the Insurance Trustee, as the case may be, either (a) in an amount not to exceed \$100,000 to the Board of Managers to be placed in the operating or working capital reserves of the Condominium, and/or (b) to all Unit Owners in proportion to their respective interests in the Common Elements after first paying out of the share due each Unit Owner such amounts as may be required to reduce unpaid liens on any Unit in the order of priority of such liens.

If 75% or more of the Building is destroyed or substantially damaged and 75% or more in Common Interest of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Property will not be repaired and shall be subject to an action for partition at the suit of any Unit Owner or lienor, as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance policies shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all Unit Owners in proportion to their respective Common Interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of priority of such liens.

Whenever in this Section the words "promptly repair" are used it shall mean repairs are to begin not more than sixty (60) days from the date the Board of Managers notifies the Unit Owner or Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated costs of such work, or not more than ninety (90) days from the date the Board of Managers notifies the Unit Owner

or Owners that such proceeds of insurance are insufficient to pay said estimated costs of such work or, in the event the proceeds of insurance are insufficient to pay said estimated costs or such work or, in the event the proceeds of insurance are payable to the Board of Managers or the Insurance Trustee, no more than sixth (60) days from the date of receipt by the Board of Managers of proceeds of insurance on account of such damage or destruction, whether or not sufficient to pay the estimated costs of such work. Whenever the word "promptly resolve" are used it shall also mean not more than sixty (60) days from the date the Board of Managers notifies the Unit Owners that it holds proceeds of insurance on account of such damage or destruction and that such proceeds are or are not sufficient to pay the estimated costs of the work (as the case may be).

Section 5.4 Payment of Common Charges.

All Unit Owners shall be obligated to pay Common Charges assessed by the Board of Managers pursuant to the provisions of Section 5.1 hereof at such time or times as the Board of Managers shall determine. The Board of Managers may also impose a reasonable late charge for late payment of Common Charges, which shall be added to the Unit Owner's Common Charges due on the first day of the following month, and which shall be a lien upon the Unit Owner's Unit if not paid. Assessments for Common Charges are the personal obligation of the person owning the Unit at the time the assessment becomes due.

No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against his Unit subsequent to a sale, transfer, or other conveyance (made in accordance with the provisions of Section 7.1 hereof) of such Unit, together with the Appurtenant Interests. A purchaser of a Unit shall be liable for the payment of Common Charges assessed and unpaid against such Unit prior to the acquisition of such Unit, except that, to the extent permitted by law, a mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit shall not be liable for, and such Unit shall not be subject to a lien for, the payment of Common Charges assessed prior to the foreclosure sale. In the event of a foreclosure sale of a Unit by a mortgagee, the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges thereafter accrued prior to such sale.

In addition, any Unit Owner may, subject to the terms and conditions specified in the By-Laws, provided that his Unit is free and clear of liens and encumbrances other than a permissible mortgage and the statutory lien for the unpaid Common Charges, convey his Unit, together with the Appurtenant Interests, to the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners, and in such event be exempt from Common Charges thereafter accruing.

Section 5.5 Collection of Assessments. The Board of Managers shall assess Common Charges against all Unit Owners from time to time and at least annually. An assessment roll relating to Common Charges and other assessments shall be maintained in a set of accounting books duly approved by a certified public accountant in which there shall be an account for each Unit. The Board of Managers shall take prompt action to collect any Common Charge due from any Unit Owner which remains unpaid for more than thirty (30) days after the due date for payment thereof.

Section 5.6 Default in Payment of Common Charges. In the event any Unit Owner shall fail to make prompt payment of its Common Charges or any assessment as determined by the Board of Managers, such Unit Owner shall be obligated to pay interest at the highest legal rate on such unpaid Common Charges computed from the due date thereof, in addition to any late charge which may have been imposed pursuant to Section 5.4 hereof, together with all expenses, including attorneys' fees, paid or incurred by the Board of Managers or the Managing Agent in connection with collecting such unpaid amounts, including but not limited to those paid or incurred in any proceeding brought to collect such unpaid Common Charges or assessments or in an action to foreclose the lien on such Unit arising from said unpaid Common Charges or

assessments. The Board of Managers shall have the right and obligation to attempt to recover such Common Charges or assessments, together with interest thereon, and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or (in the event of Common Charges) by foreclosure of the lien on such Unit granted by Section 339-z of the Condominium Act, in the manner provided in Section 339-aa thereof. While Sponsor or its designee is in control of the Board of Managers, it will cause the Board to file a lien as provided for in Section 339-aa of the Condominium Act against Units with respect to which Sponsor or such designees is in arrears of Common Charges by more than thirty (30) days. A lien for non-payment of Common Charges granted pursuant to Section 339-z of the Condominium Act has priority over all other liens except (i) liens for taxes on the Unit in favor of the assessing unit, school district, special district, county or other taxing unit, and (ii) sums unpaid on a first mortgage of record.

Section 5.7 Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board of Managers to foreclose a lien on a Unit because of unpaid Common Charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, cast the votes appurtenant to (other than for the election of Members to the Board of Managers), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing or waiving the lien securing the same. In the event that the net proceeds received on such foreclosure (after deduction of all legal fees and disbursements, advertising costs, brokerage commissions, court costs and other costs and expenses paid or incurred in connection therewith) shall be insufficient to satisfy the defaulting Unit Owner's obligations to the Condominium, such Unit Owner shall remain liable for the deficit.

Section 5.8 Statement of Common Charges. The Board of Managers (or Managing Agent on its behalf) shall promptly provide a written statement of all unpaid Common Charges due from any Unit Owner upon its receipt of a written request therefore from such Unit Owner. In addition, each Unit Owner shall be permitted to examine the books of account of the Condominium at reasonable times on business days, but not more frequently than once a month.

Section 5.9 Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board of Managers, or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Board of Managers the right, in addition to any other rights set forth in these By-Laws (a) upon reasonable notice to the Unit Owner, to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provision hereof (provided, however, that no prior notice shall be required in the event that the Board of Managers shall determine that action is immediately necessary for the preservation or safety of the Property or for the safety of the residents of the Condominium or other persons or required to avoid the suspension of any necessary service to the Condominium); or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 5.10 Maintenance and Repairs.

(A) Except as otherwise provided in the Declaration or in these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary in or to the Common Elements (whether such Common Elements are located outside a Unit or within a Unit) shall be made by the Board of Managers and the cost and expense thereof shall be charged to the Unit Owners as a Common Expense. Notwithstanding the foregoing and the definition of Residential

Units as set forth in the Declaration, solely for purposes of the obligation of the Board of Managers to make maintenance, repairs or replacements, whether structural or non-structural, ordinary or extraordinary, in or to the portion of the Residential Units consisting of the entire exterior envelope of the building of the building including but not limited to face brick, parapets, roof systems, other than those portions that are specifically part of the Commercial Unit, shall be considered Residential Common Elements and charged as a Residential Common Expense.

(B) Except as otherwise provided in the Declaration, Subsection C(ii) and (v) of this section 5.10, and Section 5.11 hereof, and notwithstanding the provisions of Section 5.10(A), in the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof is necessitated by the negligence, misuse or neglect of any Unit Owner, the entire cost thereof shall be borne by such Unit Owner.

(C) (i) Except as otherwise provided in the Declaration or these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, in or to any Unit and the interior side of entrance doors thereto shall be made by the Owner of such Unit at such Unit Owner's sole cost and expense. Each Unit Owner shall be responsible for all damages to any and all other Units and/or to the Common Elements by reason of his failure to do the foregoing.

(ii) All normal maintenance of and repairs and replacement to all terraces and balconies appurtenant to and for the exclusive use of particular Units shall be made by the Unit Owner owning such Unit at his own cost and expense. Each Unit Owner shall be responsible for all damages to any and all other Units and/or to the Common Elements by reason of his failure to do the foregoing.

(iii) Any structural or extraordinary maintenance, repairs, or replacements to all terraces and balconies (including, but not limited to, any leaks in the terraces or balconies which are not caused by the acts or negligence of the Unit Owners which have the exclusive right to use such terraces or balconies, and cleaning and painting the sides of the terraces and balconies facing away from the usable portions of the terraces and balconies) shall be made by the Board of Managers and the cost and expense thereof shall be charged to all Residential Unit Owners as a Common Expense.

(iv) The interior glass surfaces of all windows located within any Unit must be washed and cleaned by the Unit Owner thereof at such Unit Owner's sole cost and expense. Maintenance, painting and repair of all window frames within any Unit shall be done by the Unit Owner thereof at such Unit Owner's sole cost and expense.

(v) The washing and cleaning of the exterior glass surfaces of all windows shall be done by the Board of Managers and shall be charged to all Residential Unit Owners as a Residential Common Expense. The replacement of all window frames shall be done by the Board of Managers and shall be charged to all Residential Unit Owners as a Residential Common Expense, unless the replacement of window frames is necessitated by the acts, negligence or misuse of any Unit Owner, in which case the entire cost thereof shall be borne by such Unit Owners.

(vi) Unit Owners shall be responsible for replacing broken window glass in their Units, unless the glass is broken through the negligence of the Board of Managers or its agents, in which case the cost of replacement shall be borne by all Residential Unit Owners as a Residential Common Expense.

Section 5.11 Residential Common Elements and Residential Limited Common Elements. Certain portions of the Common Elements are limited and restricted in use and benefit to the Residential Unit

Owners, and are referred to as the Residential Common Elements. Certain portions of the Common Elements are limited and restricted in use to specific Unit Owners, and are referred to as Residential Limited Common Elements. Such Residential Common Elements and Residential Limited Common Elements are set forth in Article 7 of the Declaration of the Condominium. The following provisions shall apply with respect to costs and expenses relating to Residential Common Elements and Residential Limited Common Elements:

(A) The Owner or Owners of the Commercial Units shall not pay any costs or expenses relating to normal, routine and ordinary maintenance, repair or replacement to the Residential Common Elements.

(B) The Owners of the Residential Units shall not pay any costs or expenses relating to normal, routine and ordinary maintenance, repair or replacement to the Common Elements limited in use to the Commercial Unit Owners.

(C) The Board of Managers shall not assess the Owner or Owners of the Commercial Units for any addition, alteration or enhancement to the Residential Limited Common Elements designated for the exclusive use of Residential Units.

(D) If Sponsor or its designees or any subsequent Owner of the Commercial Units (or the Owners of Units resulting from the subdivision thereof) exercises the right to alter or improve any Limited Common Element appurtenant to the Commercial Units, in accordance with Section 5.14 hereof, the cost and expense thereof shall be borne by Sponsor or its designee or any subsequent Owner of the Commercial Units.

Section 5.12 Restrictions on Use of Residential Units and Commercial Unit. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

(A) Each Residential Unit shall be used only as a residence and professional and ancillary business use as permitted by law, and not more than one natural person and his Family Members plus one additional occupant and the dependent children of such additional occupant may reside in a Residential Unit at any one time. A Residential Unit owned or leased by an individual, corporation, partnership, fiduciary, or any other entity may be occupied only by said individual, or by an officer, director, stockholder, or employee of such corporation, or by a partner or employee of such partnership, or by said fiduciary (including a director, officer, stockholder, or employee of a corporate fiduciary and a partner or employee of a partnership fiduciary), or by the beneficiary of said fiduciary, or by a principal or employee of such other entity, respectively, or by Family Members or guests of any of the foregoing, and any other occupancy shall be considered a leasing subject to the requirements of Article 7 of the Declaration. Additionally, in no event shall a portion of the Residential Unit (as opposed to the entire Residential Unit) be sold, conveyed, leased, or subleased, and no transient occupant (other than a guest permitted under this Section 5.12(A)) may be accommodated therein.

Notwithstanding the foregoing or anything else contained in the Offering Plan, Sponsor or its designees may, without the consent of either the Board of Managers or the Unit Owners use any one or more Unsold Units as model apartments and offices for selling, renting, management, operation and promotion of the Units owned by Sponsor or its designee or for any lawful purpose.

(B) The Commercial Unit and any Units resulting from the subdivision thereof may be used for retail business, commercial and professional purposes or for any other lawful purpose in the sole discretion of Sponsor or other owner of the Commercial Unit.

(C) The Common Elements shall be used only for the furnishing of the services and facilities

for which they are reasonably suited and which are incident to the use and occupancy of Units.

(D) No nuisances shall be allowed on the Property nor shall any use or practice be allowed that either is a source of unreasonable annoyance to its residents or interferes with the peaceful possession or proper use of the property by its residents or occupants.

(E) No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Unit Owners, or the Board of Managers, whichever shall have the obligation to maintain or repair such portion of the Property.

(F) No portion of a Residential Unit (other than the entire Unit) may be rented, and no transient tenants may be accommodated therein.

(G) Dogs, cats or other common household pets may be kept in Residential Units, but only with the prior written consent of the Board of Managers, or as to purchasers from Sponsor, with the prior written consent of Sponsor delivered at the time of closing of title, and subject to the rules and regulations adopted by the Board of Managers from time to time, including those pertaining to the size of a pet and the permitted level of noise. In no event will any dog be permitted in any portion of the Common Elements unless carried or on a leash.

Section 5.13 Additions, Improvements or Alterations by the Board of Managers. All alterations, additions or improvements in or to any Common Elements shall be made either by the Board of Managers or Unit Owner required to maintain such Common Elements and the cost and expense thereof shall be charged either to all Unit Owners as a Common Expense or to all Residential Unit Owners as a Residential Common Expense, or to the Unit Owner responsible therefor, as the case may be. Whenever in the judgment of the Board of Managers the Common Element shall require additions, alterations or improvements costing in excess of \$250,000 in the aggregate in any calendar year, the making of such additions, alterations or improvements shall require approval by a majority of the Unit Owners or Residential Unit Owners, as applicable, present and voting at a meeting at which a quorum is present (including Sponsor as owner of Unsold Units), and if so approved, the Board of Managers shall proceed with such additions, alterations or improvements and shall assess the appropriate Unit Owners for the cost thereof as a common charge. Any additions, alterations or improvements costing in the aggregate \$250,000 or less in any calendar year may be made by the Board of Managers without approval of the Unit Owners, and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, for so long as Sponsor or its designee shall own Units representing at least 25% of the Common Interests, but not more than five (5) years from the First Closing, no additions, alterations or improvements shall be made to the Common Elements, regardless of the cost thereof, unless the consent of Sponsor or its designee is first obtained pursuant to Section 2.4 hereof, or such action is required by law.

Section 5.14 Additions, Alterations, or Improvements by Unit Owners. Subject to the terms of Article 12 of the Declaration:

(A) No Residential Unit Owner shall make any structural addition, alteration or improvement in or to his Unit or any Residential Limited Common Elements appurtenant thereto, without the prior written approval of the Board of Managers. The Board of Managers is required to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within thirty (30) days after receipt of a complete set of documents and information as to the proposed

addition, alteration or improvement, and independent architectural review, if necessary, and failure to do so within the stipulated time shall constitute a denial by the Board of Managers to the proposed addition, alteration or improvement. The Unit Owner can make any non-structural alterations or improvements to the Unit he desires without obtaining the consent of the Board of Managers, but with not less than ten (10) days prior written notice to the Board of Managers and compliance with the provisions of Section 5.14(B) below, so long as the alterations or improvements do not affect the Building or any Common Element, jeopardize the soundness or safety of the Property, reduce the value thereof or impair any easement therein.

(B) No Unit Owner shall make any structural addition, alteration or improvement in or to a Unit or Limited Common Element nor any non-structural addition, alteration or improvement, without first (i) obtaining and maintaining during the course of such work such insurance as the Board of Managers may reasonably prescribe, and (ii) executing and delivering to the Board of Managers an agreement, in form and substance reasonably satisfactory to the Board, setting forth the reasonable terms and conditions under which such alteration, addition or improvement may be made, including, without limitation, the days and hours during which any such work may be done, and (iii) executing and delivering to the Board of Managers an agreement indemnifying and holding harmless the Board, its members and officers, and all Unit Owners from and against any liability, cost or expense arising out of or connected to such work. The Unit Owner shall also bear the cost of any increased taxes or insurance premiums resulting from his alterations, additions or improvements. Unit Owners shall be responsible for paying to the Managing Agent a reasonable fee, as established by the Board of Managers, for the processing of applications for consent to alterations.

(C) Any application to any department of the City of New York or to any other governmental authority for a permit to make an addition, alteration or improvement to any Unit or Limited Common Element will be executed by the Board of Managers without, however, incurring any liability on the part of the Board of Managers or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. All responsibility with respect to any such addition, alteration or improvement shall remain with the Unit Owner until conveyance of the Unit, at which time such responsibility shall pass to and be assumed by the transferee and the successors and assigns of such transferee.

(D) The provisions of this Section 5.14 shall not apply to Units owned by Sponsor or its designee, including both Residential Units and the Commercial Unit, until such Units shall have been initially sold or conveyed, and any additions, alterations and improvements by Sponsor or its designee shall be governed solely by the applicable provisions of Article 12 of the Declaration. The provisions of this Section 5.14 shall also not apply to the Commercial Unit Owner (other than the Sponsor) except that the provisions of Sections 5.14(B)(i) and (iii) and 5.14(C) shall apply to a Commercial Unit Owner other than the Sponsor or its designee, and otherwise such additions, alterations and improvements by the Commercial Unit Owner other than the Sponsor or its designee shall be governed solely by the applicable provisions of Article 12 of the Declaration.

Section 5.15 Use of Common Elements and Facilities. No furniture, packages or objects of any kind shall be placed on the grounds, walks, common entrances, common terrace, lobbies, public halls, service corridors or other public areas, or any other part of the Common Elements, other than areas which may be designated as storage areas. The lobbies, public halls, service corridors and other public areas shall be used only for the purposes established by the Board of Managers from time to time. Residential Unit Owners shall require their tradesmen to utilize exclusively the elevator(s) designated by the Board of Managers for transporting packages, merchandise or any other objects which may affect the comfort or well being of the passengers of the elevators used for transportation of Unit Owners, residents and guests. The provisions of this Section 5.15 shall not apply to Sponsor or its designee until such time as all Units have been initially sold and conveyed by Sponsor or its designee. However, Sponsor or its designee shall not use the Common

Elements in such a manner as will unreasonably interfere with the use of the other Units for their permitted purposes.

Section 5.16 Right of Access. Each Unit Owner shall grant a right of access to his Unit to the Board of Managers, the Managing Agent and/or any other person authorized by the Board of Managers, for the purpose of making inspections to determine if there exist conditions threatening another Unit or a Common Elements, or violations of the By-Laws or Rules and Regulations of the Condominium or any State or Municipal ordinances, or for the purpose of correcting any conditions originating in the Unit and threatening another Unit or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in his Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another Unit, provided that requests for such entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner, and further provided that such right shall be exercised in such manner as will not unreasonably interfere with the normal use of the Units. In case of an emergency where action is immediately necessary for the preservation or safety of the Building or residents or required to avoid the suspension of any necessary service to the Condominium, such right of entry shall be immediate, whether the Unit Owner is present at the time or not. In exercising any such emergency right of access to or entry to any Unit pursuant to the preceding sentence, the Board of Managers or its Managing Agent shall prior to entry upon such Unit the demised premises, except in case of emergency, make reasonable effort to give Tenant notice thereof, which notice may be by telephone, e-mail or other means other than as provided in Section 10.1 hereof. In the exercise of the right of access provided in this Section 5.16, any costs for repairs shall be borne in accordance with the provisions of Section 5.10 hereof.

Section 5.17 Rules and Regulations. Rules and Regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board of Managers. Copies of such rules and regulations shall be furnished by the Board of Managers to each Unit Owner prior to time when the same shall become effective. Initial rules and regulations, which shall be effective until amended by the Board of Managers, are annexed hereto and made a part hereof as Schedule A.

Section 5.18 Real Estate Taxes, Water Charges and Sewer Rents.

(A) In the event that the Units have not been separately assessed for real estate tax purposes prior to the First Closing, real estate taxes on the Property, until such time as the Units are separately assessed, shall be included as part of the Common Expenses of the Condominium. Accordingly, the Board of Managers will pay all real estate taxes with respect to the Condominium and will allocate the entire cost thereof among all Unit Owners in the proportion of each Unit's Common Interest and the Board will have a lien on each Unit for non-payment thereof, as if such charges were Common Charges. After the Units have been separately assessed: (i) each Unit will be taxed as a separate tax lot for real estate tax purposes and the Unit Owner will not be responsible for the payment, nor will his Unit be subjected to any lien arising from the non-payment, of taxes on other Units, and (ii) Unit Owners will be reimbursed for any overpayment of taxes which they may have made to the Board of Managers or assessed for any underpayment of taxes, as the case may be.

(B) Water shall be supplied to all of the Units and the Common Elements through one or more Building meters. Unless Unit Owners are billed directly by the City Collector, the Board of Managers shall pay all water charges, together with all related sewer rents arising therefrom, as a Common Expense, provided that this charge shall be specially allocated and apportioned based on separate meters for the Commercial Unit and the Residential Units, if any.

(C) In the event of a proposed sale of any Unit, for so long as the Board of Managers is still

paying such real estate taxes, water charges or sewer rents, the Board of Managers, or the Managing Agent on its behalf, shall, upon the written request of the selling Unit Owner, execute and deliver to the purchaser of such Unit or to such purchaser's title company, a letter agreeing promptly to pay all such taxes, charges and rents affecting such owner's Unit to the date of the closing of title to such Unit.

Section 5.19 Heating; Gas and Electricity. Heat shall be supplied to all of the Units and the Common Elements by the Condominium and the Board of Managers shall pay for the cost of providing heat as a Common Expense, provided that this charge shall be specially allocated and apportioned as provided in the Section 5.1 hereof. Cooking gas and hot water shall be supplied to Residential Units by the Condominium and the Board of Managers shall pay for the cost of cooking gas and hot water to Residential Units as a Residential Common Expense. Hot water to the Commercial Unit is separately metered and shall be billed to the Commercial Unit Owner based on actual usage. Electricity to the Units is separately metered and billed directly to respective Unit Owners by the utility company. Electricity to the Common Elements is provided through one or more Building meters. The Board of Managers shall pay all electricity charges as a Common Expense, provided that this charge shall be specially allocated and apportioned as provided in the Section 5.1 hereof to the Residential Unit Owners for electricity provided to the Residential Common Elements. The Board of Managers shall have the right to change the manner in which electricity is provided to Residential Units, whether through submetering or other manner of measuring electrical consumption within Residential Units, and in the event the Board of Managers may either continue to pay electricity charges, but specially allocate the cost of electricity to Unit Owners based on such method of measuring consumption or require Unit Owners to pay electricity charges to the utility company, in either of which events electricity charges shall no longer be a Common Expense.

Section 5.20 Compliance with the Applicable Rent Laws. The Board of Managers shall operate the Property at the same level of services as those supplied on the date of recording the Declaration in accordance with the Applicable Rent Laws, except for those services that are the obligation of Sponsor or its designee to provide to its Residential Units pursuant to the terms of the Declaration or these By-Laws. The Board of Managers shall not impose any charge or fee upon the tenants or occupants of such Units for using the Common Elements or on account of any services provided to such tenants or occupants unless Sponsor or its designee shall be permitted by the Applicable Rent Laws to impose such charge or fee against such tenants or occupants and any such permitted charge or fee shall be increased from time to time only to the extent allowed under the Applicable Rent Laws. Except for those services and obligations to be provided or performed by the Board of Managers as set forth in the Declaration and in these By-Laws, Sponsor or its designee shall provide and perform all other services and obligations required by Law to be furnished to tenants and occupants of the Residential Units owned by Sponsor or its designee (including, without limitation, painting the interior of such Units).

ARTICLE 6 MORTGAGES

Section 6.1 Notice to Board of Managers. A Unit Owner who mortgages his Unit shall notify the Board of Managers of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Managers. The Board of Managers shall maintain such information in a book entitled "Mortgages of Units".

Section 6.2 Notice of Unpaid Common Charges or Other Default. The Board of Managers, whenever requested in writing by a Permitted Mortgagee, shall promptly report to such Permitted Mortgagee any default by his mortgagor(s) in the payment of Common Charges or Special Assessments or in the observance or performance of any of the provisions of the Condominium Documents as to which the Board

of Managers has knowledge then exists.

Section 6.3 Notice of Default. When giving notice to a Unit Owner of any default in paying Common Charges or other default, the Board of Managers shall send a copy of such notice to each Permitted Mortgagee whose name and address has theretofore been furnished to the Board of Managers.

Section 6.4 Examination of Books. Each Unit Owner and each Permitted Mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times, on business days, on not less than three (3) business days' prior written notice, but not more frequently than once a month.

Section 6.5 Consents by Mortgagees. Except as otherwise expressly provided for herein or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of the Board of Managers or any Unit Owner, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against his mortgagor. In the event that any such consent or approval shall be expressly required pursuant to the terms of the Declaration or these By-Laws, the decision of a majority of the Mortgage Representatives, if any are designated pursuant to the terms of Section 6.6, shall be deemed binding upon the holders of all mortgages encumbering Units.

Section 6.6 Mortgage Representatives. The holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages may, if they so elect, designate not more than three (3) Mortgage Representatives by giving written notice thereof to the Board of Managers, which Mortgage Representatives shall thereby be empowered to act as the representatives of the holders of all mortgages encumbering Units with respect to any matter requiring the consent or approval of mortgagees under the Declaration or these By-Laws. Any designation of a Mortgage Representative pursuant to the terms of this paragraph 6.6 shall be effective until any successor Mortgage Representative is designated pursuant to the terms hereof and written notice thereof is given to the Board of Managers. Unless otherwise required by law, no holders of mortgages encumbering Units other than Institutional Lenders who hold Permitted Mortgagees shall be entitled to participate in the designation of Mortgage Representatives, but all holders of mortgages encumbering Units shall be subject to all determinations made by the Mortgage Representatives pursuant to the terms of the Declaration or these By-Laws.

ARTICLE 7

SALES, LEASES AND MORTGAGES OF UNITS

Section 7.1 Sales and Leases. Subject to the terms of Sections 7.7, 7.8 and 7.9 hereof, no Residential Unit Owner may sell or lease his Unit or any interest therein except by complying with the following provisions:

(A) Subject to By-Laws. Any contract to sell a Residential Unit together with its Appurtenant Interests and any lease of a Residential Unit shall contain the following language: "THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY MADE EXPRESSLY SUBJECT TO THE RIGHTS, IF ANY, OF THE BOARD OF MANAGERS OF THE 1438 THIRD AVENUE CONDOMINIUM WITH RESPECT TO THE TRANSACTION EMBODIED HEREIN PURSUANT TO THE TERMS OF ARTICLE 7 OF THE BY-LAWS OF THE SAID CONDOMINIUM, AS THE SAME MAY HAVE BEEN AMENDED". The time limits contained in this Section 7.1 with respect to Board action may be extended in the sole discretion of the Board of Managers.

(B) Notice of Outside Offer. Any Residential Unit Owner (an "Offeree Unit Owner") who (i) receives a bona fide offer for the sale of his Unit together with its Appurtenant Interest, which he intends to

accept, or who enters into any Contract of Sale for the sale of his Unit; or (ii) receives a bona fide offer to lease his Unit, which he intends to accept, or who enters into any Lease for his Unit (each instance of (i) or (ii) above hereinafter called an "Outside Offer") shall give notice thereof to the Board of Managers within thirty (30) days from receipt of written notice thereof of such offer and of such intention, or within ten (days) from when such Contract of Sale or Lease shall be fully executed, which notice shall be accompanied by a fully executed, original counterpart of the Contract of Sale or Lease if one has been executed, the name and address of the proposed purchaser or tenant (the "Outside Offeror"), the terms of the proposed transaction and such other information as the Board of Managers may reasonably require.

(C) Offer to Board of Managers. The sending of the notice referred to in this Section 7.1(B) shall constitute an offer by such Offeree Unit Owner to sell his Residential Unit, together with its Appurtenant Interests, or to lease his Unit on the same terms and conditions as are contained in the Outside Offer, subject, however, to any variance therefrom provided in Section 7.1(D), to: (i) the Board of Managers or to its designee, corporate or otherwise, on behalf of all Unit Owners (a "Board Designated Purchaser"), or (ii) to a purchaser produced by the Board of Managers who will purchase such Residential Unit together with its Appurtenant Interests for his or its own account (a "Produced Purchaser"), or in the case of a Lease, (iii) to a tenant produced by the Board of Managers. The giving of such notice shall further constitute a representation and warranty by the Offeree Unit Owner to the Board of Managers, on behalf of all Unit Owners, that such Offeree Unit Owner believes the Outside Offer, including any Contract of Sale or Lease, to be bona fide in all respects. Thereafter, upon the written demand of the Board of Managers, the Offeree Unit Owner shall submit to the Board of Managers, in writing, such further information with respect to the Outside Offeror and the Contract of Sale as the Board of Managers may reasonably request.

(D) Election by Board of Managers. Within thirty (30) days after receipt of a notice from an Offeree Unit Owner as set forth in Section 7.1(B), the Board of Managers may elect, by notice to such Offeree Unit Owner, (i) to purchase or lease such Residential Unit, together with the Appurtenant Interests (or to cause the same to be purchased or leased by a Board Designated Purchaser), on behalf of all Unit Owners, or (ii) to produce a Produced Purchaser or tenant who will purchase or lease such Residential Unit together with its Appurtenant Interests, and in either event on the same terms and conditions as are contained in the Outside Offer and as stated in the notice from the Unit Owner and modified by this Section 7.1(D). In the event the Board of Managers shall elect to purchase the Residential Unit or to have the Residential Unit purchased by a Board Designated Purchaser or a Produced Purchaser, title shall close at the office of the attorneys for the purchaser in accordance with the terms of the Outside Offer but not less than forty-five (45) days after the giving of notice by the Board of Managers of its election to purchase or have the Residential Unit so purchased. At the closing, the Offeree Unit Owner shall convey the Residential Unit and Appurtenant Interests to the Board of Managers, the Board Designated Purchaser or the Produced Purchaser, as applicable, by deed in the form required by Section 399-o of the Condominium Act with all tax and/or documentary stamps affixed at the expense of the Offeree Unit Owner, who shall also pay all other transfer taxes arising out of such sale notwithstanding any terms of the Outside Offer or Contract of Sale to the contrary. Real estate taxes (including water charges and sewer rents, if separately assessed), mortgage interest (if applicable) and Common Charges shall be apportioned between the Offeree Unit Owner and the Board of Managers, the Board Designated Purchaser or the Produced Purchaser as of the closing date, notwithstanding any terms of the Outside Offer or Contract of Sale to the contrary.

(E) Failure of Board of Managers to Accept Offer. In the event the Board of Managers shall fail to accept such offer or to produce a Board Designated Purchaser or a Produced Purchaser or a tenant within thirty days as aforesaid, or fails to act within said thirty-day period, the Offeree Unit Owner shall be free to contract to sell or lease such Residential Unit, together with the Appurtenant Interest, within sixty days after the expiration of the period in which the Board of Managers might have accepted such offer, to the Outside Offeror, on the terms and conditions set forth in the notice from the Offeree Unit Owner to the Board of

Managers of such Outside Offer. In the event the Offeree Unit Owner shall not, within such sixty day period, contract to sell or lease such Residential Unit, together with the Appurtenant Interests to the Outside Offeror on the terms and conditions contained in the Outside Offer, or if the Offeree Unit Owner has contracted or shall so contract to sell or lease his Residential Unit and the Appurtenant Interests with such sixty-day period, but such sale shall not be consummated or such lease commence pursuant to the terms of such contract, then should such Offeree Unit Owner thereafter elect to sell or lease such Residential Unit, together with the Appurtenant Interest, to the same or another Outside Offeror on the same or other terms and conditions, the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Section 7.1.

(F) Transferee's Assumption; Power of Attorney. Any deed or lease of a Unit and its Appurtenant Interests to a transferee shall expressly provide that the acceptance thereof by the grantee shall constitute an assumption of all of the terms of the Condominium Documents, and, in the absence of such express language, the same shall be conclusively deemed to have been included therein. At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner, upon the request of the Board of Managers, shall duly execute, acknowledge and deliver to the requesting party, for recording in the Register's Office, a Unit Owner's Power of Attorney required in Article 14 of the Declaration in the form set forth as Exhibit E to the Declaration.

Section 7.2 Consent of Unit Owners to Purchase of Residential Units by Board of Managers. The Board of Managers shall not exercise any option set forth in Section 7.1 to purchase any Residential Unit or to produce a Board Designated Purchaser without the prior approval of a majority in Common Interests of the Unit Owners, but this restriction shall not apply to an election by the Board of Managers to produce a Produced Purchaser or to lease or produce a tenant to lease a Unit, which elections may be made by the Board of Managers.

Section 7.3 No Severance of Ownership. No Unit Owner shall execute any deed or any other instrument conveying title to his Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any deed or other instrument purporting to affect one or more such interests shall be taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance or other disposition of such part of the Appurtenant Interests of all Units. Nothing contained in this Section 7.3, however, shall prohibit the lease of any Unit without the simultaneous lease of its Appurtenant Interests.

Section 7.4 Release by Board of Managers of Right of First Refusal. The right of first refusal contained in Section 7.1 hereof may be released or waived by the Board of Managers, in which event the Unit, together with the Appurtenant Interests, may be sold or conveyed, free and clear of such Section 7.1.

Section 7.5 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by the Secretary or other officer of the Condominium or the Managing Agent, stating that the provisions of Section 7.1 hereof have been met by a Residential Unit Owner or that the right of first refusal provided for therein has been duly released or waived by the Board of Managers and that, as a result thereof, the rights of the Board of Managers thereunder have terminated, shall be conclusive upon the Board of Managers and all Unit Owners in favor of all persons who rely upon such certificate in good faith. Such certificate shall be furnished to any Unit Owner who has in fact complied with the provisions of Section 7.1 hereof or in respect to whom the provisions of such section have been waived or do not apply upon request, at a reasonable fee payable to the Managing Agent.

Section 7.6 Financing of Purchase of Units by Board of Managers. Acquisition of Units by the Board of Managers, or its designee, on behalf of all Unit Owners, may be made from the working capital and Common Charges in the hands of the Board of Managers, or if such are insufficient, the Board of Managers may levy an assessment against each Unit Owner in proportion to his interest in the Common Elements, as a Common Charge, which assessment shall be enforceable in the same manner as provided in Sections 5.6 and 5.7, and/or the Board of Managers, in its discretion, may borrow money to finance the acquisition of such Unit, provided, however, that no financing may be secured by an encumbrance on or a hypothecation of any property other than the Unit to be purchased together with its Appurtenant Interests so to be acquired by the Board of Managers.

Section 7.7 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit, together with its Appurtenant Interests, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit shall be subject to, the provisions of this Article 7.

Section 7.8 Leases. In addition to the terms of Section 7.1 hereof and subject to the terms of Section 7.9 hereof, no Residential Unit Owner may lease his Residential Unit for any short-term or transient tenancy. For purposes hereof, the term "short-term" shall mean a term of less than one (1) year.

Section 7.9 Exceptions. The restrictions set forth in Sections 7.1 and 7.8 hereof shall not apply with respect to any lease, sale or conveyance of a Residential Unit, together with its Appurtenant Interests, by: (i) a Unit Owner to any of his adult Family Members, to any combination of the same, or to a trust for the benefit of any of them; (ii) Sponsor or its designee; (iii) the Board of Managers or a Board Designated Purchaser; (iv) a party conveying a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure; or (v) any Permitted Mortgagee or his nominee, who has acquired title to any Residential Unit at any foreclosure sale of his Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction, provided, however, that each succeeding Residential Unit Owner shall be bound by, and his Unit shall continue to be subject to, all of the terms and conditions of this Article 7. In addition, the terms and conditions contained in Sections 7.1 and 7.8 (other than 7.1(F) which shall apply) hereof shall in no event apply to a sale, lease or conveyance of all or a portion of the Commercial Unit, together with its Appurtenant Interest. Sponsor or its designee and the Commercial Unit Owner from time to time shall have the right to freely sell their Units or to freely lease all or any of them without having to offer the same for sale or lease to the Board of Managers or otherwise subject to the restrictions set forth in Sections 7.1 and 7.8 hereof. The provisions of this Section 7.9 may not be amended without the consent of Sponsor or its designee as to Unsold Units or the Commercial Unit Owner as to the Commercial Unit.

Section 7.10 Voidable Transactions. Any purported sale or lease of a Residential Unit consummated in violation of this Article 7 shall be voidable in the sole discretion of the Board of Managers.

Section 7.11 Payment of Assessments. No Residential Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his Unit unless he shall have paid in full to the Board of Managers all unpaid Common Charges and Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgagees, levied against such Unit.

Section 7.12 Mortgage of Units. Subject to the Sections 6 and 7.11, each Unit Owner shall have the right to mortgage his Unit without restriction, provided that any such mortgage shall be substantially in the form of the New York statutory form of mortgage, except for such changes or additions as may be required in order to permit a particular bank, trust company, insurance company, savings and loan association or other institutional lender to make the mortgage loan.

Section 7.13 Notice to Non-Purchasing Tenants. A non-purchasing tenant (as such term is defined in the Condominium Act) will be promptly notified of changes in ownership of a Unit by any purchasers of a Unit occupied by such non-purchasing tenant and the Board of Managers will retain and make available such information at reasonable times, during reasonable business hours, on not less than three (3) business days' prior written notice.

ARTICLE 8 CONDEMNATION

Section 8.1 In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements (including but not limited to any Residential Limited Common Elements), the award made for such taking shall be payable to the Board of Managers if such award amounts to \$250,000 or less, and to the Insurance Trustee, if such award amounts to more than \$250,000. If 75% or more of the Unit Owners duly and promptly approve the repair and restoration of such Common Elements, the Board of Managers shall arrange for the repair and restoration of such Common Elements, and the Board of Managers or Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that 75% or more of Unit Owners do not duly and promptly approve the repair and restoration of such Common Elements, the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in Section 5.3 of these By-Laws.

ARTICLE 9 RECORDS AND AUDITS

Section 9.1 The Board of Managers or the Managing Agent shall keep detailed records of the actions of the Board of Managers and the Managing Agent, minutes of the meetings of the Board of Managers, minutes of the meetings of the Unit Owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each Unit which, among other things shall contain the amount of each assessment of Common Charges against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A copy of a proposed annual budget of the Condominium shall be submitted by the Board of Managers to all Unit Owners, to be received not less than ten (10) days prior to the date set for adoption thereof by the Board of Managers. An annual report of the receipts and expenditures of the Condominium, certified by an independent certified public accountant, shall be by submitted by the Board of Managers to all Unit Owners within four and one-half (4-1/2) months after the end of each fiscal year. During any period in which Sponsor controls the Board of Managers, such report shall be certified by a certified public accountant. The cost of such report shall be paid by the Board of Managers as a Common Expense. The books and records of the Condominium, including copies of the Declaration and these By-Laws, shall be subject to inspection by Unit Owners and by mortgagees of Units at reasonable times, during reasonable business hours, on not less than three (3) business days' prior written notice.

ARTICLE 10 MISCELLANEOUS

Section 10.1 Notices. All notices required or desired to be given hereunder (except notices of regular annual or special meetings of Unit Owners and except notices of all meetings of the Board of

Managers) shall be sent by registered or certified mail, return receipt requested, postage prepaid addressed: (a) if to the Board of Managers, to the Board of Managers at its principal office as set forth in Section 1.4 hereof, with a photocopy sent to the Managing Agent (if any) at its principal office address; (b) if to a Unit Owner other than Sponsor or its designee, to such Unit Owner at his address at the Property or to such other address as may have been designated by him from time to time, in writing, to the Board of Managers; (c) if to Sponsor or its designee, to Sponsor or such designee at c/o 81st And 3rd Owner LLC, 61 Broadway, Suite 1407, New York, New York 10006; and (iv) to Permitted Mortgagees at their respective addresses as designated by them from time to time in writing to the Board of Managers. Any of the foregoing parties may change the address to which notices and/or copies of notices are to be sent, or may designate additional addresses for the giving of notice, by sending written notice to the other parties as aforesaid. All notices sent pursuant to the terms of this Section 10.1 shall be deemed given when deposited in a United States Postal Service depository located in the State of New York enclosed a sealed, postage prepaid wrapper, provided, however, that notices of change of address, notices designating additional addresses and notices deposited in a United States Postal Service depository located outside of the State of New York shall be deemed to have been given when received.

Section 10.2 Waiver of Service of Notice. Whenever any notice is required to be given by law pursuant to the terms of the Condominium Documents, a waiver thereof in writing, signed by the Person or Persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

Section 10.3 Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 10.4 Captions. The index hereof and the captions herein inserted are included only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provision hereof.

Section 10.5 Gender. A reference in these By-Laws to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice-versa, unless the context otherwise requires.

Section 10.6 Waiver. No provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches that may occur.

Section 10.7 Insurance Trustee. The Insurance Trustee shall be a bank or trust company in either event having both an office in the City of New York and a capital surplus or undivided profits of \$250,000,000 or more from time to time appointed to serve as such by the Board of Managers. In the event that the Insurance Trustee shall resign, the new Insurance Trustee shall also be a bank or trust company having the same qualifications shall be designated by the Board of Managers. The Board of Managers shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a Common Expense of the Condominium.

Section 10.8 Sponsor or Commercial Unit Owner Rights and Remedies. Whenever, pursuant to any provision of these By-Laws, the consent, approval, satisfaction or permission of Sponsor or its designee or the Commercial Unit Owner is required, the granting of such consent, approval, permission or acknowledgment of satisfaction shall be solely in the discretion of the party whose consent, approval, satisfaction or permission is required and no standard of reasonableness shall be imposed on such party. If the Board of Managers, any Unit Owner, or other Person that is subject to the terms of these By-Laws fails

to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action that the Board of Managers, such Unit Owner, or Person is required to execute, acknowledge and deliver or to take pursuant to these By-Laws at the request of Sponsor or its designee or the Commercial Unit Owner, then Sponsor or its designee or the Commercial Unit Owner is hereby authorized, as attorney in-fact for the Board of Managers, such Unit Owner, or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Board of Managers, such Unit Owner, or other Person, and such document or action shall be binding on the Board of Managers, such Unit Owner or other Person.

ARTICLE 11 AMENDMENTS TO BY-LAWS

Section 11.1 Generally. Except as otherwise provided herein and in the Declaration, these By-Laws may be modified or amended by the vote of at least 66 2/3% in aggregate Common Interests of all Unit Owners cast in person or by proxy at a meeting duly held in accordance with the provisions of these By-Laws, or, in lieu of a meeting, by written amendment as provided in these By-Laws. Notwithstanding anything herein to the contrary: (a) no provision of these By-Laws, the Rules and Regulations or the Declaration relating thereto which adversely affects the lien of any mortgage on a Unit shall be effective without the written consent of the affected Mortgage Representatives, if any, which consent shall not be unreasonably withheld or delayed, and (b) no provision of these By-Laws, the Rules and Regulations or the Declaration relating thereto relating to the use of a Unit Owner's Unit or the allocation of Common Interest appurtenant to a Unit Owner's Unit may be amended without the consent of the Unit Owner affected by such amendment. Further, these By-Laws, the Rules and Regulations or the Declaration may not be modified, added to or amended so as to eliminate, change or impair any rights, powers, easements, privileges or benefits reserved to a Unit Owner, or so as to adversely affect such Unit Owner, without the written consent of the affected Unit Owner.

Section 11.2 Commercial Unit Owner Amendments. Sponsor or its designees and every subsequent owner of the Commercial Unit shall have the right, to execute or (on request of the Commercial Unit Owner) to require the Board of Managers to duly execute and record, in the City Register's Office, and elsewhere if required by law, an amendment or amendments to these By-Laws (together with such other documents, plans and maps as may be required to effectuate same), at any time, without the requirement of a vote and without the approval or consent of any Unit Owner or Mortgage Representatives, for the purposes of (i) documenting any changes to the Commercial Unit permitted pursuant to Section 12B of the Declaration, or (ii) making insubstantial changes to these By-Laws as to the Commercial Unit. All expenses in connection with the preparation, recording and filing of any such amendment shall be paid by the Commercial Unit Owner.

Section 11.3 Sponsor Amendments. Sponsor or its designees shall have the right, to execute or (on request of Sponsor or its designee) to require the Board of Managers to duly execute and record, in the City Register's Office, and elsewhere if required by law, an amendment or amendments to these By-Laws (together with such other documents, plans and maps as may be required to effectuate same), at any time, without the requirement of a vote and without the approval or consent of any Unit Owner or Mortgage Representatives, for the purposes of (i) documenting any changes to any Residential Unit permitted pursuant to Section 12C of the Declaration, or (iii) making insubstantial changes to these By-Laws as to any Unsold Residential Unit. All expenses in connection with the preparation, recording and filing of any such amendment shall be paid by Sponsor or its designee.

Section 11.4 Restrictions on Amendments. Notwithstanding anything herein to the contrary in

these By-Laws, the following provisions of these By-Laws may not be amended, without the consent in writing of Sponsor or its designee so long as Sponsor or its designee owns any Unit, and without the consent in writing of Sponsor or its designee and all subsequent owners of the Commercial Unit or any Units resulting from the subdivisions thereof:

(A) Section 2.2 insofar as it provides that the Board of Managers may not exercise certain powers without Sponsor's prior written consent, so long as Sponsor or its designee shall continue to own 25% or more of the Common Elements for a period of five years from the First Closing;

(B) Section 2.16 insofar as it provides for representation of Sponsor or its designee on the Executive Committee or any other committee created by the Board of Managers so long as Sponsor may designate a member of the Board;

(C) Section 5.1 insofar as it provides that certain expenses shall be specially allocated and apportioned based on special or exclusive use or availability or exclusive control of the common areas by particular Units to the Unit Owners thereof and Sections 5.10 and 5.11 insofar as they provide which expenses have been specially allocated apportioned to Unit Owners of Units having special or exclusive use or availability or exclusive control of common areas;

(D) Section 5.14 insofar as it provides that the provisions of such Section shall not apply to any Units owned by Sponsor or its designee or the assignee as to the Commercial Units and that the owner(s) of the Commercial Units and the owners of any Units resulting from the subdivision thereof shall have the right to make alterations, additions and improvements thereto and to subdivide and combine Units and later the boundary walls thereof;

(E) Section 7.9 insofar as it provides that the provisions of Section 7.1 shall not apply with respect to a sale or lease of any Residential Unit owned by Sponsor or its designee or to a sale or lease of the Commercial Units or any Units resulting from the subdivision thereof;

(F) Any provision of these By-Laws, the Rules and Regulations or the Declaration relating thereto in the event if the interest of Sponsor or its designee is adversely affected by any such proposed amendment, modification, addition or deletion, or any of the rights, powers, easements, privileges or benefits reserved to Sponsor or its designee are eliminated, changed or impaired thereby;

(G) Any provision of these By-Laws, the Rules and Regulations or the Declaration relating thereto if the interest of the Commercial Unit Owner is adversely affected by any such proposed amendment, modification, addition or deletion, or any of the rights, powers, easements, privileges or benefits reserved to the Commercial Unit Owner are eliminated, changed or impaired thereby; and

(H) This Article 11.

ARTICLE 12 CONFLICTS

Section 12.1 The By-Laws and the Rules and Regulations are intended to comply with the requirements of the Condominium Act and all other applicable laws. In case any of these By-Laws or any provision of the Rules and Regulations conflict with the provisions of said statute, the Declaration or any other applicable law, the provisions of said statute, the Declaration or such other applicable law, as the case may be, shall control.

SCHEDULE A

RULES AND REGULATIONS OF THE 1438 THIRD AVENUE CONDOMINIUM

1. Except for the rights of the Commercial Unit Owner, the sidewalks, entrances, passages, public halls, elevators, vestibules, corridors and stairways of or appurtenant to the Building shall not be obstructed or used for any purpose other than ingress to and egress from the Units. No vehicle belonging to a Unit Owner, to a Family Member of a Unit Owner, or to a guest, tenant, subtenant, licensee, invitee, employee or agent of a Unit Owner shall be parked in such a manner as to impede or prevent ready access to any entrance to, or exit from, the building by another vehicle.

2. No tricycles, bicycles, scooters, or similar vehicles shall be taken into or from the Building through the main entrance or shall be allowed in any of the elevators of the Building other than the elevator designated by the Board of Managers or the Managing Agent for such purpose, and no baby carriages or any of the above-mentioned vehicles shall be allowed to stand in the public halls, passageways or other public areas of the Building.

3. All service and delivery persons will be required to use the service entrance or such other entrance of the Building designated by the Board of Managers. In addition, all messengers and tradespeople visiting the Building shall use the elevator designated by the Board of Managers or the Managing Agent for the purposes of ingress and egress, and shall not use any of the other elevators for any purpose.

4. Trunks and heavy baggage shall be taken in or out of the Building only by the elevator designated by the Board of Managers or the Managing Agent for that purpose and only through the service entrance.

5. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed or stored in any of the halls or on any of the staircases or fire tower landings of the Building, nor shall any fire exit thereof be obstructed in any manner.

6. The storage rooms of the Building, if any, shall be used by all Unit Owners, in common, only for the storage of trunks, bags, suitcases and packing cases, all of which shall be empty, and for the storage of such other articles as the Board of Managers, in its sole discretion, may determine. Supervision, management and control of the storing in and removal of a Unit Owner's property from the storage rooms is vested in the Board of Managers. The use of the storage rooms shall be at the sole risk of the Unit Owner or other person using the same, and the Board of Managers, its agents or the Managing Agent shall not be liable for any injury to person, loss by theft or otherwise, or damage to property, whether due to the negligence of the Board of Managers, its agents, the Managing Agent or otherwise.

7. No refuse from the Units shall be sent to the cellar of the Building, except at such times and in such manner as the Board of Managers or the Managing Agent may direct. Nothing shall be hung or shaken from any doors, windows or open terraces, or placed upon the window sills of the Building, and no Unit Owner shall sweep or throw, or permit to be swept or thrown, any dirt, debris or other substance therefrom.

8. There shall be no playing or lounging in the entrances, passages, public halls, elevators, vestibules, corridors, stairways or fire towers of the Building, except in recreational areas or other areas designated as such in the Declaration or by the Board of Managers.

9. The Board of Managers or the Managing Agent may, from time to time, curtail or relocate

any portion of the Common Elements devoted to storage, recreation, or service purposes in the Building.

10. Nothing shall be done or be kept in any Unit or in the Common Elements that will increase the rate of insurance of the Building, or the contents thereof, without the prior written consent of the Board of Managers. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements that will result in the cancellation of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Unit Owner or any of his Family Members, agents, servants, employees, licensees or visitors shall, at any time, bring into or keep in his Unit or any Common Elements any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of such Unit or the Common Elements.

11. There shall be no barbecuing in the Units, in their appurtenant Residential Limited Common Elements, or in the General or Residential Common Elements, except for those areas (if any) specifically designated for barbecuing by the Board of Managers.

12. No Unit Owner shall make, cause, or permit any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from his Unit or its appurtenant Residential Limited Common Elements or permit anything to be done therein that will interfere with the rights, comforts, or conveniences of the other Unit Owners. No Unit Owner shall play upon or suffer to be played upon any musical instrument, or shall operate or permit to be operated a phonograph, radio, television set, or other loudspeaker in such Unit Owner's Unit between midnight and the following 8:00 a.m., if the same shall disturb or annoy other occupants of the Building, and in no event shall any Unit Owner practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 p.m. and the following 9:00 a.m. No construction, repair work, or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays) and only between the hours of 8:00 a.m. and 5:00 p.m., unless such construction or repair work is necessitated by an emergency.

13. No Residential Unit Owner shall install any plantings on any terrace without the prior written approval of the Board of Managers. Plantings shall be contained in boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the terrace surface, and, if adjoining a wall, at least three inches from such wall. Suitable weep holes shall be provided in the boxes to draw off water. In special locations, such as a corner abutting a parapet wall, plantings may be contained in masonry or hollow tile walls which shall be at least three inches from the parapet and flashing, with a floor of drainage tiles and suitable weep holes at the sides to draw off water. Such masonry planting beds shall not, however, rest directly upon the surface of such terrace, but shall stand, on supports at least two inches above such surface. It shall be the responsibility of the Residential Unit Owner to maintain the containers in good condition, and the drainage tiles and weep holes in operating condition. Such Residential Unit Owner shall pay the cost of any repairs rendered necessary, or damage caused, by such plantings.

14. No group tour or exhibition of any Residential Unit or its contents shall be conducted, nor shall any auction sale be held in any Residential Unit, without the consent of the Board of Managers or the Managing Agent in each instance. In the event that any Residential Unit shall be used for home occupation or professional purposes in conformance with the Declaration and the By-Laws, no patients, clients, or other invitees shall be permitted to wait in any lobby, public hallway, or vestibule.

15. No ventilator or air-conditioning device shall be installed in any Residential Unit without the prior written approval of the Board of Managers, which approval may be granted or refused in the sole discretion of the Board of Managers.

16. No radio or television aerial, satellite dish or related equipment shall be attached to or hung from the exterior of the Building, and no sign, notice, advertisement, or illumination (including, without limit

"For Sale", "For Lease" or "For Rent" signs) shall be inscribed or exposed on or at any window or other part of the Building, except such as are permitted pursuant to the terms of the Declaration and/or the By-Laws or shall have been approved in writing by the Board of Managers or the Managing Agent. Nothing shall be projected from any window of a Residential Unit without similar approval.

17. All radio, television, computer, communications or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television, computer, communications or other electrical equipment.

18. Water-closets and other water apparatus in the Building shall not be used for any purpose other than those for which they were designed, and no sweepings, rubbish, rags or any other article shall be thrown into the same. Any damage resulting from misuse of any water-closets or other apparatus in a Unit shall be repaired and paid for by the owner of such Unit.

19. Each Unit Owner shall keep his Unit and its appurtenant Limited Common Elements in a good state of preservation, condition, repair and cleanliness in accordance with the terms of the By-Laws.

20. The agents of the Board of Managers or the Managing Agent, and any contractor or workers authorized by the Board of Managers or the Managing Agent, may enter any room or Unit at any reasonable hour of the day, on at least one day's prior notice to the Unit Owner, for the purpose of inspecting such Unit for the presence of any vermin, insects, or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects, or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Unit for its permitted purposes.

21. The Board of Managers or the Managing Agent may retain a pass-key to each Residential Unit. If any lock is altered or a new lock is installed, the Board of Managers or the Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Unit Owner is not personally present to open and permit entry to his Unit at any time when entry therein is necessary or permissible under these Rules and Regulations or under the By-Laws, and has not furnished a key to the Board of Managers or the Managing Agent, then the Board of Managers or Managing Agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Condominium or an officer of the Managing Agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if, during such entry, reasonable care is given to such Unit Owner's property).

22. If any key or keys are entrusted by a Unit Owner, by any Family Member thereof, or by his agent, servant, employee, licensee, or visitor to an employee of the Condominium or of the Managing Agent, whether for such Unit Owner's Unit or an automobile, trunk, or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner, and neither the Board of Managers nor the Managing Agent shall (except as provided in Rule 21 above) be liable for injury, loss, or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

23. Unit Owners and their respective Family Members, guests, servants, employees, agents, visitors, or licensees shall not at any time or for any reason whatsoever enter upon, or attempt to enter upon, the roof of the Building.

24. No occupant of the Building shall send any employee of the Condominium or of the Managing Agent out of the Building on any private business.

25. Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Board of Managers. Further, any such consent or approval may, in the discretion of the Board of Managers or the Managing Agent, be conditional in nature.

26. Complaints regarding the service of the Condominium shall be made in writing to the Board of Managers or to the Managing Agent.

GENERAL BUSINESS LAW SECTION 352-eeee

**GENERAL BUSINESS LAW
ARTICLE 23-A. FRAUDULENT PRACTICES IN RESPECT TO STOCKS, BONDS
AND OTHER SECURITIES**

§ 352-eeee. [Expires June 15, 2011] Conversions to cooperative or condominium ownership in the city of New York

1. As used in this section, the following words and terms shall have the following meanings:

(a) "Plan". Every offering statement or prospectus submitted to the department of law pursuant to section three hundred fifty-two-e of this article for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article two, eight or eleven of the private housing finance law.

(b) "Non-eviction plan". A plan which may not be declared effective until written purchase agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building or group of buildings or development by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family intend to occupy the unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements.

(c) "Eviction plan". A plan which, pursuant to the provisions of this section, can result in the eviction of a non-purchasing tenant by reason of the tenant failing to purchase pursuant thereto, and which may not be declared effective until at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general (excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons) shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements.

(d) "Purchaser under the plan". A person who owns the shares allocated to a dwelling unit or who owns such dwelling unit itself.

(e) "Non-purchasing tenant". A person who has not purchased under the plan and who is a tenant entitled to possession at the time the plan is declared effective or a person to whom a dwelling unit is rented subsequent to the effective date. A person who sublets a dwelling unit from a purchaser under the plan shall not be deemed a non-purchasing tenant.

(f) "Eligible senior citizens". Non-purchasing tenants who are sixty-two years of age or older on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this section; provided that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit on the terms then offered to tenants in

occupancy.

(g) "Eligible disabled persons". Non-purchasing tenants who have an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this section; provided, however, that if the disability first occurs after acceptance of the plan for filing, then such election may be made within sixty days following the onset of such disability unless during the period subsequent to sixty days following the acceptance of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser; and provided further that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit or the shares allocated thereto on the terms then offered to tenants in occupancy.

2. The attorney general shall refuse to issue a letter stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this chapter has been filed whenever it appears that the offering statement or prospectus offers for sale residential cooperative apartments or condominium units pursuant to a plan unless:

(a) The plan provides that it will be deemed abandoned, void and of no effect if it does not become effective within fifteen months from the date of issue of the letter of the attorney general stating that the offering statement or prospectus has been accepted for filing and, in the event of such abandonment, no new plan for the conversion of such building or group of buildings or development shall be submitted to the attorney general for at least twelve months after such abandonment.

(b) The plan provides either that it is an eviction plan or that it is a non-eviction plan.

(c) The plan provides, if it is a non-eviction plan, as follows:

(i) The plan may not be declared effective until written purchase agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements.

(ii) No eviction proceedings will be commenced at any time against non-purchasing tenants for failure to purchase or any other reason applicable to expiration of tenancy; provided that such proceedings may be commenced for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for the use and occupancy of himself or his family.

(iii) Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to the conversion of the building or group of buildings or development to cooperative or condominium ownership shall continue to be subject thereto.

(iv) The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the attorney general shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses.

(v) The plan may not be amended at any time to provide that it shall be an eviction plan.

(vi) The rights granted under the plan to purchasers under the plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section.

(vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been filed, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth day after such date and at least once every thirty days until the plan is declared effective or is abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of the dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant as of the date of such statement and, (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan.

(d) The plan provides, if it is an eviction plan, as follows:

(i) The plan may not be declared effective unless at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general (excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons) shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements.

(ii) No eviction proceedings will be commenced against a nonpurchasing tenant for failure to purchase or any other reason applicable to expiration of tenancy until the later to occur of (1) the date which is the expiration date provided in such non-purchasing tenant's lease or rental agreement, and (2) the date which is three years after the date on which the plan is declared effective. Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to conversion shall

continue to be subject thereto during the period of occupancy provided in this paragraph. Thereafter, if a tenant has not purchased, he may be removed by the owner of the dwelling unit or the shares allocated to such dwelling unit.

(iii) No eviction proceedings will be commenced, except as hereinafter provided, at any time against either eligible senior citizens or eligible disabled persons. The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and eligible senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy considering, in determining comparability, such factors as building services, level of maintenance and operating expenses; provided that such proceedings may be commenced against such tenants for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto.

(iv) Eligible senior citizens and eligible disabled persons who reside in dwelling units subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto.

(v) The rights granted under the plan to eligible senior citizens and eligible disabled persons may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section.

(vi) Any offeror who disputes the election by a person to be an eligible senior citizen or an eligible disabled person must apply to the attorney general within thirty days of the receipt of the election forms for a determination by the attorney general of such person's eligibility. The attorney general shall, within thirty days thereafter, issue his determination of eligibility. The foregoing shall, in the absence of fraud, be the sole method for determining a dispute as to whether a person is an eligible senior citizen or an eligible disabled person. The determination of the attorney general shall be reviewable only through a proceeding under article seventy-eight of the civil practice law and rules, which proceeding must be commenced within thirty days after such determination by the attorney general becomes final.

(vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been accepted for filing, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth days after such date and at least once every thirty days until the plan is declared effective or abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general who have executed and delivered written agreements to purchase under the plan as of the date of such statement, and (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan.

(viii) If the plan is amended before it is declared effective to provide that it shall be a non-eviction plan, any person who has agreed to purchase under the plan prior to such amendment shall have a period of thirty days after receiving written notice of such amendment to revoke his agreement to purchase under the plan.

(ix) The tenants in occupancy on the date the attorney general accepts the plan for filing shall have the exclusive right to purchase their dwelling units or the shares allocated thereto for ninety days after the plan is accepted for filing by the attorney general, during which time a tenant's dwelling unit shall not be shown to a third party unless he has, in writing, waived his right to purchase; subsequent to the expiration of such ninety day period, a tenant in occupancy of a dwelling unit who has not purchased shall be given the exclusive right for an additional period of six months from said expiration date to purchase said dwelling unit or the shares allocated thereto on the same terms and conditions as are contained in an executed contract to purchase said dwelling unit or shares entered into by a bona fide purchaser, such exclusive right to be exercisable within fifteen days from the date of mailing by registered mail of notice of the execution of a contract of sale together with a copy of said executed contract to said tenant.

(e) The attorney general finds that an excessive number of long-term vacancies did not exist on the date that the offering statement or prospectus was first submitted to the department of law. "Long-term vacancies" shall mean dwelling units not leased or occupied by bona fide tenants for more than five months prior to the date of such submission to the department of law. "Excessive" shall mean a vacancy rate in excess of the greater of (i) ten percent and (ii) a percentage that is double the normal average vacancy rate for the building or group of buildings or development for two years prior to the January preceding the date the offering statement or prospectus was first submitted to the department of law.

(f) The attorney general finds that, following the submission of the offering statement or prospectus to the department of law, each tenant in the building or group of buildings or development was provided with a written notice stating that such offering statement or prospectus has been submitted to the department of law for filing. Such notice shall be accompanied by a copy of the offering statement or prospectus and a statement that the statements submitted pursuant to subparagraph (vii) of paragraph (c) or subparagraph (vii) of paragraph (d) of this subdivision, whichever is applicable, will be available for inspection and copying at the office of the department of law where the submission was made and at the office of the offeror or a selling agent of the offeror. Such notice shall also be accompanied by a statement that tenants or their representatives may physically inspect the premises at any time subsequent to the submission of the plan to the department of law, during normal business hours, upon written request made by them to the offeror, provided such representatives are registered architects or professional engineers licensed to practice in the state of New York. Such notice shall be sent to each tenant in occupancy on the date the plan is first submitted to the department of law.

3. All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the building or group of buildings or development. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The offeror shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as the offeror surrenders control to the board of directors or board of managers, at which time the cooperative corporation or the condominium association shall assume responsibility for the provision of all services and facilities required by law on a non-discriminatory basis.

4. It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities

related thereto. The attorney general may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining the owner from selling the shares allocated to the dwelling unit or the dwelling unit itself or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief.

5. Any local legislative body may adopt local laws and any agency, officer or public body may prescribe rules and regulations with respect to the continued occupancy by tenants of dwelling units which are subject to regulation as to rentals and continued occupancy pursuant to law, provided that in the event that any such local law, rule or regulation shall be inconsistent with the provisions of this section, the provisions of this section shall control.

6. Any provision of a lease or other rental agreement which purports to waive a tenant's rights under this section or rules and regulations promulgated pursuant hereto shall be void as contrary to public policy.

7. The provisions of this section shall only be applicable in the city of New York.

ESCROW AGREEMENT

AGREEMENT made this 8th day of December, 2005, between **81ST AND 3RD OWNER LLC** having an address at 61 Broadway, Suite 1407, New York, New York 10006 ("Sponsor") as holder of unsold shares under the plan and **WACHTEL & MASYSR, LLP** having an office at 110 East 59th Street, New York, New York 10022, ("Escrow Agent") as escrow agent.

WHEREAS, Sponsor is the sponsor an plan to convert to cooperative/condominium ownership the premises located at 1438 Third Avenue; and

WHEREAS, Escrow Agent is authorized to act as an escrow agent hereunder in accordance with General Business Law ("GBL") Section 352-e(2-b) and the Attorney General's regulations promulgated thereunder; and

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

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

1. ESTABLISHMENT OF THE ESCROW ACCOUNT.

1.1 Sponsor and Escrow Agent hereby establish an escrow account with Escrow Agent for the purpose of holding deposits or payments made by purchasers or subscribers. The escrow account has been opened with Citibank, N.A., 153 East 53rd Street, New York, NY 10022. The account number is [to be obtained when account opened].

1.2 The name of the account is Wachtel & Masyr, LLP 1438 Third Avenue Escrow Account.

1.3 Eli D. Dweck, Morris Missry, Eric Zipkowitz and Lauren Durbal are the signatories on the account.

1.4 The escrow account shall be an interest-bearing account as disclosed in the Plan.

1.5 The escrow account is not an IOLA established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

2.1 All funds received from prospective purchasers or subscribers prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be deposited in the escrow account. All instruments to be deposited into the escrow account shall be made payable to, or endorsed by the purchaser or subscriber to the order of Wachtel & Masyr, LLP, as escrow agent. Any instrument payable or endorsed other than as required hereby, and which cannot be deposited into such escrow account, shall be returned to the prospective purchaser or subscriber promptly, but in no event more than five business days following receipt of such instrument by Escrow Agent. In the event of such return of funds, the instrument shall be deemed not to have been delivered to Escrow Agent pursuant to the terms of this Agreement.

2.2 Within ten (10) business days after tender of the deposit submitted with the subscription of purchase agreement, (unless otherwise requested by the purchaser), Escrow Agent shall notify the purchaser of the deposit of such funds in the bank indicated in the plan and provide the account number. If the

purchaser does not receive notification of such deposit within fifteen (15) business days after tender of the deposit, the purchaser may cancel the purchase and rescind within ninety (90) days after tender of the deposit, or may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with the Attorney General's regulations and requisite notice was timely mailed to the subscriber or purchaser. A deposit shall be deemed "tendered": (i) if the check is post-dated, on the date written on the check; (ii) if the check is submitted by mail, five days after the mailing is post-marked; and (iii) if the check is submitted together with a Contract of Sale which has been altered by the purchaser, on the date on which modifications are agreed to by all parties.

3. RELEASE OF FUNDS.

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

3.2 Escrow Agent shall continue to hold the funds in escrow until otherwise directed in (a) a writing signed by both Sponsor and purchaser (the provision of the Contract of Sale authorizing release at the closing is sufficient for this purpose) or (b) a determination of the Attorney General or (c) a judgment or order of a court of competent jurisdiction or (d) a writing signed by the Sponsor pursuant to the provisions of paragraph 3.4 or (e) until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds.

3.3 Sponsor shall not object to the release of the escrowed funds to a purchaser who timely rescinds in accordance with an offer of rescission contained in the plan or an amendment to the plan.

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

4. RECORDKEEPING.

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

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

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

5. GENERAL OBLIGATIONS OF ESCROW AGENT.

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

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

6. RESPONSIBILITIES OF SPONSOR.

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

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

7. RESPONSIBILITIES OF ESCROW AGENT.

7.1 Escrow Agent is acting as an accommodation to the Sponsor and shall not be liable for any action taken or omitted hereunder except for its gross negligence or willful misconduct. Escrow Agent shall incur no liability with respect to any action taken or suffered by it in reliance upon any notice, direction, instruction, consent, statement or other paper or document reasonably believed by it to be genuine.

7.2 Escrow Agent shall not be bound by any modification, cancellation or rescission of this Agreement unless it is in writing and signed by both parties and delivered to it.

7.3 The Sponsor agrees to indemnify and hold Escrow Agent harmless from any liability, obligation, damage, claim, penalty, cost and expense, including reasonable attorneys fees (either paid to retain attorneys or representing the fair value of legal services rendered by Escrow Agent to itself) and disbursements, incurred by it by reason of this Agreement and the actions contemplated herein, except for Escrow Agent's gross negligence or willful misconduct.

7.4 Escrow Agent shall not be liable or responsible for the collecting of any check deposited into an account under its supervision and will not be liable for the amount of interest earned or collected on the funds in the escrow account or for any losses resulting from the failure of the institution holding the escrow funds. The escrowed funds will be maintained in an account insured by the Federal Deposit Insurance Corporation and subject to the rules and regulations governing such accounts.

7.5 Escrow Agent may act only upon instructions from either party to this Agreement or their attorney, or in the event of a dispute, upon the instructions of the Attorney General or a court of competent jurisdiction. In the event Escrow Agent is uncertain as to Escrow Agent's duties or doubts the genuineness of any document or signature, Escrow Agent may refrain from taking any action and continue to hold the escrowed funds and interest until the uncertainty or genuineness is resolved or deposit them (or the amount in question) in a court of competent jurisdiction.

7.6 Except for such obligations imposed by Section 352-e-(2-b) and 352(h) of the General Business Law of the State of New York, Escrow Agent is acting as a stakeholder only with respect to the escrowed funds. Upon payment of funds in accordance with the terms of this Agreement and the Plan, the Escrow Agent will be discharged from liability by the Sponsor of Escrow Agent's obligations under this Agreement and the Plan, and will be discharged by the Purchaser as to compliance with requirements under the Attorney General's regulations.

7.7 Escrow Agent may represent the Sponsor in the event of any dispute or lawsuit, whether or not related to the escrowed funds or a purchase agreement with a Purchaser.

8. TERMINATION OF AGREEMENT.

8.1 This Agreement shall remain in effect unless and until it is canceled, by either:

- (a) Written notice given by Sponsor to Escrow Agent of cancellation of designation of Escrow Agent to act in said capacity, which cancellation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor Escrow Agent; or
- (b) The resignation of Escrow Agent upon giving notice to Sponsor of its desire to so resign, which resignation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor Escrow Agent; or
- (c) All shares of units offered pursuant to the plan have been sold and all sales transactions have been consummated.

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

9. SUCCESSORS AND ASSIGNS.

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

10. GOVERNING LAW.

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

11. ESCROW AGENT'S COMPENSATION.

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

12. SEVERABILITY.

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

13. ENTIRE AGREEMENT.

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

14. CHANGES AND WAIVERS.

14.1 The provisions of this Agreement may be changed or waived only in writing signed by the party to be charged, except the escrow and trust fund requirements of the Attorney General's regulations may not

be changed or waived.

14.2 The failure to insist on strict performance of any provision will not mean that the provision has been waived or that the right to insist thereafter on strict performance of that or any other provision has been waived.

15. NOTICES.

15.1 Unless otherwise specifically provided for herein, any notice, demand or other communication (collectively called "notice") to be given or made under this Agreement shall be in writing and either delivered by hand or sent by telecopier, overnight delivery or by registered or certified mail, return receipt requested, postage prepaid.

15.2 Each notice is to be sent to the parties at their respective addresses stated on page 1 of this Agreement. A notice to a Purchaser shall be sent to Purchaser's address for notices in the purchase agreement. Each party may change the address to which, or person to whom, notices are to be sent by sending written notice to the other of such change.

15.3 Unless otherwise provided in this Agreement, each notice will be considered given on the date delivered by hand or sent by telecopier, or the following business day if sent by overnight delivery or the third business day following the date of mailing in any branch, station or depository maintained by the United States Postal Service. However, a notice of a change of address or person will be not be deemed given until received.

15.4 Failure to accept a notice if deemed receipt of its and does not invalidate the notice or excuse the performance of any obligation.

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

ESCROW AGENT: **WACHTEL & MASYS, LLP**

By: _____ /s/
Eli Dweck, Member

SPONSOR:

81ST AND 3RD OWNER LLC

By: 81st And 3rd Investors LLC, managing member
By: BSD Third LLC, managing member

By: _____ /s/
Raymond Chalmé, Member

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CERTIFICATION OF SPONSOR AND PRINCIPALS

Re: THE 1438 THIRD AVENUE CONDOMINIUM
1438 Third Avenue
New York, NY 10028

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

We are the sponsor and the principals of sponsor of the condominium 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 Department of Law in Part 23 and such other laws and regulations as may be applicable.

We have read the entire plan. We have investigated the facts set forth in the plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the plan does, and that documents submitted hereafter by us which amend or supplement the 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 I/we:
 - (a) knew the truth;
 - (b) with reasonable effort could have known the truth;
 - (c) made no reasonable effort to ascertain the truth; or
 - (d) did not have knowledge concerning the representation or statement made.

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

SPONSOR:

81ST AND 3RD OWNER LLC

By: 81st And 3rd Investors LLC,
managing member

By: BSD Third LLC,
managing member

By: 
Raymond Chalmé, Member

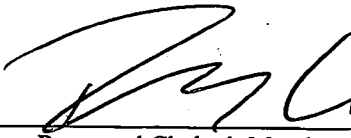
PRINCIPALS:

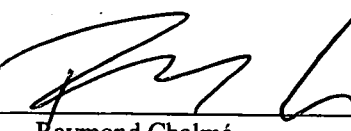
81ST AND 3RD INVESTORS LLC

By: BSD Third LLC, managing member

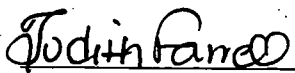
By: 
Raymond Chalmé, Member

BSD THIRD LLC

By: 
Raymond Chalmé, Member


Raymond Chalmé

Sworn to before me this 21st
day of August, 2006.


Notary Public

JUDITH FARRELL
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01FA6116052
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES AUGUST 20, 2008 

ARCHITECTURE
PLANNING
INTERIOR DESIGN

PRINCIPALS
Alfredo G. Carballude, R.A.
Michele H. Morris, R.A.

CERTIFICATION OF SPONSOR'S ARCHITECT

July 20, 2006

Investment Protection Bureau
New York State Department of Law
120 Broadway
New York, New York 10271

Re: 1438 THIRD AVENUE CONDOMINIUM
1438 THIRD AVENUE
New York, NY 10028

The Sponsor of the plan to convert the captioned property to condominium ownership retained our firm to prepare a report disclosing the condition of the property (the "Report"). We visually inspected the property on during the months of August, September & October 2005 and prepared the Report dated July 20th, 2006, a copy of which is intended to be incorporated into the 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 Department of Law in Part 23 insofar as they are applicable to this Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it and conducted the visual inspection referred to above with due diligence in order to form a basis for this certification. We certify that the report and all documents prepared by us disclose all the material facts which were then discernible from a visual inspection of the property. This certification is made for the benefit of all persons to whom this offer is made. We certify that the Report based on our visual inspection:

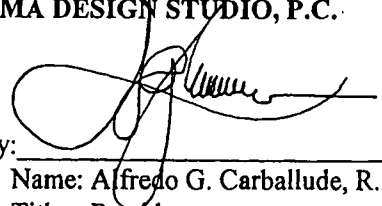
- (i) sets forth in narrative form the physical condition of the entire property and is current and accurate as of the date of inspection;
- (ii) in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition of the property;
- (iii) does not omit any material fact;
- (iv) does not contain any untrue statement of a material fact;

- (v) does not contain any fraud, deception, concealment, or suppression;
- (vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) does not contain any representation or statement which is false, where we:
 - (a) knew the truth;
 - (b) with reasonable effort could have known the truth;
 - (c) made no reasonable effort to ascertain the truth; or
 - (d) did not have knowledge concerning the representation or statement made.
- (viii) It is to be understood that all aspects of the physical condition of the property cannot be determined by a visual inspection and that all statements contained in this certification are premised on and limited to such visual inspection.

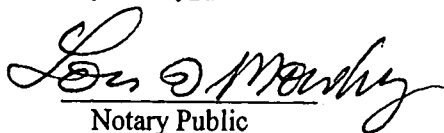
We further certify that we are not owned or controlled by and have no beneficial interest in sponsor and that our compensation for preparing this Report is not contingent on the conversion of the property to a condominium or on the profitability or price of the offering. This statement is not intended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



CMA DESIGN STUDIO, P.C.

By: 
Name: Alfredo G. Carballude, R.A.
Title: President

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


Notary Public

LOIS J. MAWBY
Notary Public, State of New York
No. 01MA4910054
Qualified in New York County
Commission Expires October 26, 2029

CERTIFICATION OF SPONSOR'S EXPERT CONCERNING
ADEQUACY OF BUDGET

Re: THE 1438 THIRD AVENUE CONDOMINIUM
1438 Third Avenue
New York, NY 10028

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

The sponsor of the condominium plan for the captioned property retained our firm to review or prepare Schedule B and the footnotes thereto containing projections of income and expenses of the Condominium for the first year of operation. Our experience in this field includes the management of 240 cooperatives, condominiums, and rentals throughout the New York metropolitan area for over fifteen years.

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

We have reviewed the Schedule and investigated the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential buildings.

We certify that the projections in Schedule B appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses for the projected first year of condominium operation.

We certify that Schedule B:

- (i) sets forth in detail the projected income and expenses for the first year of condominium operation;
- (ii) affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of condominium operation;
- (iii) does not omit any material fact;
- (iv) does not contain any untrue statement of a material fact;
- (v) does not contain any fraud, deception, concealment, or suppression;
- (vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) does not contain any representation or statement which is false, where we:
 - (a) knew the truth;
 - (b) with reasonable effort could have known the truth;

- (c) made no reasonable effort to ascertain the truth; or
- (d) did not have knowledge concerning the representation or statement made.

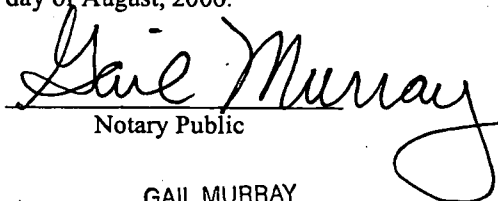
We further certify that we are not owned or controlled by the sponsor. We understand that a copy of this certification is intended to be incorporated into the plan. This statement is not intended as a guarantee or warranty of the income and expenses for the first year of condominium operation.

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.

**By: Residential Management Group, LLC
d/b/a Douglas Elliman Property Management**

By: _____

Sworn to before me this 17
day of August, 2006.



Notary Public

GAIL MURRAY
Notary Public, State of New York
No. 01MU4832220
Qualified in New York County
Commission Expires Sept. 4, 2009

CERTIFICATION OF SPONSOR'S EXPERT CONCERNING
ADEQUACY OF COMMON CHARGES PAYABLE
BY THE COMMERCIAL UNIT OWNER(S)

Re: THE 1438 THIRD AVENUE CONDOMINIUM
1438 Third Avenue
New York, NY 10028

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

The sponsor of the condominium plan for the captioned property retained our firm to review or prepare Schedule B which includes projections of common charges payable by the owners of the commercial unit(s). Our experience in this field includes the management of 240 cooperatives, condominiums, and rentals throughout the New York metropolitan area for over fifteen years.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 23 insofar as they are applicable to the commercial unit(s) listed in Schedule B.

We have reviewed the Schedule as it impacts upon the commercial unit(s) and investigated the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential buildings.

We certify that the projections in Schedule B for common charges payable by the owners of commercial unit(s) appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributable to such commercial unit(s) for the projected first year of condominium operation, and that the allocation of common charges attributable to the commercial unit(s) also reflects special or exclusive use or availability or exclusive control of particular common areas.

We certify that the estimates in Schedule B for the common charges payable by the owners of the commercial unit(s):

- (i) set forth in detail the projected common charges for the commercial unit(s) for the first year of condominium operation;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owners of the commercial unit(s);
- (iii) do not omit any material fact;
- (iv) do not contain any untrue statement of a material fact;
- (v) do not contain any fraud, deception, concealment, or suppression;
- (vi) do not contain any promise or representation as to the future which is beyond reasonable expectation

or unwarranted by existing circumstances;

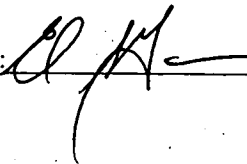
(vii) do not contain any representation or statement which is false, where we:

- (a) knew the truth;
- (b) with reasonable effort could have known the truth;
- (c) made no reasonable effort to ascertain the truth; or
- (d) did not have knowledge concerning the representation or statement made.

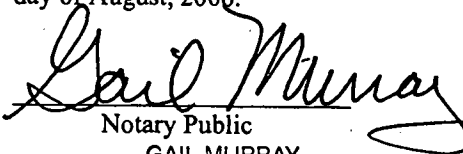
We further certify that we are not owned or controlled by the sponsor. We understand that a copy of this certification is intended to be incorporated into the plan. This statement is not intended as a guarantee or warranty of the common charges attributable to the commercial unit(s) for the first year of condominium operation.

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.

**By: Residential Management Group, LLC
d/b/a Douglas Elliman Property Management**

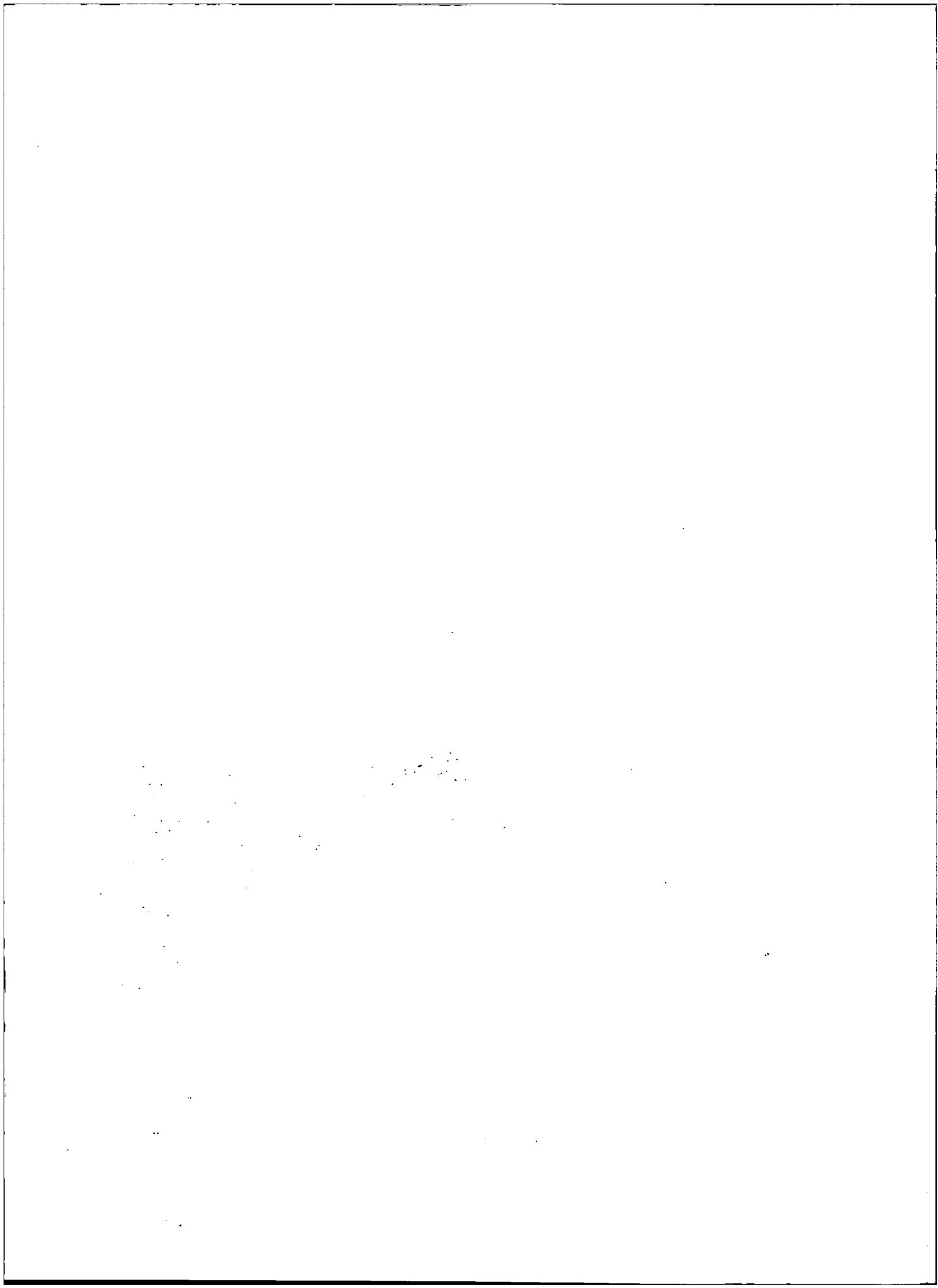
By:  _____

Sworn to before me this 17
day of August, 2006.



Notary Public

GAIL MURRAY
Notary Public, State of New York
No. 01MU4832220
Qualified in New York County
Commission Expires Sept. 4, 2009



COUNSEL PRESS
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(203042)