

THIS IS NOT
A BILL

THIS IS YOUR
RECEIPT

MONROE COUNTY CLERK'S OFFICE
COUNTY CLERK'S RECORDING PAGE

Return To:

MARK IV CONSTRUCTION CO INC
301 EXCHANGE BLVD
ROCHESTER NY 14608

Index DEEDS
Book 08554 Page 0216
No. Pages 0012
Instrument DECL CVNTS COND

MARK IV CONSTRUCTION CO INC
CANALSIDE HOMEOWNERS ASSOCIATI
MARK IV CONSTRUCTION CO INC
CANALSIDE HOMEOWNERS ASSOCIATI

MORTGAGE TAX

FILE FEE S 4.75
FILE FEE C 11.25
REC FEE 36.00
.00
.00
.00
.00
.00
.00

Serial #
City/Town \$.00
S.M.A. \$.00
Trans. Auth. \$.00
Total \$.00

Total: \$ 52.00

STATE OF NEW YORK
MONROE COUNTY CLERK'S OFFICE

TRANSFER TAX

Recorded on 12/02/1994 at 1:12:00

Book 08554 Page 0216 of DEEDS

Margaret R. DeFrancisco
County Clerk

Transfer Tax \$.00
Amount \$.00
Transfer Tax # 8146

D59
1/11/94

AMENDED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS, CHARGES AND LIENS
CANALSIDE TOWNHOUSES

This Amended Declaration is made this 11th day of NOVEMBER, 1994, by Mark IV Construction Co., Inc., with a mailing address of 301 Exchange Boulevard, Rochester, New York 14608.

Whereas, Mark IV Construction Co., Inc. is the Sponsor of Canalside Townhouses as established by a Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges, and Liens recorded in the Monroe County Clerk's Office on August 29, 1990 in Liber 7987 of Deeds at page 95, hereinafter referred to as the "Declaration", and

Whereas, the Declaration declared that certain real property described therein was subject to a uniform plan of protective covenants, conditions, restrictions, easements, charges and liens, and

Whereas, the Sponsor pursuant to the Declaration and the relevant constituent documents of Canalside Homeowners Association, Inc., is empowered to execute and record this Amended Declaration.

Now therefore, the Sponsor, for itself, its successors and assigns, declares that the real property described in Schedule A attached hereto and made a part hereof, is and shall be held, subject to the terms and conditions of the original Declaration, as amended hereby.

Article IV, Section 4.13, entitled Erie Canal Dockage is hereby incorporated into the Property Rights and Easements Section.

ERIE CANAL DOCKAGE

The New York State Department of Transportation, hereinafter referred to as "DOT", has granted the Sponsor a permit for the construction of a concrete retaining wall which shall serve as Dockage for one or more of the Lot Owners in Canalside Townhomes.

A Use and Occupancy Permit will be issued by DOT to the Association. The Use and Occupancy Permit shall specify that boats maybe moored for seasonal use only, parallel to and immediately adjacent to the concrete retaining wall. The concrete retaining wall, the widened area of the Erie Canal adjacent to the wall, the stone bed of the widened area adjacent

RECORD AND RETURN TO: MARK IV CONSTRUCTION CO. INC.
301 EXCHANGE BOULEVARD
ROCHESTER, NY 14608

MONROE COUNTY CLERK
94 DEC 2 PM 1:25
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to the wall, together with appurtenances for mooring boats, painted messages as required by DOT, and buoys and anchorages required by DOT, shall be hereinafter referred to as "Dockage". As initial holder of the Use and Occupancy Permit, the Association shall be responsible for enforcing all applicable rules and regulations of the DOT pertaining to the Dockage.

The Sponsor may elect to construct Dockage, if in Sponsor's sole discretion and opinion, there exists sufficient market demand. Construction of Dockage shall be at the Sponsor's sole cost and expense. Dockage may be constructed in two (2) phases of 250 lineal feet each. No warranty, representation or guarantee is made that the Sponsor will construct each phase of Dockage. The Sponsor has completed the construction of Phase I of the Dockage. If Sponsor determines not to construct Phase II Dockage, the Association may undertake to construct Phase II, subject to the approval of two-thirds of the Lot Owners of the Association. In such event all costs and expenses of Dockage development shall be assessed as a special assessment of those Lot Owners who will be the owners of the Dockage to be constructed. The Sponsor agrees to make available at no cost to the Association, the construction documents utilized for Phase I construction. DOT may require a new Canal Work Permit, and New Environmental Analysis and construction documents may also be required.

The Sponsor is offering rights to use Dockage, hereafter "Dockage Rights" to any Lot Owner in Canalside Townhomes. To evidence the Sponsor's and/or Lot Owners Dockage Rights, the Association and, thereafter, the Sponsor shall execute and deliver a Dockage Agreement in the form attached as Exhibit A. The holder of the Dockage Agreement may record the form in the Monroe County Clerk's Office at his expense. The purchase price of the Dockage Rights shall be determined by the Sponsor in its sole and absolute discretion.

The Association will assign its rights under the Use and Occupancy Permit to the Sponsor, who will hold all rights under the permit and offer those rights to Lot Owners, hereinafter "Dockage Rights". Upon receipt of the Use and Occupancy Permit, Sponsor will notify each existing Lot Owner of the availability of Dockage Rights on a first come first serve basis in the order that their Lots were purchased. If after ten (10) days, the Lot Owner does not elect to purchase Dockage Rights, the option to purchase shall lapse, and the Sponsor shall offer Dockage Rights to the next Lot Owner, and eventually to prospective Lot Owners. Any portion of the Dockage not purchased from Sponsor shall remain the property of the Sponsor, and will be available for purchase by any Lot Owner until all Dockage is sold by Sponsor.

The Sponsor as builder of the Dockage shall own all Dockage Rights, and will offer Dockage Rights on a first come first serve basis. Dockage Rights will be sold on a lineal footage basis, with a minimum of 20 contiguous feet per Lot Owner. The Sponsor will use its best efforts to allocate Dockage in such a manner as to minimize the distance from the Dockage location to the Owner's Lot.

Use of Dockage shall at all times be limited to boats belonging to the resident of a Lot in Canalside Townhomes. Dockage Rights purchased from Sponsor shall be sold and conveyed with the Lot upon each and every transfer thereafter. Dockage Rights shall not be sold or conveyed independent of Lot ownership, except for the Sponsor.

Individual Lot Owners who purchase Dockage Rights will be assigned specific lineal footage or space along the Dockage Wall for their exclusive use. The assignment will be made by the managing agent of the Association. The managing agent shall be responsible for maintaining accurate records of the location of each of the assigned Dockage Rights, and furnishing the information to the DOT Region 4 Regional Waterways Engineer prior to the annual filling of the Erie Canal by DOT. Each Lot Owner with Dockage Rights shall have the responsibility to strictly comply with the rules and regulations of DOT for the use of the Dockage, and it shall be the responsibility of the Association to annually review the rules and regulations with DOT, and make the rules and regulations available to the Lot Owners with Dockage Rights.

The State of New York may terminate the Use and Occupancy Permit upon thirty (30) days notice to the Association, with or without cause. The Association shall forward all complaints concerning use of Dockage to the apparent or suspected Lot Owner whose action may be cited in a notice and order of complaint by DOT. In the event that a Lot Owner does not promptly comply with any notice and order by the DOT, the managing agent and/or the Association shall be empowered to pursue all legal remedies deemed necessary and/or appropriate to obtain and insure enforcement and compliance with the DOT rules and regulations, orders and requests.

The managing agent shall keep a separate account of all time and material expended on Dockage matters and individual cases of enforcement of Dockage regulations. The cost of enforcement by the Association of DOT rules and regulations, orders and requests concerning Dockage, including the managing agent's expense, and reasonable legal fees and court costs, shall be assessable against the individual Lot Owner as a special assessment, said expense being a special assessment shall be a lien against the Lot and enforceable as set forth in the Declaration.

The Dockage facilities shall be maintained by the Association at the expense of those Lot Owner's with Dockage Rights, excluding the Sponsor. The expense of maintenance of Dockage facilities shall be a special assessment assessed against only those Lot Owners who have purchased Dockage Rights, excluding the Sponsor. The following responsibilities of the Association have been established by the DOT Region 4 Regional Waterways Engineer:

a. Removal of silt on the canal bottom within the designated Dockage area, which extends approximately 30 feet into the canal, to the point at which the draft in the canal is approximately 12 feet.

b. Installation, maintenance, and seasonal removal of three (3) spar buoys, one fifty feet each side of the end of the wall as constructed, and one at the midpoint at 12 feet draft; and also one marine buoy at each end of the wall with "Shoal" lettered thereon and maintained in a readable condition.

c. At intervals of no less than 50 feet along the concrete retaining wall, readable lettering no less than 6 inches in height shall be maintained stating "4 foot 6 inch maximum draft".

d. The wall shall be maintained in sound structural condition. In the event of cracks, displacement, surface disfigurement or collapse, the wall shall be repaired or replaced in accordance with the New York State Construction Code, in accordance with plans and specifications prepared by a Licensed Professional Engineer, which shall be submitted to, and found acceptable by, the DOT. It may be necessary to obtain a Work Permit for any repair work, at the sole judgment of the DOT.

e. The surface area between the paved Canal Towpath and the Retaining Wall, and also that surface area between the paved Canal Towpath and the individual Townhouse Lots, shall be maintained as living grass, free of depressions or standing water. Grass shall be kept mowed so that grass taller than 6 inches shall be cut to a maximum of 3 inches within a seven day interval. The boundaries of grass maintenance shall be the entire canal frontage of all building Lots within Canalside Subdivision, being an extension of said boundary Lot lines to the canal edge. Trees and shrubs on the individual Townhouse Lots, adjacent to the Towpath, shall be pruned annually to assure that branches less than ten feet above ground level are no closer than three feet to the paved Canal Towpath.

f. Maintain at all times a Public Liability Insurance Policy in the amount of \$2,000,000 for risks associated with Dockage, with the People of the State of New York as "Additional Insured."

Dockage to be constructed by the Sponsor makes no provision for the availability or distribution of electricity, lighting, telephone, water, waste water, trash or debris collection or storage, fuel and oil. The Association, and individual Lot Owners with Dockage Rights, covenant that no wires, cables, hoses or other utilities shall be strung across or over the Towpath at any time. In the event that the Association or individual Lot Owners with Dockage Rights elect to install utilities to the Dockage, the Association or individual Lot Owners with Dockage Rights shall first install one or more conduits under the paved towpath for the purpose of conveying electricity, telephone and/or water to the Dockage. Specifically excluded from the Dockage are waste water, solid waste, trash and debris storage, fuel, oil, and engine service.

A layout sketch specifying the power, size and quantity and method of attachment and waterproofing of any such utility, shall be forwarded to the DOT Region 4 Regional Waterways Engineer prior to the installation of any utilities at or near the Dockage. The DOT Region 4 Regional Waterways Engineer shall determine if a work permit is required. If utilities are to be shared by or benefit all Dockage Rights owners, then the installation of the utilities shall be made by the Association at the expense of the Lot Owners with Dockage Rights, excluding the Sponsor. If a lesser number of Dockage Rights owners install utilities, the installation shall be in accordance with the preceding paragraph, and at the installing owners sole cost and expense, excluding the Sponsor.

In all cases, any installation shall be undertaken by a fully licensed plumber or electrician, as the case may be. Evidence of Workmen's Compensation Insurance shall be provided to the Association prior to the commencement of the work.

In the event of the dissolution or discontinuance of operations of the Association, those Lot Owners who own Dockage Rights shall automatically constitute an "Association for Dockage Maintenance and Operation", and the obligations set forth above shall continue in full force and effect without interruption, through January 1, 2020, and thereafter automatically continued and renewed until such time as the Erie Canal shall be discontinued, or the use thereof by recreational boaters is permanently curtailed. The cost of meeting the above obligations shall be a continuing obligation of the Owners of Dockage Rights and all the provisions of the Declaration with regard to funding

the costs and expenses of meeting the obligations shall remain in full force and effect.

In Witness Whereof, the undersigned being the sole parties required to vote to amend the Declaration, execute this Amended Declaration the date first above written.

Mark IV Construction, Co. Inc.

By: [Signature]
Anthony M. DiMarzo, President

Canalside Homeowners Association, Inc.

By: [Signature]
Anthony M. DiMarzo, President

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

On this 11th day of NOVEMBER, 1994, before me, the subscriber, personally appeared Anthony M. DiMarzo, to me known, who, being by me duly sworn, did depose and say that he resides in Rochester, that he is the President of Mark IV Construction Co. Inc., the corporation described in, and which executed the within Instrument, and that he signed his name thereto by order of the Board of Directors.

[Signature]
Notary Public
CHERYL M. FREUND
Notary Public, State of New York
Monroe County
Commission Expires December 31, 1995

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

On this 11th day of NOVEMBER, 1994, before me, the subscriber, personally appeared Anthony M. DiMarzo, to me known, who, being by me duly sworn, did depose and say that he resides in Rochester, that he is the President of Canalside Homeowners Association, Inc., the corporation described in, and which executed the within Instrument, and that he signed his name thereto by order of the Board of Directors.

[Signature]
Notary Public
CHERYL M. FREUND
Notary Public, State of New York
Monroe County
Commission Expires December 31, 1995

All that property situate in the Village of Fairport, Town of Perinton, Monroe County, New York, in and/or immediately adjacent to Canalside Townhouses, a map of said subdivision filed in the Monroe County Clerk's Office in Liber 256 of Maps, Pages 7 and 8, and being more particularly located immediately adjacent and parallel to a concrete retaining wall on the Erie Canal, North Bank near stations 1901-1895 +/-, being 0.31 acres together with beautification and two hundred and fifty (250) linear feet of said retaining wall for Dockage.

Intending to describe Dockage in Canalside Townhouses as set forth in a permit dated June 30, 1994, issued by the New York State Department of Transportation for.

SCHEDULE "A"

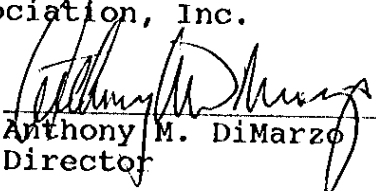
dock.doc

BOARD OF DIRECTORS
CANALSIDE HOMEOWNERS ASSOCIATION, INC.

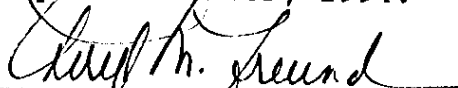
CERTIFICATION


The undersigned for and on behalf of Canalside Homeowners Association, Inc. ("Association") certifies that Mark IV Construction Co., Inc. ("Mark IV") is designated a Class B member of the Association being the only Class of Member at this time entitled to vote on Association matters pursuant to the Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens for the Association, such Declaration recorded on August 29, 1990 in the Monroe County Clerk's Office in Liber 7987 of Deeds, page 95, and the undersigned certifies further that any Association Member consent required for the foregoing Amendment to such Declaration with respect to Dockage has been received and filed with the Board of Directors of the Association.

Board of Directors
Canalside Homeowners
Association, Inc.

BY: 
Anthony M. DiMarzo
Director

Sworn to before me this 10th
day of November, 1994.


Notary Public

CHERYL M. FREUND
Notary Public, State of New York
Monroe County
Commission Expires December 31, 1995 

DOCKAGE AGREEMENT

THIS AGREEMENT, made this ___ day of _____, 1994, between

Mark IV Construction Co., Inc., a corporation organized under the laws of the State of New York with an office and principal place of business at 301 Exchange Boulevard, Rochester, New York 14608, hereinafter referred to as ("Seller") and

residing at ___ Landing View Lane, Fairport, New York 14450, hereinafter referred to as ("Purchaser")

WITNESSETH, the Seller, in consideration of _____ (\$_____), lawful money of the United States, paid by the Purchaser, does hereby transfer and convey to the Purchaser, distributees, and assigns, Dockage Rights at Canalside Townhouses Subdivision, situate in the Village of Fairport, Town of Perinton, Monroe County, State of New York, a map of Canalside Townhouses being filed in the Monroe County Clerk's Office in Liber ___ of Maps, Page _____. Purchaser's Dockage Rights to use Dockage in connection with Lot No. ___ of Canalside Townhouses are more fully described and identified on Schedule "A" herein and attached hereto and made a part hereof.

Dockage Rights are sold together with the appurtenances and all the estate and rights of the Seller in and to Canalside Townhouses Dockage described in a certain Dockage Purchase Agreement executed between Seller and Purchaser last dated _____, 199_. Dockage Rights purchased herein are conveyed with each and every subsequent transfer hereafter of Lot No. ___ of Canalside Townhouses.

This conveyance is made and accepted subject to and together with the burdens and benefits of the Declaration of Canalside Homeowners Association, Inc. (Association) as Amended, as recorded in the Monroe County Clerk's Office in Liber 7987 of Deeds, Page 95, and Liber ___ of Deeds, Page ____, provisions of the Dockage Agreement assigned by the Association to Seller and recorded in the Monroe County Clerk's Office in Liber ___ of Deeds, at Page ____, riparian rights of the public and all utility easements, easements, covenants and restrictions affecting said premises and Dockage Rights thereto, if any, and to the rules and regulations of the New York State Department of Transportation.

By acceptance of this Dockage Agreement, Purchaser covenants and agrees to abide by the terms and conditions of the Declaration of Canalside Homeowners Association, Inc., as Amended, as recorded in the Monroe County Clerk's Office in Liber ___, of Deeds, Page ____ .

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year first above written.

In Presence of:

Mark IV Construction Co., Inc.

By: _____
Anthony M. DiMarzo, Pres.

Purchaser

Purchaser

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On this ___ day of _____, 199_, before me, the subscriber, personally appeared Anthony M. DiMarzo, to me personally known, who being by me duly sworn, did depose and say that he resides in Pittsford, NY, that he is the President of Mark IV Construction Co., Inc., the corporation described in and which executed the within instrument, and that he signed his name thereto by an Order of the Board of Directors of said corporation.

Notary Public

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On ___ day of _____, 199_, before me, the subscriber, personally appeared _____ to me known, and known to me to be the person(s) described in, and who executed the within instrument, and _____ acknowledged to me that _____ executed the same.

Notary Public

All that property situated in the Village of Fairport, Town of Perinton, Monroe County, New York, described as Dockage Rights to _____ () linear feet along the concrete retaining wall on the Erie Canal, North Bank near Stations 1901 to 1895 +/-, to serve as Dockage in connection with Lot No. ___ of Canalside Townhouses, and being more particularly located ___ feet of the ___ terminus of said retaining wall and ___ feet of the ___ terminus of said retaining wall, and known and identified as Dock/Slip No. ___.

Intending to describe dockage in Canalside Townhouses.

Schedule "A"