

Post TO BE PICKED UP

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD  
DECLARATION OF CONDOMINIUM  
UNDER NORTH CAROLINA UNIT OWNERSHIP ACT  
OF  
MARKET CENTER TOWERS PHASE I  
HIGH POINT, NORTH CAROLINA

138762

THIS DECLARATION OF UNIT OWNERSHIP, made and executed this 1st day of June, 1980, by and between MARKET CENTER INVESTMENT COMPANY, a limited partnership of North Carolina, with its principal office and place of business in High Point, Guilford County, North Carolina, hereinafter referred to as Developer.

W I T N E S S E T H :

I.

ESTABLISHMENT OF CONDOMINIUM

Developer is the owner of the fee simple title to that certain real property situated in High Point Township, Guilford County, State of North Carolina, which property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and on a portion which property there has been constructed one six-story building containing a total of twenty-one (21) condominium units and their supporting facilities, areas designated for at least forty (40) parking spaces, and other appurtenant improvements. The building is of masonry exterior concrete construction without a basement. Developer does hereby submit the property described as Phase I, Exhibit "B", and improvements to condominium ownership under the provisions of Chapter 47A of the General Statutes of North Carolina (Unit Ownership Act), and hereby declares the same to be a condominium to be known and identified as "Market Center Towers." Hereinafter in this Declaration of Condominium, Market Center Towers is also referred to

as "Condominium." The initial six-story building will be Phase I.

II.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Annexed hereto and expressly made a part hereof as Exhibit "C" consisting of Sheets B-1, A-1, A-2, A-3, A-4, A-5, being a survey of the land and graphic descriptions and plans of the improvements constituting the Condominium, identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Condominium Unit is identified by specific numerical designation on said Sheets B-2, B-3, and B-4, and no Condominium Unit bears the same designation as any other Condominium Unit.

III.

The Phase I Area, which this declaration specifically covers and being submitted and declared to be a condominium to be known as Market Center Towers, Phase I, consists of that area of land on which a six-story building is constructed and located, plus 40 parking places, fronting approximately 133 feet on right-of-way of North Wrenn-Hamilton connector approximately 260 feet along East Ray Street with a depth of approximately 209 feet; specifically excluded from the declaration area is that land to the South of said Phase I six-story building, which is reserved for a future Phase II six-story building, and is also identified as Phase II area and is not a part of this Declaration.

Provided, the Homeowners Association of said Phase I shall have use of the Phase II area until such time as the Phase II six-story structure is planned and ready for construction. All real property taxes for said South Phase II area shall be paid by the Homeowners Association which shall also keep the said area reasonably maintained, grass mowed and aesthetically acceptable. Further,

the Phase II area is specifically not common area for the Phase I six-story building, title to which remains in the Developer.

Upon written notice by Developers to the Homeowners Association of the intention to commence construction, then the permission of use by unit owners to Phase II said area shall immediately cease and terminate. At that time the Developers intend to file an appropriate declaration, documentation and map, which shall set forth an accurate description of said Phase Two area and its common area.

Upon the completion of Phase Two, the common area of Phase One and Phase Two shall be common to unit owners of both Phase One and Phase Two structures and the percentage of common ownership shall be automatically adjusted accordingly and property taxes adjusted and allocated as by law provided.

It is understood and binding upon all grantees, note holders and their respective trustees with the increase of the size of the common area, upon Declaration of Phase II, the percentage of common area of each Phase I unit owner shall be automatically adjusted, which adjustment shall also be reflected on the Phase II Declaration. This right to automatically adjust the percentage of common area of each unit, upon Declaration of Phase II, is so retained in and by Developer and shall not require the release and/or joinder of any note holder, trustee, or beneficiary of any deed of trust executed by any unit owner and any deed of trust and note shall be subordinate and subject to the right of said adjustment. Grantees of each deed shall agree in writing to this provision which will be a part of each deed of conveyance.

If Phase Two construction is not completed on or before December 31, 1996, then the remaining real property, being the South Area known as Phase Two shall be declared or deeded by Developer as common area to the benefit and use of the then

owners of the units of Phase One building free of any claims of the Developer herein, and the heretofore described right retained to adjust the common area shall terminate. The Developers also retain the right of easement to the common area of Phase I for construction purposes, including for utility connections.

Notwithstanding anything to the contrary herein, the Developer unequivocally reserves the exclusive optional right (without obligation to so act) to construct and erect twenty-one additional units contained in said Phase Two, a similar six-story structure. The said right to construct and erect said building to include twenty-one additional units shall continue to run until December 31, 1996. If exercised, the interest in the common areas shall be automatically adjusted to the same ratio as the individual square footage of a unit bears to the total square footage of all the units built in Phase One and Phase Two. The Proportionate interest of the common areas is based on twenty-one (21) units being built.

The right is reserved to Developers to modify or change the floor plan of either Phase One or Phase Two buildings within the designated area for each unit or to combine two or more units into one unit prior to completion of construction.

Notwithstanding anything to the contrary herein, Developer reserves the right to maintain, use, remove, lease or rent the "Little Red School House" building on the property to tenant or tenants of their choice and receive the rent therefrom until such time as they may wish to remove same from the site or demolish same or until the second Phase Two structure is constructed or if Phase Two is not constructed by said December 31, 1996, then the Little Red School House, if still remaining on the site, shall be included in the Declaration or Deed of the property to the Market Center Towers Association.

IV.

UNIT DESIGNATIONS AND DEFINITIONS

The Condominium consists of Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined.

A. Condominium Units as the term is used herein shall mean and comprise the twenty-one (21) separate numerically identified Units.

The unit designation, its location, its approximate area, number of rooms, respective wall and ceiling ownerships, common areas to which it has access and manner of identification is set out on Sheets B-1, B-2, B-3, and B-4, hereto attached and is made a part of this paragraph and Declaration as if the same were herein fully set out.

B. Common Areas and Facilities shall mean and comprise all of the real property, improvements and facilities of the Condominium other than the Condominium Units and all personal property held and maintained for the use and enjoyment of all the Owners of Condominium Units. By way of illustration and not of limitation the elevators, stairways, and stoops of said building are Common Property.

The terms "Association of Unit Owners," "Building," "Common Areas and Facilities" (sometimes herein referred to as "Common Property"), "Common Expenses," "Common Profit," "Condominium," "Declaration," "Majority" or "Majority of Unit Owners," "Person," "Property," "Recordation," "Unit" or "Condominium Unit," "Unit Designation," and "Unit Owner," unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in Section 3 of Chapter 47A of the General Statutes of North Carolina, known as the Unit Ownership Act, as that statute exists as of the date of the filing of this Declaration.

V.

A description of the general common areas and facilities is shown on the map hereto attached Sheets B-1, B-2, B-3, and B-4. The proportionate interest of each unit owner is set out in Exhibit "E"; all of which exhibits are made a part of this paragraph and declaration as if the same were herein fully set out;

VI.

The name of the person to receive service of process in cases hereinafter provided shall be B. C. Fowler, 400 North Main Street, P. O. Box 1796, High Point, Guilford County, North Carolina, 27261.

VII.

Professional management of said units will be required, and the unit owners will pay their proportionate part which is to be set out in the By-Laws, Rules and Regulations;

VIII.

Each unit owner shall be entitled to an undivided interest in the common areas and facilities. The fair market value of each unit in proportionate to the aggregate fair market value of all the units is in the same proportionate ratio as the amount of square footage in each unit bears to the aggregate square footage of all units; therefore, the percentage of ownership of the common areas and facilities of each unit is shown on an exhibit hereto attached market Exhibit "E". The undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains, and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument;

IX.

The unit owners are bound to contribute prorata, in the percentage computed according to Chapter 47A-6 of the General Statutes of North Carolina, toward the

expenses of administration and of maintenance and repair of the general common areas and facilities, and in any other expense lawfully agreed upon. No unit owner may exempt himself from contributing toward such expense by waiver of the use or enjoyment of the common areas and facilities or by abandonment of the unit belonging to him;

X.

For the purpose of this declaration, the ownership of each unit space shall include the respective undivided interest in the common areas and facilities; the common areas and facilities shall be for the use of all the unit spaces;

XI.

The individual unit spaces hereby established, and which shall be individually conveyed by Developers are shown in the exhibits hereto attached, which plans have been prepared by Allred and Mercer, Architects, High Point, North Carolina; said plans fully and accurately depict not only the location of the building on the land, but also the layout, location, ceiling and floor elevations, unit numbers and dimensions of units either built or to be built and areas and locations of the common areas and facilities affording access to each unit;

XII.

Said developers, its successors and assigns, their heirs and assigns, by this declaration and all future owners of the units by acceptance of their deeds, covenant and agree as follows:

- a) That the "common areas and facilities" shall remain undivided; and no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the condominium;
- b) That the "unit spaces" shall be occupied and used by the respective owners only as a private dwelling for the owner, his family, tenants and social guests, employees or customers and for no other purpose except

one unit on the ground floor which may be used for residential, business, or professional purposes.

c) The owners of the respective "unit spaces" agree that if any portion of the "common areas and facilities" encroaches upon the "unit spaces", a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-unit structure is partially or totally destroyed, and then rebuilt, the owners of "unit spaces" agree that minor encroachment of parts of the "common areas and facilities" due to construction shall be permitted and that valid easement for said encroachment and the maintenance thereof shall exist;

d) That an owner of a "unit" shall automatically, upon becoming the owner of a "unit or units", be a member of the Association hereinafter referred to as the "Market Center Towers Association" and shall remain a member of said Association until such time as his ownership ceases for any reason, at which time his membership of said Association shall automatically cease;

e) That the owners of "units" covenant and agree that the administration of the condominium shall be in accordance with the provisions of this declaration, the By-Laws of the Association which are made a part hereof and attached, and such rules and regulations as may hereinafter be enacted pursuant to said By-Laws;

f) That each owner, tenant or occupant of a "unit" shall comply with the provisions of this declaration, the By-Laws, decisions and resolutions of the Association, as lawfully amended from time to time, and failure to comply with any of such provisions, decisions and resolutions of the Association, as lawfully amended from time to time, and failure to comply with any of such provisions, decisions or resolutions shall be grounds

for an action to recover sums due for damages or for injunctive relief, and shall pay all dues and assessments which may be levied in accordance with the rules and By-Laws of the Market Center Towers Association;

g) That this declaration shall not be revoked or any of the provisions herein amended unless a majority of the owners and a majority of the holders of mortgages agree to such revocation or amendment by duly recorded instruments;

h) That no owner of a "unit" may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities, or by the abandonment of his "unit";

#### XIII.

Developers agree to execute a deed for each unit which is sold.

Said deed to be in accordance with Chapter 47A-14 of the General Statutes of North Carolina;

Said deed to contain the percentage of undivided interest appertaining to the unit in the common areas and facilities;

Said deed to provide that each unit is for residential purposes only except one unit on the ground floor, known as 533 North Hamilton Street, which may be used for business, professional or residential purposes.

Said deed to state that the property being conveyed is free and clear of all liens and encumbrances, save and except easements and restrictions, Declaration and Rules and Regulations;

#### XIV.

Said Grantors, its successors and assigns, their heirs and assigns, by this Declaration and all future owners of the "units" by acceptance of a deed, covenant and agree that Section 47A-22 (liens for unpaid common expenses; recordation; priorities; foreclosure); Section 47A-24 (insurance on property; right to

insure units), and Section 47A-25 (damage to or destruction of property, repair or restoration; partition sale on resolution to restore) and their respective amendments of the General Statutes of North Carolina are hereby incorporated by reference and made a part of this Declaration;

XV.

That there is attached to this Declaration Certificate of Architect in accordance with Chapter 47A-15 of the General Statutes of North Carolina;

XVI.

The responsibility of the unit owners shall be as follows:

- a) To maintain, repair and replace at his expense all repairs to the unit, including doors and glass, save and except the portions to be maintained, repaired and replaced by the Association;
- b) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building;

XVII.

The Association shall be responsible and pay all cost with respect to maintaining and keeping in good order and repair all roofs, and all parts thereof, all outside walls, all exterior walls, all exterior painting, all walks, all paving, including streets, curbing, grass, shrubs and trees, and all repairs necessary to all of the common areas;

XVIII.

When this Declaration is recorded the appropriate Exhibit will be recorded separately in the unit ownership file in the office of the Register of Deeds for Guilford County, North Carolina:

XIX.

A copy of the initial By-Laws is hereto attached marked Exhibit "F" and a copy of the initial Rules and Resolutions is attached marked Exhibit "G".

XX.

THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES:

RESTRICTION AGAINST NUISANCES

No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Property, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit, or on the Common Property, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Property.

XXI.

RIGHT OF ENTRY INTO CONDOMINIUM UNITS IN EMERGENCIES

In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the Managing Agent, shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

XXII.

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY

Whenever it may be necessary to enter any Condominium Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Property, the Owner of each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized Agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice.

XXIII.

REMEDIES IN EVENT OF DEFAULT

The Owner or Owners of each Condominium Unit shall be governed by and shall comply with the provisions of this Declaration of Condominium,

and By-Laws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default by the Owner of any Condominium Unit shall entitle the Association or the Owner of other Condominium Units to the following relief:

A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the

By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.

B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of

insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Condominium Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, but in no event shall any Unit Owner be entitled to such attorneys' fees.

D. The failure of the Association or any Unit Owner to enforce any right, provisions, covenant or condition which may be granted by this Declaration of Condominium or the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.

E. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Condominium Unit, pursuant to any terms, provisions, covenants or conditions of the Declaration of Condominium or other above-mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

XXIV.

RIGHT OF DEVELOPER TO REPRESENTATION  
ON BOARD OF DIRECTORS OF THE ASSOCIATION

So long as Developer owns one (1) or more Condominium Units in the Condominium, Developer shall have the right to designate and select one member

of the persons who shall serve as members of each Board of Directors of the Association.

In the event of dissolution of Developer at a time when it is the Owner of a Condominium Unit, then the rights of the Developer shall pass to and may be exercised by its successors receiving ownership of any such Condominium Unit in dissolution.

Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in any of the By-Laws of the Association, and Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Director or Directors so removed. Any Director designated and selected by Developer need not be a resident in the Condominium. However, Developer shall be responsible for the payment of any assessments which may be levied by the Association against any Condominium Unit or Units owned by the said Developer, and for complying with the remaining terms and provisions hereof in the same manner as any other Owner of a Condominium Unit or Units.

XXV.

SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration of Condominium are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants

hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

XXVI.

LIBERAL CONSTRUCTION

The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. Throughout this Declaration wherever appropriate the singular shall include the plural and the masculine gender shall include the feminine or neuter. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

XXVII.

DECLARATION OF CONDOMINIUM BINDING

ON ASSIGNS, AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Condominium Unit and its appurtenant undivided interest in Common Property. This Declaration of Condominium shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become Owners of Condominium Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

XXVIII.

AMENDMENT OF DECLARATION OF CONDOMINIUM

A. This Declaration of Condominium may be amended following procedure set forth in By-Laws.

B. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Developer shall be made without the

written consent of said Developer being first had and obtained.

IN WITNESS WHEREOF, MARKET CENTER INVESTMENT COMPANY, a Limited Partnership has caused this instrument to be executed in its name by its duly authorized GENERAL PARTNER, MARKET CENTER DEVELOPMENT CORPORATION, by its duly authorized officers and by resolution of its Board of Directors.

MARKET CENTER INVESTMENT COMPANY, a (SEAL)  
Limited Partnership

BY: MARKET CENTER DEVELOPMENT CORPORATION,  
GENERAL PARTNER

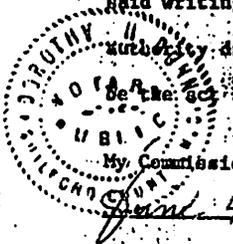
BY: B. Hunter Dalton Jr.  
President



B. C. Fowler  
Secretary

NORTH CAROLINA  
GUILFORD COUNTY

This 31st day of July, 1981, personally came before me \_\_\_\_\_  
B. Hunter Dalton Jr. who being by me duly sworn, says that he is President  
of the MARKET CENTER DEVELOPMENT CORPORATION, GENERAL PARTNER OF MARKET CENTER  
INVESTMENT COMPANY, a Limited Partnership, and that the seal affixed to the  
foregoing instrument in writing is the corporate seal of said company, and that  
said writing was signed and sealed by him in behalf of said corporation by its  
authorized officer duly given. And the said President acknowledged the said writing to  
be the act and deed of said corporation.



My Commission Expires:  
June 4, 1986

Donalyn V. Dusen  
Notary Public