

Port West Properties, Inc.
921 SW Washington St., Suite 777
Portland, OR 97205

DECLARATION
SUBMITTING
CAPITOL HILL CONDOMINIUMS
TO CONDOMINIUM OWNERSHIP

Filed by:

Port West Properties, Inc.,
an Oregon corporation

THIS DECLARATION, pursuant to the provisions of the Oregon Condominium Act, is made and executed as hereinafter set forth by PORT WEST PROPERTIES, INC., an Oregon corporation, hereinafter called "Declarant".

Declarant proposes to create condominiums to be known as Capitol Hill Condominiums, which will be located in the City of Portland, Multnomah County, Oregon. The purpose of this Declaration is to submit Capitol Hill Condominiums to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act. The condominiums will be used for residential purposes.

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **Definitions.** When used herein the following terms shall have the following meanings:

1.1 "By-Laws" means the By-Laws of the Association of Unit Owners of Capitol Hill Condominiums adopted pursuant to Section 12 below and as the same may be amended from time to time.

1.2 "Declarant" means **Port West Properties, Inc., an Oregon corporation, and its successors and assigns.**

1.3 "Plans" means the plat or site plan and floor plans of Capitol Hill Condominiums, recorded simultaneously with this Declaration.

1.4 "Incorporation by Reference". Except as otherwise provided in the Declaration, each of the terms defined in the ORS 100.005, a part of the Oregon Condominium Act, shall have the meanings set forth in such section.

2. **Property Submitted** The property submitted to the Oregon Condominium Act hereunder is held by Declarant under a purchase agreement with the fee owner and conveyed by Declarant and the fee owners in fee simple estate. The land submitted hereunder is located in Portland, Multnomah County, Oregon, and is more particularly described in Exhibit "A" hereto. Such property includes the land so described, all buildings, improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all personal property used in connection therewith.
3. **Name.** The name by which the property submitted hereunder shall be known as "Capitol Hill Condominiums".

4. Units.

4.1 General Description of Buildings. Capitol Hill Condominiums consist of four buildings. The buildings consist of thirty-eight units. They are of wood frame construction with wood exterior.

4.2 General Description Location and Designation of Units. The condominiums consist of a total of thirty-eight units. The dimensions, designation and location of each unit are shown in the plans recorded simultaneously herewith. A general description and the approximate square footage of each unit are shown on Exhibit "B" attached hereto.

4.3 Boundaries of Units. Each unit shall be bounded by the interior surfaces of its perimeter and bearing walls, floors, ceilings, windows and window frames, door and door frames, and trim, and shall include both the interior surfaces so described and the air space so encompassed. In addition, each unit shall include the outlet of any utility service lines, including water, sewerage, gas or electricity, and ventilating ducts, within the unit, but shall not include any part of such lines or ducts themselves.

5. **GENERAL COMMON ELEMENTS.** Each Unit will be entitled to an undivided percentage ownership interest in the common elements determined by the ratio which the area of the unit bears to the total area of all the units combined as shown on Exhibit "A" attached hereto and made a part hereof. The general common elements consist of the following:

5.1 The land, pathways, fences, grounds, parking lots, driveways, swimming pool and laundry room, if any.

5.2 Pipes, ducts, flues, chutes, conduits, wires and other utility installations to their outlets.

5.3 Roofs, foundations, bearing walls, perimeter walls, beams, columns and girders to the interior surfaces thereof.

5.4 Hallways, stairways, entrances and exits which are not part of the unit.

5.5 All other elements of the building and the property necessary or convenient to their existence, maintenance and safety, or normally in common use, except as may be expressly designated herein as part of a unit or a limited common element.

6. **Limited Common Elements.** The following shall constitute limited common elements, the use of which shall be restricted to the units to which they pertain.

6.1 All decks and enclosed patios attached to the lower units except for the outside exterior surfaces thereof.

7. Use of Property: Maintenance.

7.1 Each unit is to be used for residential purposes as described in the Bylaws. Additional limitations on use are contained in the Bylaws and the rules and regulations adopted pursuant to the Bylaws. Each unit owner shall be bound by each of the terms, conditions, limitations and provisions contained in such documents.

7.2 The necessary work to maintain, repair or replace the common elements shall be the responsibility of the Board of Directors of the Association and shall be carried out as provided in the Bylaws. If the mortgagee or beneficiary of any unit determines that the Board of Directors is not providing an adequate maintenance, repair and replacement program for the common elements, such mortgagee or beneficiary, at its option, may deliver a notice to the Board of Directors by delivering same to the registered agent, setting forth the particular defect which it believes exists in the maintenance, repair and replacement program. If the specified defects are not corrected within ninety (90) days subsequent to receipt of such notice, the mortgagee or beneficiary, upon written notice to the registered agent that it is exercising its proxy rights thereunder, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each unit on which it holds a mortgage or deed of trust on all business coming before such meeting, which proxy rights shall continue until the defects listed on the notice are corrected.

8. Common Profits and Expenses: Voting

8.1 The common profits derived from and the common expenses of the common elements shall generally be distributed and charged to the owner of each unit according to the percentage of undivided interest of such unit in the common elements as determined by the ratio which the unit bears to the total area of all the units combined as shown in Exhibit "B" attached hereto and made a part hereof, except legal/accounting, garbage and common element area maintenance will be charged equally to units. Original purchasers of the units will be required to pay one hundred dollars (\$100.00) each as a reserve toward expenses. In addition, subsequent purchasers will be required to pay one hundred dollars (\$100.00) each as a reserve for capital improvements plus a monthly fee to capital improvements and to maintenance thereafter, the specific amount of which is to be determined by the Board.

8.2 Each unit owner shall be entitled to one vote in the affairs of the Association of unit owners for each unit owned by him/her. "Majority," or "majority of unit owners", as used in this Declaration or in the By-Laws, shall mean the owners of more than fifty percent (50%) of the then-existing units of the condominium.

9. Service of Process. The name of the person to receive service of process is named in the Condominium Information Report which will be filed with the Secretary of State in accordance with ORS 100.250

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 the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same, so long as the building stands, shall exist. In the event any building, unit, adjoining unit, or adjoining common element shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or of any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand.

11. Rights of Mortgagees and Beneficiaries. The prior written approval of seventy-five percent (75%) of the holders of first mortgages or beneficiaries of first deeds of trust on units in the condominium (based upon one vote for each first mortgage or deed of trust owned) must be obtained for the following:

11.1 Abandonment or termination of the condominium regime:

11.2 Except as provided in Section 13.1, any change in the prorated interest or obligations of any individual unit for (a) the purpose of levying assessments or charges of allocating awards, or (b) determining the prorated share of ownership of each unit in the common elements;

11.3 Partition or subdivision of any unit;

11.4 Abandonment, partition, subdivision, encumbrances, sale or transfer of the common elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause; or,

11.5 Use of hazard insurance proceeds for losses to any condominium property, whether to units or to common elements, for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the units and/or common elements of the condominium project.

12. Adoption of Bylaws. Appointment of Interim Board. and Designation of

Manager. Upon the execution and the filing of this Declaration, the Declarant shall adopt Bylaws for the Association of Unit Owners of Capitol Hill Condominiums, which By-laws are attached hereto as Exhibit "C" and are filed simultaneously herewith. At the same time, Declarant will appoint an interim Board of Directors of the Association, which directors shall serve until their successors have been elected as provided in the Bylaws. Such interim board of directors may appoint a manager or managing agent for the condominium on behalf of the association of unit owners, and such manager or managing agent shall have complete authority to assume full control and responsibility for the management, operation and maintenance of the condominium, at the expense of the association, from the date of its appointment. Each, unit owner shall be a member of the association. Notwithstanding any other provision of this section, any management agreement G;Other contract providing for services by Declarant shall provide for termination on ninety (90) days' written notice and shall have a maximum contract term of three (3) years.

13. Amendment.

13.1 Approval Required. Except as may otherwise be provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if such amendment is approved by seventy-five percent (75%) of the voting power of the unit owners. No amendment may change the size, location, percentage interest in the common elements, share of common profits or expenses, or voting power of any unit unless such amendment has been approved by the owners of the affected unit and the holders of any mortgage or trust deed on such unit. If required by law, any amendment to this Declaration shall be approved by the Real Estate Commissioner. Sections 11 and 7.2 may not be amended without the written consent of all holders of first mortgages and beneficiaries of first deeds of trust on units in the condominium project.

13.2 Recordation. The amendment shall be effective upon recordation of the Declaration as amended or of the amendment thereto, certified to by the chairman and secretary of the Association and approved by the County Assessor and the Real Estate Commissioner, in the Deed Records of Multnomah County.

14. Association Powers. The Association shall have those powers granted under the Bylaws and the Oregon Condominium Act and subject to ORS 100.405(6), shall have the authority to execute, acknowledge, deliver and record on behalf of the unit owners leases, easements, rights of way, licenses and other similar interests affecting the general common elements.

15. Severability. The determination of invalidity, by any court, of any provision or restriction imposed by this Declaration or the Bylaws, or of any provision or restriction thereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the Bylaws, and all of the terms thereof shall be severable.

Exhibit "A"

Capitol Hill Condominiums

Declaration

LEGAL DESCRIPTION

The premises are in Multnomah County, and are described as follows:

- Situated in the Northwest quarter of Section 21, Township 1 South, Range 1 East, Willamette Meridian, City of Portland, Multnomah County, Oregon, and being more particularly described as follows:
- BEGINNING at a found 3/4-inch iron pipe located at die Southwest corner of that tract of land as described in a Deed of Trust recorded March 31,1987 in Book 1988, at Page 1778, Multnomah County records, said 3/4-inch iron pipe bears North 00 00'00" East, 761.50 feet from a found 4-1/2-inch brass disc at the Northwest corner of the Thomas E. Northropp Donation Land Claim. I held the found 3/4-inch iron pipe as the Initial Point and point of beginning. Thence from said point of beginning, North 00 00'00" East, 404.41 feet; thence South 89 20 W East, 189.22 feet to the Westerly line of vacated Capitol Hill Road as called for in Vacation Ordinance No. 127822, recorded December 9,1968; thence at a right angle to the Westerly line of S. W. Bertha Boulevard as now located North 69 02'53" East, 40.00 feet to the Westerly line of S.W. Bertha Boulevard; thence along the Westerly line of said S.W. Bertha Boulevard South 20 57'07" East, 173.85 feet to the intersection of the Westerly line of S.W. Capitol Hill Road; thence along the Westerly line of said S.W. Capitol Hill Road South 14 13'53" West, 264.79 feet to the Southwest corner of said Deed of Trust recorded March 31,1987 in Book 1988 at Page 1778; thence along the South line of said Deed of Trust, North 89 29'00" West, 223.65 feet to the initial Point and point of beginning.

| <u>Unit</u> | <u>Sq. Ft.</u> | <u>% of Total</u> | <u>ption/Type</u> |
|-------------|----------------|-------------------|-------------------|
| <u>1</u> | <u>1060</u> | <u>2.684</u> | <u>2/1 L</u> |
| <u>2</u> | <u>1056</u> | <u>2.674</u> | <u>2/1 L</u> |
| <u>3</u> | <u>1060</u> | <u>2.684</u> | <u>2/1 L</u> |
| <u>4</u> | <u>1056</u> | <u>2.674</u> | <u>2/1 L</u> |
| <u>5</u> | <u>1060</u> | <u>2.684</u> | <u>2/1 U</u> |
| <u>6</u> | <u>1056</u> | <u>2.674</u> | <u>2/1 U</u> |
| <u>7</u> | <u>1060</u> | <u>2.684</u> | <u>2/1 U</u> |
| <u>8</u> | <u>1056</u> | <u>2.674</u> | <u>2/1 U</u> |
| <u>9</u> | <u>1362</u> | <u>3.449</u> | <u>3/2 L</u> |
| <u>10</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 L</u> |
| <u>11</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 L</u> |
| <u>12</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 L</u> |
| <u>13</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 L</u> |
| <u>14</u> | <u>1362</u> | <u>3.449</u> | <u>3/2 L</u> |
| <u>15</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 U</u> |
| <u>16</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 U</u> |
| <u>17</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 U</u> |
| <u>18</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 U</u> |
| <u>19</u> | <u>1362</u> | <u>3.449</u> | <u>3/2 L</u> |
| <u>20</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 L</u> |
| <u>21</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 L</u> |
| <u>22</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 L</u> |
| <u>23</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 L</u> |
| <u>24</u> | <u>1362</u> | <u>3.449</u> | <u>3/2 U</u> |
| <u>25</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 U</u> |
| <u>26</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 U</u> |
| <u>27</u> | <u>1059</u> | <u>2.682</u> | <u>2/1 U</u> |
| <u>28</u> | <u>1055</u> | <u>2.671</u> | <u>2/1 U</u> |
| <u>29</u> | <u>1362</u> | <u>3.449</u> | <u>3/1 L</u> |
| <u>30</u> | <u>674</u> | <u>1.706</u> | <u>1/1 L</u> |
| <u>31</u> | <u>670</u> | <u>1.696</u> | <u>1/1 L</u> |
| <u>32</u> | <u>823</u> | <u>2.083</u> | <u>1/1 L</u> |

33 806 2.040 1/1 L

34 1362 3.449 3/1 U

35 674 1.706 1/1 U

36 670 1.696 1/1 U

37 823 2.083 1/1 U

38 806 2.040 1/1 U
