

2002 013101

### PARTY WALL AGREEMENT

THIS AGREEMENT, is made and entered into this 31st day of January, 2002, by and between **JERRY AND KATHLEEN OSZUST**, husband and wife, (hereinafter referred to as "Purchaser"), and **MARTK HOMES, INC.** (hereinafter referred to as "Seller").

**WITNESSETH THAT:**

**WHEREAS, MARTK HOMES, INC.** is the owner of the following described property:  
Lot 940 Maricopa Pointe of Sedona Unit Nine, as per plat thereof, an Addition to the Town of Merrillville, Lake County, Indiana, as recorded in Plat Book 81, page 34, in the Office of the Recorder of Lake County, IN

**WHEREAS, JERRY AND KATHLEEN OSZUST**, are purchasing from **MARTK HOMES, INC.**, the West one-half (1/2) of the above described property; further described as: **The West 1/2 of Lot 940 Maricopa Pointe of Sedona Unit Nine, as per plat thereof, an Addition to the Town of Merrillville, Lake County, Indiana, as recorded in Plat Book 81, page 34, in the Office of the Recorder of Lake County, IN**

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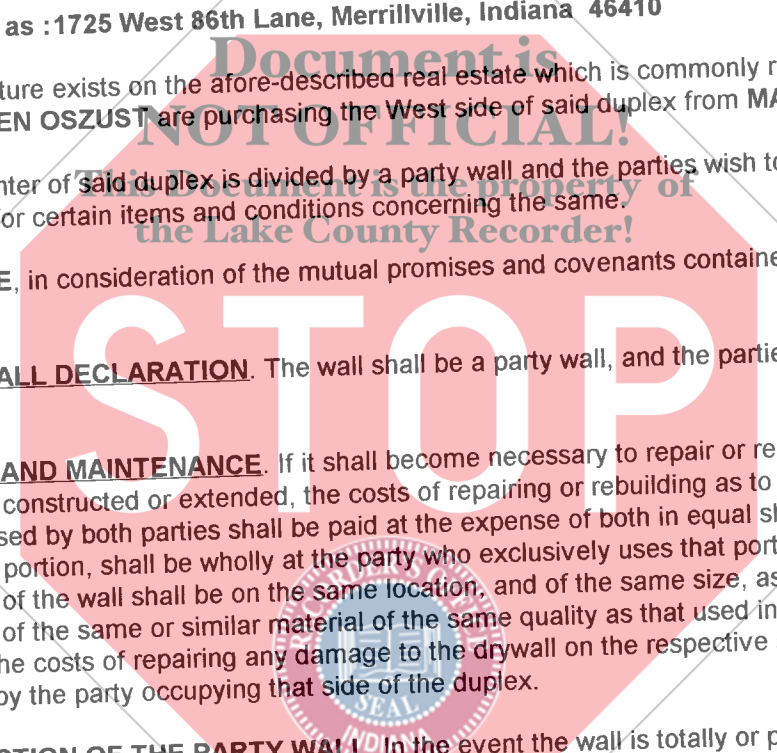
Commonly known as :1725 West 86th Lane, Merrillville, Indiana 46410

**WHEREAS**, a structure exists on the afore-described real estate which is commonly referred to as a duplex, and that **JERRY AND KATHLEEN OSZUST** are purchasing the West side of said duplex from **MARTK HOMES, INC.**; and

**WHEREAS**, the center of said duplex is divided by a party wall and the parties wish to make this party wall declaration and to provide for certain items and conditions concerning the same.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **PARTY WALL DECLARATION.** The wall shall be a party wall, and the parties shall have the right to use it jointly.
2. **REPAIRS AND MAINTENANCE.** If it shall become necessary to repair or rebuild the wall or any portion thereof as constructed or extended, the costs of repairing or rebuilding as to such portion of the wall at the time used by both parties shall be paid at the expense of both in equal shares, and as to the remaining portion, shall be wholly at the party who exclusively uses that portion. Any repairing or rebuilding of the wall shall be on the same location, and of the same size, as the original wall or portion thereof or of the same or similar material of the same quality as that used in the original wall or portion thereof. The costs of repairing any damage to the drywall on the respective sides of the duplex area shall be borne by the party occupying that side of the duplex.
3. **DESTRUCTION OF THE PARTY WALL.** In the event the wall is totally or partially destroyed by fire or other cause, either of the parties hereto shall have the right to reconstruct the same at his own expense if he alone intends to continue the use of said party wall, or at the expense of both parties in the event that both intend to continue to the use of said party wall. In the event of reconstruction of the party wall, the proceeds of any insurance received by either party for the destruction of the wall shall be applied towards the cost of reconstruction.
4. **ARBITRATION.** The parties agree that in the event of a dispute or controversy as to any matter within or arising out of this agreement, such dispute or controversy shall be submitted to the arbitration of two (2) disinterested and competent persons, mutually chosen, who shall select a third, and the arbitration of such matter shall be an express condition precedent to any legal or equitable action or proceeding of any nature whatsoever.
5. **DURATION AND EFFECT OF AGREEMENT.** This agreement shall be perpetual in effect and the covenants herein contained shall run with the land, but the agreement shall not operate to convey to either party the fee to any part of the land owned or to be acquired by the other party, the creation of party wall rights being the sole purpose hereof.
6. **EXTENSION OF THE WALL.** The party wall cannot be extended without the mutual consent of both parties.
7. **GOVERNING LAW.** This agreement shall be governed by the laws of the State of Indiana.
8. **BINDING EFFECT.** This agreement shall bind and enure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.



**FILED**

FEB 6 2002

PETER BENJAMIN  
LAKE COUNTY AUDITOR

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TICOR TITLE INSURANCE  
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IN WITNESS WHEREOF, the parties have executed this Party Wall Agreement the day and year first above written.

Jerry Oszust  
JERRY OSZUST, Purchaser

Kathleen Oszust  
KATHLEEN OSZUST, Purchaser

MARTK HOMES, INC., an Indiana Corporation  
Seller

[Signature]  
By: Richard C. Wolf, President

STATE OF INDIANA )  
                                  ) ss:  
COUNTY OF LAKE )

Before me, a Notary Public and for said County and State, personally appeared **JERRY AND KATHLEEN OSZUST**, Purchaser(s), and **Richard Wolf**, in his capacity as **President of Martk Homes, Inc.**, Seller(s), personally known to me to be the same persons whose names subscribe the foregoing Party Wall Agreement and appeared before me this date in person and acknowledged that they signed, sealed, and delivered this written instrument as their free and voluntary act for the purposes and uses as set forth therein.

WITNESS my hand and Notarial Seal this 31st day of January, 2002.

Paula Barrick  
\_\_\_\_\_  
, Notary Public

My Commission Expires: 10/2/09

Resident of Lake County

This Instrument Prepared by: Richard C. Wolf, President, MARTK Homes, Inc. P.O. Box 10144, Merrillville, Indiana 46411-0144 (219-756-1141)

