

DEEDS

93-458

ALBANY COUNTY CLERK
ALBANY, N.Y.

MAR 29 3 45 PM '93

AGREEMENT AND DECLARATION OF RULES AND REGULATIONS
CHADWICK SQUARE PARK ASSOCIATION, INC.

LIBER 2480 PAGE 896

AGREEMENT made March 26, 1993, by and between Chadwick Square Park Association, Inc., a New York Corporation, with its principal offices at Box 319 Glenmont NY 12077; the Michaels Group, Inc., a New York Corporation, with its office and principal place of business at 6 Century Hill Drive, Latham, New York; and Jay Harold Jakovic, residing at Feura Bush Road, Glenmont, New York.

W I T N E S S E T H :

WHEREAS, Chadwick Square Park Association, Inc., a New York corporation (hereinafter "Association"), has been deeded real property located in the Town of Bethlehem, County of Albany, New York, as shown on a subdivision map entitled "Section Three-Chadwick Square" made by C.T. Male Associates dated September 19, 1985, filed June 12, 1986 in the Office of the Albany County Clerk as Map No. 6424, Drawer 172. The real property was acquired by the Association from Rosen-Michaels, Inc., predecessor to The Michaels Group, Inc., a New York Corporation. A copy of the subdivision map is annexed hereto and marked Exhibit "A".

WHEREAS, situated along a portion of the easterly boundary of the Association's real property is a parcel of real property owned by Jay Harold Jakovic, who acquired title to the real property by virtue of Warranty Deed dated April 1, 1960 and recorded April 1, 1960 in the Office of the Albany County Clerk in Book 1644 of Deeds at Page 299.

WHEREAS, the Association has been notified of a potential claim of ownership made by Jakovic in and to a portion of the real property deeded to the Association, along the boundary of the easterly side of the Association's real property and the adjoining westerly line of the real property owned by Jakovic. A metes and bounds description of the real property over which the claim of ownership is being made by Jakovic is annexed hereto and marked Exhibit "B". The claim of ownership by Jakovic has been made against The Michaels Group, Inc., successor to Rosen-Michaels, Inc., and the Association.

WHEREAS, the Association has been notified, and the parties hereto agree that, in consideration for the release by Jakovic of any claim of ownership over the aforesaid real property deeded to the Association, the Association, Jakovic and The Michaels Group, Inc. have agreed to a conveyance to Jakovic of certain other lands owned by The Michaels Group, Inc., provided, however, that Jakovic, the Association and The Michaels Group, Inc. do hereby agree that the foregoing rules and regulations governing the use of the real property over which the claim of ownership is being made by Jakovic are imposed thereon in perpetuity.

WHEREAS, the Association, after careful consideration of the facts and circumstances relating to the claim of ownership made by Jakovic, has determined it would be in the Association's best interests, and would best serve the health, safety and welfare of its members and the residents and persons who derive benefits from

the Association's ownership in and to the real property, to resolve the claim of ownership by Jakovic without the need for litigation.

NOW, THEREFORE, in consideration of the releases and quitclaim of any interest he might have in the premises described at Schedule "B" being given by Jakovic, simultaneously herewith; in accordance with the Powers and Duties of the Board of Directors of the Association, as described in Article III, Section 1 of the By-laws of the Association (recorded in the Office of the Albany County Clerk in Book 2195 of Deeds at Page 299); and other good and valuable consideration, the Association hereby agrees and imposes in perpetuity the following rules and regulations relating only to the real property owned by the Association as described in the annexed Exhibit "B":

1. No structures of a temporary character, trailer, tent, shack or other outbuildings shall be either temporarily or permanently permitted on the real property. Storage or display of all but living materials is prohibited on the real property. The exterior storage or parking of vehicles on the real property either temporarily or permanently is expressly prohibited.

2. No poles, lines or antenna shall be permitted on the premises.

3. (a) No trees of twelve inches or more in diameter shall be trimmed, cut down or removed without the written consent of Jakovic. In the event the Association desires to perform such trim or removal work, the Association shall provide Jakovic with no less

than thirty days written notice indicating the work to be performed. If Jakovic fails to approve or disapprove such trim or removal work within the aforesaid thirty day period, then and in that event, such approval shall not be required.

(b) In the event Jakovic disapproves of any trim or removal work requested by the Association, then Jakovic and the Association, respectively, shall, at their own expense, retain their own arborist to certify whether such trim or removal work is necessary or desirable. If no agreement between the two arborists is reached, the two arborists together shall agree on a third, impartial arborist whose decision regarding such trim and/or removal work shall be controlling and binding upon Jakovic and the Association. In the event any tree is removed, a younger tree of the same or similar species shall be planted as close as reasonably possible to the location of the removed tree, with any dispute to placement resolved by the arborists, giving regard to the tree coverage and effects of visual screening.

(c) The written notice required to be given to Jakovic shall be made by personal delivery or by certified mail, return receipt requested to 662 Madison Avenue, Albany, New York 12208-3604, or such other address as Jakovic or his heirs, successors and/or assigns may hereafter designate to the Association in writing.

4. These rules and regulations shall be binding upon and inure to the benefit of, and be enforceable by Jakovic and the

Association, respectively, and their respective heirs, successors, and/or assigns. Except as Set forth herein, any costs (including, but not being limited to, reasonable attorneys' fees) occasioned by the enforcement by Jakovic of the above rules and regulations made in good faith, shall be charged to the Association, its successors and/or assigns. Enforcement shall be by proceedings at law or in equity against any entity, person or persons violating or attempting to violate any rule or regulation either to restrain the violation or to recover damages for the violation. Furthermore, and in any event, the foregoing rules and regulations shall in no manner be construed to hold Jakovic herein, his heirs and/or assigns legally responsible or liable for the enforcement or non-enforcement of any provisions of the rules and regulations and a failure of Jakovic, his heirs and/or assigns to enforce any rules or regulations shall in no event be deemed a waiver of the right to do so hereafter.

5. Invalidation of any one of the rules and regulations by judgment or court order shall in no way effect any of the other provisions which shall remain in full force and effect.

6. The imposition of the foregoing rules and regulations has been made by and pursuant to the unanimous written consent of the Board of Directors of the Association made at regular/special

meeting of the Board of Directors of the Association on July 1,
1991 and August 20, 1992.

CHADWICK SQUARE PARK ASSOCIATION
INC.

By: C. L. Simmons, Jr. Pres.

THE MICHAELS GROUP, INC.

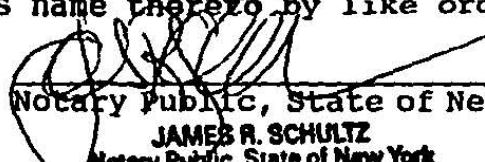
By: John H. Michaels, Vice-President

Jay Harold Jakovic

STATE OF NEW YORK)

COUNTY OF Albany) ss.:


On this 26 day of March, 1993, before me came Charles A. Simmons, to me personally known, who, being by me duly sworn, did depose and say that he resides at 11 Brightonwood Rd Albany that he is President of Chadwick Square Park Association, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal so affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.


Notary Public, State of New York
JAMES R. SCHULTZ
Notary Public, State of New York
Qualified in Albany County
No. 4754867
Commission Expires Feb. 28, 1994

STATE OF NEW YORK)

COUNTY OF ALBANY) ss.:

On this 26 day of March, 1993, before me came John H. Michaels, to me personally known, who, being by me duly sworn, did depose and say that he resides at Clifton Park, New York; that he is Vice-President of The Michaels Group, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal so affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.


Notary Public, State of New York
JAMES E. BRAMAN
Notary Public, State of New York
No. 488443
Qualified in Albany County
Commission Expires 2/19/95

STATE OF NEW YORK)

COUNTY OF Albany) ss.:

On this 26 day of March, 1993, before me the subscriber personally appeared, Jay Harold Jakovic, to me personally known and known to me to be the same person described in and who executed the within instrument, and he duly acknowledged to me that he executed the same.

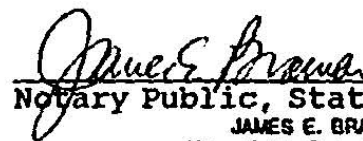

Notary Public, State of New York
JAMES E. BRAMAN
Notary Public, State of New York
No. 488443
Qualified in Albany County
Commission Expires 2/19/95

EXHIBIT A

LIBER 2480 PAGE 903

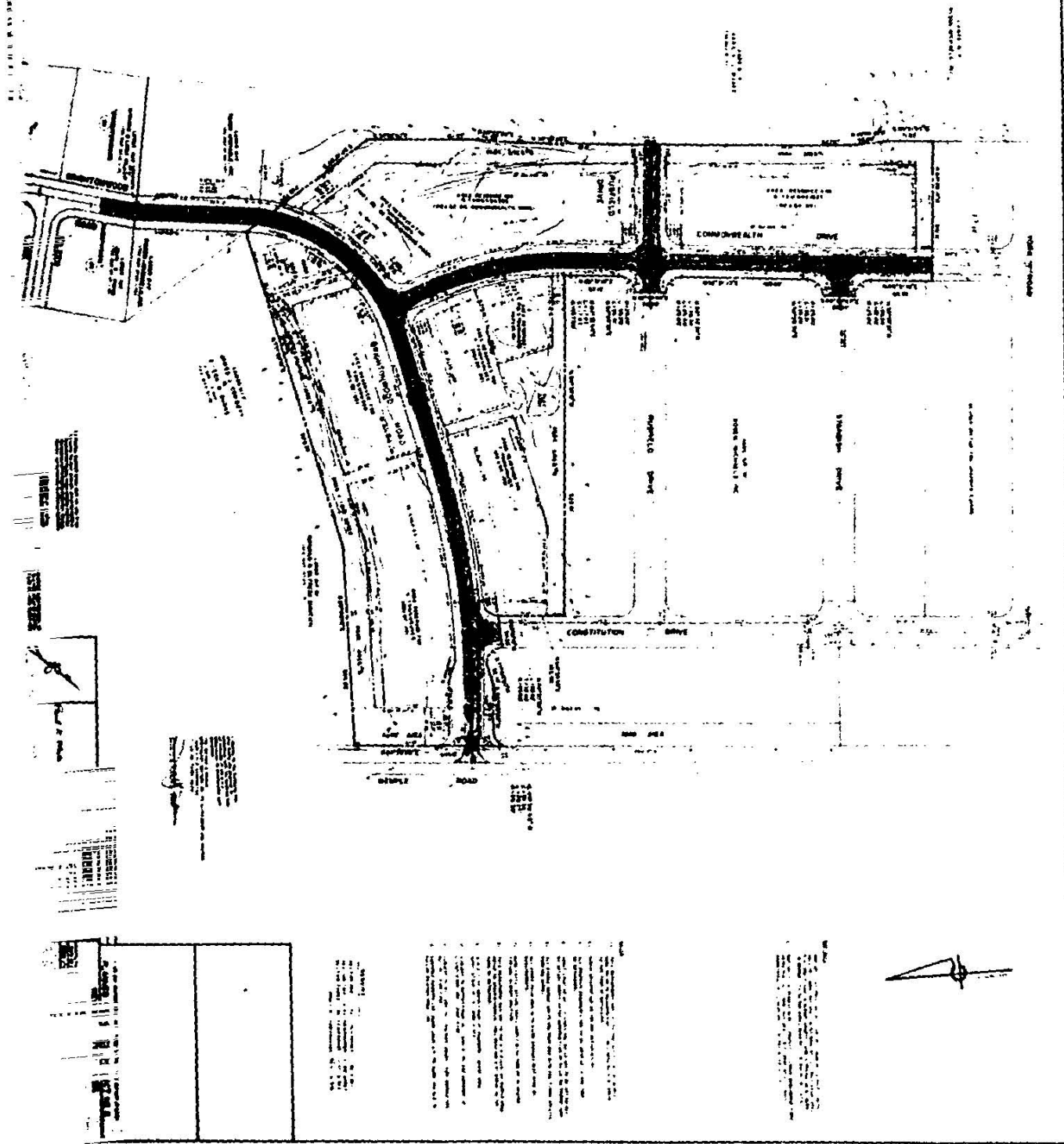


EXHIBIT B

DESCRIPTION OF LANDS TO BE CONVEYED BY THE MICHAELS
GROUP, INC. TO CHADWICK SQUARE PARK ASSOCIATION, INC.

All that certain tract, piece, or parcel of land situate, lying and being Easterly of Commonwealth Drive in the Town of Bethlehem, Albany County, New York and being more particularly bounded and described as follows:

BEGINNING at the intersection of the division line between the lands now or formerly of Jakovic on the East and Chadwick Square Section Three on the West with the division line between said Jakovic on the North and land deeded to Rosen-Michaels, Inc., by Warranty Deed of Minard B. Carkner and Viola M. Carkner, his wife, which said deed is dated May 6, 1978 and was recorded in the Albany County Clerk's Office on May 25, 1978 in Liber 2150 of Deeds at Page 209 on the South and runs thence from said point of beginning through Chadwick Square Section Three the following three (3) courses: 1) North 02° 46' 14" West 56.60 feet to a point; 2) thence North 04° 52' 30" East 527.97 feet to a point; and 3) thence North 08° 22' 04" East 74.35 feet to a point on the above first mentioned division line; thence South 04° 36' 50" West along said above first mentioned division line, 658.29 feet to the point or place of beginning and containing 3,590± square feet of land. The said map of Chadwick Square Section 3 was made by C.T. Male Associates, P.C. and was filed in the Albany County Clerk's Office on June 12, 1986, as Map No. 6424 in Drawer Number 172.

STATE OF NEW YORK)
COUNTY OF ALBANY)

Recorded in DEEDS
As Shown hereon and
Examined
Thomas G. Clingan
THOMAS G. CLINGAN
ALBANY COUNTY CLERK

RER
MAYNARD O'CONNOR
80 STATE ST
ALBANY NY 12207
ATTN: Jim Schultz