

Rev. 1/22/79

DECLARATION OF EASEMENT

MADE this 5th day of FEBRUARY, 1979;

by The Equitable Life Assurance Society of the United States (Equitable) a New York corporation.

W I T N E S S E T H:

WHEREAS, Equitable is the owner in fee simple of certain property situate in the Second Ward of the City of Pittsburgh, Pennsylvania, in the area designated as the "C5-D District" by the Zoning Ordinance of the City of Pittsburgh of May 10, 1958, as amended (the "Ordinance").

WHEREAS, Equitable has caused a Plan of Lots to be prepared in compliance with the provisions of the Ordinance, said Plan (the "Plan") being identified as "Gateway Plan of Lots No. 2" and consisting of the subdivision of Block 1-C, Lot 167, identified in the Deed Registry Office of Allegheny County, Pennsylvania; an excerpt from the Plan showing Lot No. 2 therein, the Easement Area (hereinafter identified) and portions of Lots Nos. 1 and 3 in the Plan is attached hereto as Schedule I.

WHEREAS, Lot No. 2 in the Plan is improved with a 26-story combination residence and commercial building (the "Building") known as "Gateway Towers";

WHEREAS, the first 3 floors of the Building lying between a horizontal plane (which plane is the surface of the concrete slab constituting the floor of the first floor area of said building), the elevation of which is 729.95 feet, measured vertically above sea level as established by the United States Coast and Geodetic Survey, and a

horizontal plane (which plane lies within a plenum between the ceiling of the third floor area of said building and the concrete slab constituting the floor of the fourth floor area of said building) the elevation of which is 758.85 feet measured in the same manner, are constructed and used for commercial purposes, and floors 4 through 26 in the Building, both inclusive, (there being no 13th floor) are constructed and used for residential purposes;

WHEREAS, the base or sills of the windows in the third floor of the building are located at a horizontal plane the elevation of which is 768 feet, measured vertically above sea level as established by the United States Coast and Geodetic Survey;

WHEREAS, Equitable is desirous of subjecting the following described portion of the surface of Lot No. 1 in the Plan (the "Easement Area") for use in connection with the Building so that Lot No. 2 in the Plan and the Easement Area shall together constitute a "Zoning Lot" (as that term is defined by Section 202 of the Ordinance) and to provide light and air for the aforesaid residential portion of the Building; and

WHEREAS, Equitable is desirous of subjecting Lot No. 3 in the Plan to certain restrictions to provide light and air for the aforesaid residential portions of the Building.

NOW, THEREFORE, intending to legally bind itself and its successors and assigns, Equitable does hereby declare that:

1. The foregoing recitals are incorporated herein as a part of this Declaration of Easement.

2. The Easement Area, described as follows, is hereby subjected to an easement for unobstructed light and air for the benefit of Lot No. 2 for so long as the Building or any building built in substitution or replacement thereof for residential occupancy remains standing:

ALL that certain parcel of land situate in the Second Ward of the City of Pittsburgh, Allegheny County, Pennsylvania, consisting of a portion of Lot No. 1 in Gateway Plan of Lots No. 2 to be recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in the Plan Book records, and more particularly bounded and described as follows:

BEGINNING at a point on the southerly side of Fort Duquesne Boulevard at the dividing line between Lots Nos. 1 and 2 in said Plan; thence North $71^{\circ}03'15''$ East along the southerly side of Fort Duquesne Boulevard a distance of 60.62 ft. to a point; thence South $18^{\circ}54'45''$ East through Lot No. 1 in said Plan a distance of 149.20 ft. to a point; thence South $71^{\circ}05'15''$ West a distance of 54 ft. to a point on the dividing line between Lots Nos. 1 and 2 in said Plan; thence North $18^{\circ}54'45''$ East along the dividing line between Lots Nos. 1 and 2 in said Plan, the following courses and distances:

- (1) North $18^{\circ}54'45''$ West a distance of 131.09 ft. to a point of curve, and
- (2) by the arc of a circle deflecting to the left having a radius of 28 ft. an arc distance of 19.65 ft. to the point at the place of beginning.

3. Lot No. 3 in the Plan is hereby subjected to the following restrictions for so long as the Building or any building built in substitution or replacement thereof for residential occupancy remains standing: (a) No building or other structure exceeding the height of a horizontal plane, the elevation of which is 768 feet, measured vertically above sea level as established by the United States Coast and Geodetic Survey, shall be constructed on Lot No. 3, and (b) any building or other structure erected on Lot No. 3 shall provide for recreational facilities and/or landscaping on the roof thereof.

4. This Declaration of Easement shall for all purposes constitute a covenant running with the land and shall be

binding upon and shall inure to the benefit of Equitable, its successors and assigns and to each subsequent owner of any portion of or interest in Lots Nos. 1, 2 and 3 in the Plan, and their heirs, personal representatives and assigns, or successors or assigns, as the case may be.

5. Promptly after the recordation of the Plan in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, Equitable will cause this Declaration of Easement to be duly recorded in said Office

WITNESS the due execution hereof

ATTEST: THE EQUITABLE LIFE ASSURANCE SOCIETY
OF THE UNITED STATES

Kerwin Keefe
Secretary
(Corporate Seal)

By: *William J. Mueller*
Vice President *JK*



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

On this 5th day of February, 1979, before me,
a Notary Public, the undersigned officer, personally appeared
William F. Mueller. who acknowledged himself to
be a Vice-President of The Equitable Life Assurance
Society of the United States, a corporation, and that he as
such Vice-President being authorized to do so,
executed the foregoing instrument for the purposes therein
contained by signing the name of the corporation by himself
as Vice-President.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

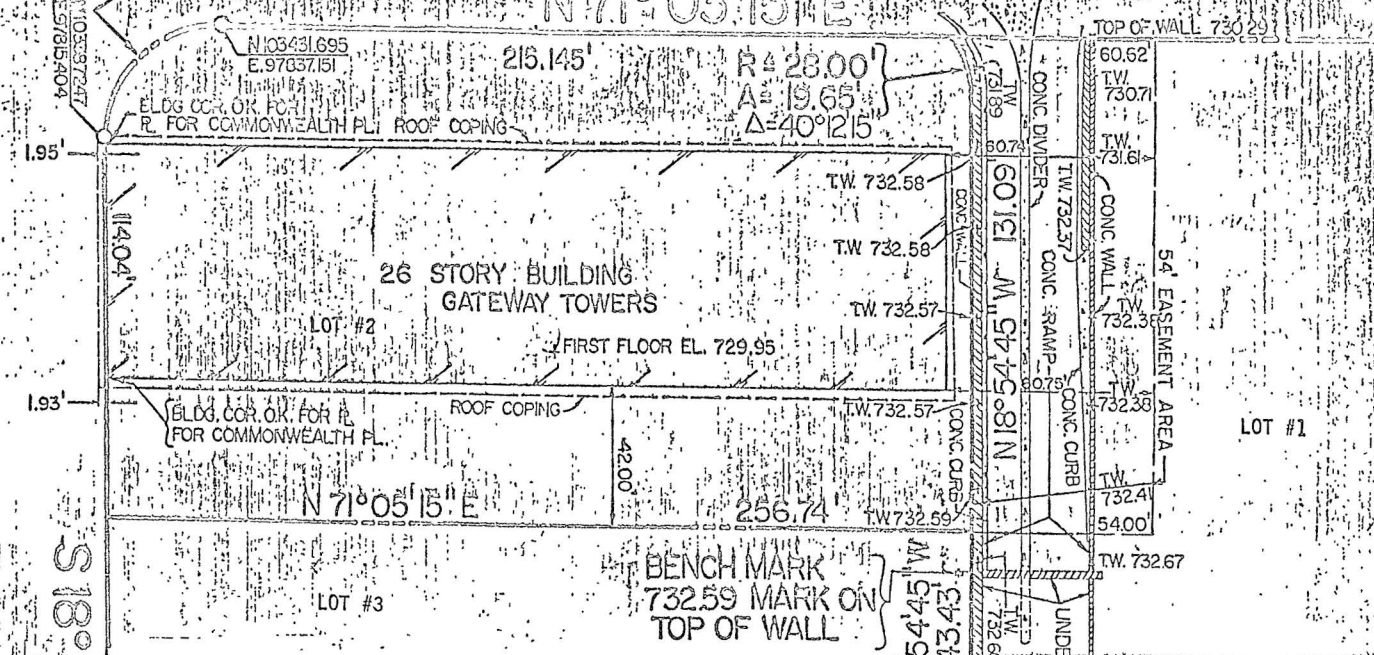


Commission Expires:
March 30, 1979

Mary L. Dubovick
Notary Public

MARY L. DUBOVICK
Notary Public, State of New York #241-1031950
Qualified in Queens County
Certificate Filed New York County Clerk
Term Expires March 30, 79

DUQUESNE BOULEVARD
N 71° 03' 15" E



COMMONWEALTH PLACE SCHEDULE I

BACK OF WALK 732.0

S 18° 54' 01" E

V. 8092 PAGE 87A

PLAN OF LOT #2

IN THE GATEWAY PLAN OF LOTS #2

SITUATE IN
2ND WARD CITY OF PITTSBURGH
ALLEGHENY COUNTY, PA.
MADE FOR

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES

THE GATEWAY ENGINEERS, INC. C-4199 SCALE 1"=40' JAN., 1979.

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF Allegheny } SS

RECORDED on this 23rd day of April A. D. 1979, in the
Office of the said County, in Deed Book Vol. 6092 , page 869
Given under my hand and seal of the said office.



John J. Eiler
Recorder

DECLARATION OF EASEMENT
Dated February 5, 1979
The Equitable Life
Assurance Society of the
United States

APR 23 1979
[Signature] 23445

Rec'd 10. 5. 79
1862

Recorder: Mail to:
J. E. Evans Smith Jr.
REED SMITH SHAW & McCLAY
747 UNION TRUST BUILDING
PITTSBURGH, PA. 15230
TELEPHONE: 412-288-3131

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of The Equitable
Life Assurance Society of the United States is 3 Gateway Center, Ground
Floor, Pittsburgh, Pennsylvania 15222.