

John Patrick Brown, Jr., Esq.  
JPB @ gdllaw.com

April 14, 2021

**BY IZIS**

Mr. Frederick L. Hill  
Chairperson  
Board of Zoning Adjustment  
One Judiciary Square  
441 4<sup>th</sup> Street, N.W.  
Suite 210 – South  
Washington, D.C. 20001

Re: BZA Application No. 20380  
4457 MacArthur Boulevard, NW,  
Square 1363, Lot 57 (formerly Lot 962) (“4457 Property”)

Dear Chairperson Hill and Members of the Board:

This firm is counsel for Foxhall Terrace, LLC, the owner of the thirty-six unit apartment building constructed in 1962-1963 at 4465 MacArthur Boulevard, NW (Square 1363, Lot 976) (“4465 Property”). As authorized by the attached Agent Authorization letter, the undersigned respectfully submit the Form 140 Party Status Request in OPPOSITION and supporting information set forth below.

The 4465 Property is immediately abutting the semi-detached single-family dwelling at 4459 MacArthur Boulevard, NW (Square 1363, Lot 961) (“4459 Property”), owned and occupied by Dr. Dawn Lea since July 1993. The 4465 Property is separated from the 4457 Property only by the width of the 4459 Property (24.98 – 27.65 feet).

The proposed redevelopment and extreme expansion in occupancy load and density of the 4457 Property cannot be viewed in isolation from the 4465 and 4459 Properties. The 4457 and 4459 Properties were constructed in 1905 as a single structure with undivided front porch, front façade, basement, attic space and roof. Both are semi-detached dwellings which each have been occupied as single-family dwellings.

The 4457 and 4459 Properties are landlocked and have no direct vehicular access to MacArthur Boulevard or any public alley. The only access to the rear of the 4457 and 4459 Properties is limited to a ten-foot driveway right-of-way over the 4465 Property. Exhibit A – Deed. This right of way is utilized by 4457, 4459 and 4461 (Square 1363, Lot 849) MacArthur Boulevard as the only means to access their respective single-family dwellings. Exhibit B - Photographs. There is also a twelve (12) foot-wide reciprocal right-of-way running along the northern or rear property lines of the 4457 and 4459 Properties which will be encroached upon by at least two of the proposed required parking spaces at the 4457 Property. Exhibit C - Deed. These rights-of-way were created and maintained to provide limited single family access, not for an eight-unit multifamily dwelling at the 4457 Property.

Board of Zoning Adjustment  
District of Columbia  
CASE NO.20380  
EXHIBIT NO.45

Mr. Frederick L. Hill  
April 14, 2021  
Page 2 of 2

Both the Office of Planning (BZA Exhibit 35) and District Department of Transportation (BZA Exhibit 37) specifically relied upon the 10-foot driveway right-of-way and 12-foot rear reciprocal right-of-way to provide off-street vehicular and truck access, parking, move-in and move-out access, deliveries, trash collection, and required turning movements. Given the limited size, scope and required reciprocal access, these rights-of-ways are not reasonably capable of providing the proposed and required functions for the proposed eight-unit apartment building at the 4457 Property. Although the Applicant has relied on these rights-of-way, it has not provided any documentation, or more importantly, consulted with the 4465 and 4459 Property owners regarding the proposed use, reasonable operating limitations, enforcement of the 10-foot width, illegal parking at the 4465 Property, maintenance, repair, snow removal and other costs. Under these circumstances, Foxhall Terrace, LLC has determined that the proposed intensified use of the 10-foot driveway right-of-way is not authorized and will result in reasonable enforcement measures against the 4457 Property.

Finally, Foxhall Terrace, LLC endorses the opposition presented by Dr. Lea and the thoughtful recommendations of Advisory Neighborhood Commission 3D.

At the public hearing, we request not less than fifteen (15) minutes for presentation, including testimony from Mr. Jack Feldman and/or Ms. Peggy Greenspan as Authorized Members of Foxhall Terrace, LLC.

Thank you for your assistance.

Sincerely,

GREENSTEIN DELORME & LUCHS, P.C.

By: 

John Patrick Brown, Jr.

By: 

Lyle M. Blanchard

Enclosures

cc: Foxhall Terrace, LLC  
Dawn Lea, Ph.D. ([lea.washingtondc@gmail.com](mailto:lea.washingtondc@gmail.com))  
Mr. Jonathon Kirschenbaum ([Jonathan.kirschenbaum@dc.gov](mailto:Jonathan.kirschenbaum@dc.gov))  
Ms. Paige Ela, Chair, ANC 3D ([3D03@anc.dc.gov](mailto:3D03@anc.dc.gov))  
Mr. J. P. Szymkowicz, ANC 3D09 ([3D09@anc.dc.gov](mailto:3D09@anc.dc.gov))  
Martin P. Sullivan, Esq. ([msullivan@sullivanbarros.com](mailto:msullivan@sullivanbarros.com))





**BEFORE THE ZONING COMMISSION OR  
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



**FORM 140 - PARTY STATUS REQUEST**

Before completing this form, please go to [www.dcoz.dc.gov](http://www.dcoz.dc.gov) > IZIS > Participating in an Existing Case > Party Status Request for instructions. Print or type all information unless otherwise indicated. All information must be completely filled out.

**PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.**

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

Name:	Foxhall Terrace, LLC		
Address:	4465 MacArthur Blvd., N.W., Washington, D.C. 20007		
Phone No(s):	(301) 270-0777	E Mail:	fpijack@aol.com
I hereby request to appear and participate as a party in Case No.:	20380		
Signature:		Date:	April 14, 2021
Will you appear as a(n)	<input type="checkbox"/> Proponent	<input checked="" type="checkbox"/> Opponent	Will you appear through legal counsel? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

If yes, please enter the name and address of such legal counsel.

Name:	John Patrick Brown, Jr. and Lyle M. Blanchard		
Address:	Greenstein DeLorme & Luchs, P.C. - 801 17th Street, N.W., Suite 1000, Washington, D.C. 20006		
Phone No(s):	(202) 452-1400	E Mail:	jpb@gdllaw.com, lmb@gdllaw.com

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/Subtitle Z § 404.3:

I hereby request advance Party Status consideration at the public meetings scheduled for: **N/A**

**PARTY WITNESS INFORMATION:**

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness;
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts; and
4. The total amount of time being requested to present your case.

**PARTY STATUS CRITERIA:**

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board? **Please see attached letter.**
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee) **Please see attached letter.**
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.) **Please see attached letter.**
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied? **Please see attached letter.**
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied. **Please see attached letter.**
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public. **Please see attached letter.**



**FOXHALL TERRACE, LLC**  
4465 MacArthur Boulevard, N.W.  
Washington, D.C. 20007

April 13, 2021


Board of Zoning Adjustment  
Government of the District of Columbia  
One Judiciary Square  
441 4th Street NW  
Suite 210S  
Washington, D.C. 20001

Re: BZA Application No. 20380  
4457 MacArthur Blvd., N.W.  
Square 1363, Lot 57

Dear Members of the Board:

Please be advised that I hereby authorize the law firm of Greenstein, DeLorme & Luchs, P.C., as authorized agent ("Agent"), to represent Foxhall Terrace, LLC in any proceedings related to the above-referenced BZA Application.


By: \_\_\_\_\_

  
Jack Feldman, Member

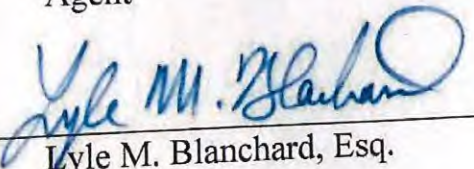
The Agents have read the BZA's Rules of Practice and Procedure (11 DCMR, Subtitle Y) and are able to competently represent the Owner.

**Greenstein DeLorme & Luchs, P.C.**

By: \_\_\_\_\_

  
John Patrick Brown, Jr., Esq.  
Agent

By: \_\_\_\_\_

  
Lyle M. Blanchard, Esq.  
Agent

# **EXHIBIT A**

25968

BOOK PAGE AUG 14 2 37 PM '59  
11291 421

# This Deed

Made this 3rd day of August in the year  
Nineteen hundred and fifty-nine, by and between GURDON S. STRAUS and his wife,  
MARGUERITE O. STRAUS, Tenants by the Entirety, parties of the first  
part; and NICHOLAS THUROCZY and wife, EMILY THUROCZY, parties of the  
second part.

**Witnesseth,** that for and in consideration of the sum of Ten (\$10.00)  
Dollars,

the said parties of the first part do grant

unto the said parties of the second part, in fee simple, as Tenants by the Entirety,

the following described land and premises, with the improvements, easements and appurtenances thereunto

belonging, situate in the District of Columbia, namely: Part of Lot numbered Ten (10) in F. W. Jones' subdivision of part of a tract of land called "Harlem", as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber Governor Shepherd at folio 127, and part of Lot numbered Six (6) in William A. Gordon, Trustee's subdivision of part of said tract called "Harlem", as per plat filed in Equity Cause No. 7860 in the Supreme Court of the District of Columbia, and described as follows; beginning for the same at the end of the two following courses and distances from a stone marked W.A.E. In the South line of the parcel heretofore assessed as Parcel 17/17 (1) South 60 degrees 22 minutes East 511.65 feet (2) North 33 degrees 40 minutes East 25.06 feet to the Northerly line of Conduit Road, now MacArthur Boulevard, as established by proceedings in District Court Cause No. 1909 in the said Supreme Court, and the beginning point of the land hereby described, and running thence North 33 degrees 40 minutes East, 141.35 feet; thence North 60 degrees 22 minutes West 36.82 feet; thence South 30 degrees 51 minutes West 141.03 feet to the Northerly line of MacArthur Boulevard; thence South 60 degrees 22 minutes East, 29.86 feet to the place of beginning, containing 4,699.8 square feet, as shown on plat of computation recorded in said Surveyor's Office in Survey Book 154 at page 39; said land being now taxed as Lot 962 in Square 1363.

Subject to right of way over the North 12 feet of said above described land as created by Deed recorded in Liber 6306, folio 106 among the Land Records of the District of Columbia; and together with a perpetual right of way for driveway purposes over the North 12 feet of the land taxed as Lot 961 in Square 1363, as granted in Agreement from Harold D. Johnson and others, dated August 3 1959, and to be recorded prior hereto among the Land Records of the District of Columbia; and together with a right of way over a driveway leading to Conduit Road (now MacArthur Boulevard) and described as follows: beginning at a point on the North line of MacArthur Boulevard distant North 60 degrees 22 minutes West 57.51 feet from the beginning point of the property hereabove described and running thence along the North line of MacArthur Boulevard North 60 degrees 22 minutes West 10 feet; thence North 31 degrees 56 minutes East 141.11 feet; thence South 60 degrees 22 minutes East 10 feet; thence South 31 degrees 56 minutes West 141.11 feet to the place of beginning.

To Have and to Hold the same unto and to the use of the said parties hereto of the second part, in fee simple, as Tenants by the Entirety.

*[A long diagonal line, likely a signature or scribble.]*

And the said parties of the first part \_\_\_\_\_  
hereby covenant to warrant specially the property hereby conveyed, and

to execute such further assurances of said land as may be requisite.

Witness their hands and seals on the day and year first herebefore written.  
Signed, sealed and delivered in the presence of

\_\_\_\_\_

*Myrden S. Straus* (SEAL)  
*Marguerite C. Straus* (SEAL)  
\_\_\_\_\_(SEAL)  
\_\_\_\_\_(SEAL)



DISTRICT OF COLUMBIA,

to wit:

I, JAMES P. STANTON  
District of Columbia  
and Marguerite O. Straus

a Notary Public in and for the said

, do hereby certify that Gordon S. Straus

parties to and who are personally well known to me as the persons who executed the foregoing and  
annexed Deed bearing date on the 3rd day of August  
A. D. 1959 personally appeared before me in said District,  
and acknowledged the same to be their act and deed.

Given under my hand and seal this 3rd day of August A. D. 1959.



*James P. Stanton*  
Notary Public, D. C.





20/3 15/40  
APR 17204

25968

Gurdon S. Straus  
et ux Marguerite O.  
Tenants by the Entirety

TO

Nicholas Thuroczy

et ux Emily

Tenants by the Entirety

Received for Record on the \_\_\_\_\_ day  
of \_\_\_\_\_, A. D. 19\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded by  
Liber No. 11291 at folio 424, one of the  
Land Records for the District of Columbia,  
and examined by \_\_\_\_\_

37 PM '55

Recorded

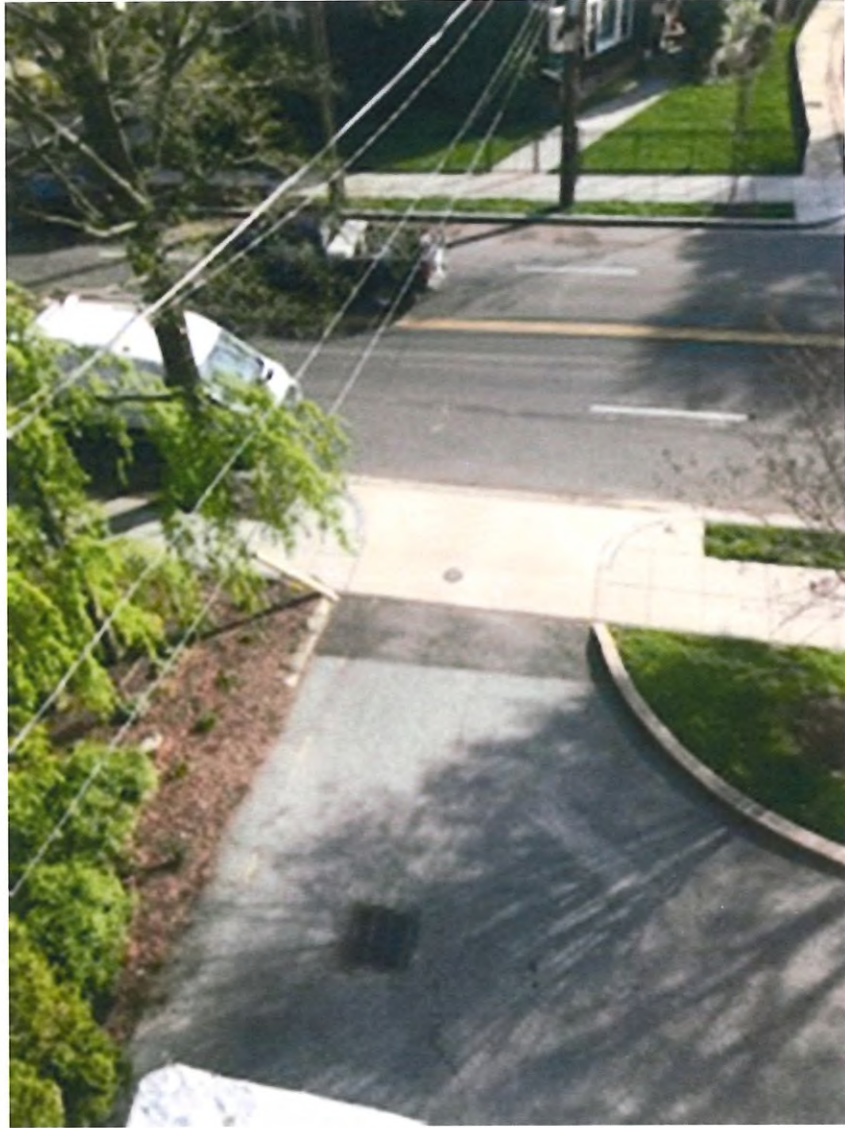
The District Title Insurance Co.  
The Lawyers Title Insurance Co.  
The Washington Title Insurance Co.  
1413 EYE STREET, NORTHWEST  
Washington, D. C.

HAZARD PRINTING COMPANY, WASHINGTON, D. C.

11/13

1100-1457 63124 0 429622

# **EXHIBIT B**

















**PARKING**  
**FOR**  
**FOXHALL TERRACE**  
**RESIDENTS ONLY**  
**VIOLATORS WILL BE TOWED**  
**NO TRESPASSING**











# **EXHIBIT C**

M/B

25967

900K  
11291

PAGE  
416  
110

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THIS AGREEMENT

Made this *3rd* day of *August* A.D. 1959, by and between HAROLD D. JOHNSON and wife, CLARA M. JOHNSON, Tenants by the Entirety, parties of the first part; and THE NATIONAL BANK OF WASHINGTON, Trustee, party of the second part; and GURDON S. STRAUS and wife, MARGUERITE O. STRAUS, Tenants by the Entirety, parties of the third part.

WHEREAS, parties hereto of the first part are the owners of part of Lot numbered Ten (10) in F. W. Jones' subdivision of part of a tract of land called "Harlem", as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber Governor Shepherd at folio 127, and part of Lot numbered Six (6) in William A. Gordon, Trustee's subdivision of part of said tract called "Harlem", as per plat filed in Equity Cause No. 7860 in the Supreme Court of the District of Columbia, and described as follows: Beginning for the same at the end of three following courses and distances from a stone marked W.A.E in the South line of the parcel heretofore assessed as Parcel 17/17 (1) South 60° 22' East, 511.65 feet; (2) North 33° 40' East 25.06 feet to the Northerly line of Conduit Road, now MacArthur Boulevard, as established by proceedings in District Court Cause No. 1909 in the said Supreme Court, (3) North 60° 22' West, 29.86 feet and the beginning point of the land hereby described and running thence North 30° 51' East, 141.03 feet; thence North 60° 22' West, 24.98 feet; thence South 31° 56' West, 141.11 feet to the Northerly line of MacArthur Boulevard; thence South 60° 22' East 27.65 feet to the place of beginning; said land being now taxed as Lot 961 in Square 1363; and

WHEREAS, said above described property taxed as Lot 961 in Square 1363 is subject to a Deed of Trust to the party hereto of the second part, as Trustee, dated July 30, 1957, recorded in Liber 10893 at folio 531, among the Land Records of the District of Columbia, securing Home Federal Savings and Loan Association, an advance of \$10,000.00 and

WHEREAS, said parties hereto of the third part are the owners of part of Lot numbered Ten (10) in F. W. Jones' subdivision of part of



a tract of land called "Harlem", as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber Governor Shepherd at folio 127, and part of Lot numbered Six (6) in William A. Gordon, Trustee's subdivision of part of said tract called "Harlem", as per plat filed in Equity Cause No. 7860 in the Supreme Court of the District of Columbia, and described as follows: Beginning for the same at the end of the two following courses and distances from a stone marked W.A.E. in the South line of the parcel heretofore assessed as Parcel 17/17 (1) South 60° 22' East 511.65 feet, (2) North 33° 40' East 25.06 feet to the Northerly line of Conduit Road, now MacArthur Boulevard as established by proceedings in District Court Cause No. 1909 in said Supreme Court, and the beginning point of the land hereby described, and running thence North 33° 40' East, 141.35 feet; thence North 60° 22' West, 36.82 feet; thence South 30° 51' West 141.03 feet to the Northerly line of MacArthur Boulevard; thence South 60° 22' East, 29.86 feet to the place of beginning, as shown on plat of computation recorded in said Surveyor's Office in Survey Book 154 at page 39; said land being now taxed as Lot 962 in Square 1363; and

WHEREAS, the above described properties taxed as Lots 961 and 962 in Square 1363, are subject to a right of way over the North 12 feet of the same, said right of way having been reserved by deed dated April 1, 1929, recorded in Liber 6306 at folio 106 among said Land Records, for the use and benefit of land in the rear of said Lots 961 and 962; and

WHEREAS, the predecessors in title of said parties hereto of the first and third parts have used the aforesaid right of way as a means of ingress and egress to the rear of their respective properties, although there is no valid conveyance of record specifically creating a right of way over the rear 12 feet of said Lot 961 for the use and benefit of said Lot 962; and

WHEREAS, the parties hereto of the first part, at the request of parties hereto of the third part, desire to create said last mentioned right of way over Lot 961, and have requested the party hereto of the second part to join in these presents for this purpose.



NOW THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of the premises and of the sum of \$1.00 by each to the other paid, the said parties hereto of the first part do hereby create and establish, and do hereby grant unto the parties hereto of the third part, their heirs and assigns, a perpetual right of way for driveway purposes over the North 12 feet of the above described land taxed as Lot 961 in Square 1363, for the use and benefit of the owners and occupants of said above described land taxed as Lot 962 in Square 1363.

AND the said party hereto of the second part hereby agrees and consents to the creation of the above described right of way over said Lot 961 in Square 1363 and hereby subjects the above mentioned deed of trust under which it is the Trustee to said right of way, which shall be conveyed by said party of the second part in the event of a sale for default under the terms of said deed of trust.

IN WITNESS WHEREOF, on the day and year first hereinbefore written, the parties hereto of the first part hereunto set their hands and seals, and the said party hereto of the second part has caused these presents to be signed in its corporate name by P. BAXTER DAVIS its TRUST OFFICER attested by R B KEINER its VICE PRES & CASHIER, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint P. BAXTER DAVIS its true and lawful Attorney in fact for it and in its name to acknowledge and deliver these presents as its act and deed, as Trustee.

WITNESS:  
*George M. Keiner*

*Harold D. Johnson* (SEAL)  
Harold D. Johnson  
*Clara M. Johnson* (SEAL)  
Clara M. Johnson

THE NATIONAL BANK OF WASHINGTON, Trustee  
By *P. Baxter Davis*  
TRUST OFFICER

Attest: *P. B. Keiner*  
Vice President & Cashier

We assent:  
HOME FEDERAL SAVINGS AND LOAN ASSOCIATION  
By *[Signature]*





DISTRICT OF COLUMBIA

TO WIT:

*J. Paul Donovan*

a Notary Public in and for the said

District, do hereby certify that **P. BAXTER DAVIS** who is personally well known to me as the person named as Attorney in fact in the foregoing and annexed Deed, bearing date on the **3rd** day of **August** A. D. 1959, to acknowledge the same, personally appeared before me in said District, and as Attorney in fact as aforesaid, and by virtue of the authority vested in him by said Deed, acknowledged the same to be the act and deed of The National Bank of Washington, Trustee

the corporation-grantor therein, and delivered the same as such.

Given under my hand and seal this **6th** day of **August** A. D. 1959



NOTARY PUBLIC  
WASHINGTON, D. C.  
MY COMMISSION EXPIRES DEC. 14, 1962

*J. Paul Donovan*  
Notary Public.

DISTRICT OF COLUMBIA, To wit:

*J. Paul Donovan*

a Notary Public in and for the

said District of Columbia, do hereby certify that Harold D. Johnson and Clara M. Johnson, parties to and who are personally well known to me as the persons who executed the foregoing and annexed Agreement bearing date on the **3rd** day of **August** A.D. 1959 personally appeared before me in said District, and acknowledged the same to be their act and deed.

GIVEN under my hand and seal this **3rd** day of **August** A.D. 1959.



*J. Paul Donovan*  
Notary Public

*my Comm expires  
Dec 14, 1962*

NOTARY PUBLIC  
WASHINGTON, D. C.  
MY COMMISSION EXPIRES DEC. 14, 1962

417204 1 of 3

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AGREEMENT	Harold D. Johnson et ux Clara M. and The National Bank of Washington		RECEIVED FOR RECORD in the day of <u>August</u> 19 <u>59</u> at <u>Washington, D.C.</u> Records of the District of Columbia Recorder	The District Title Insurance Company The Lawyers Title Insurance Company The Washington Title Insurance Company 1413 EYE STREET, N. W. Washington, D. C.
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M. J. G.

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