



Authorized By: *George Johnson*

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Dave Little

**SECOND AMENDMENT TO DECLARATION
OF CONDOMINIUM OF THEATER CONDOMINIUM
And
Deed of Conveyance of Driveway and Garage Structure
with Maintenance Easement**

On October 31, 1997, the Declaration of Condominium for Theater Condominium (Book 92 of Miscellaneous Records at page 269) was amended by First Amendment thereto recorded on November 5, 1997, in Book 92 of Miscellaneous Records at page 694. Said amendment provided in part as follows:

"4. The garage shall not be a common element, and the same shall be a part of units 100, 200 and 300, respectively, as designated on First Amended Exhibit 'D'."

In the "Minutes of Theater Condominiums Homeowner's Association" dated September 23, 2004 (see copy attached), it is stated as follows: *"The parties discussed Timothy Johnson's request to transfer his Unit 100 to Darren W. Smith and that the other Unit Owners would be transferring their interest in the garage to Darren W. Smith and that the Association would not be exercising a right of purchase."*

There is no conveyance document of record whereby the other Unit Owners, namely, Timothy C. Johnson and Holly J. Johnson (Units 100, 200 & 400) and Christopher J. Kelley and Victoria C. Wiseman (Unit 300), transferred their interest in the garage to Darren W. Smith.

On July 15, 2005, Darren W. Smith conveyed his interest in Unit 100 of Theater Condominium to Tammy J. Kruser by warranty deed recorded on July 19, 2005, in Book 705 at page 7578, but the deed contained no specific reference to the garage.

The current record unit owners and occupants of Units 200 and 400 of Theater Condominium are Doug Winters and Donna Winters. The current record unit owners and occupants of Unit 300 of Theater Condominium are Christopher J. Kelley and Victoria C. Kelley (formerly Victoria C. Wiseman). Tammy J. Kruser is the record unit owner of Unit 100. These parties, along with Tammy J. Kruser, also constitute all of the

members of the Theater Condominium Homeowner's Association and the Board of Managers of the Association.

The deeds of conveyance to Winters (Book 706 at page 7552) and to Kelley's (Book 704 at page 8697) in excluding the garage from common elements appurtenant to their respective units, stated as follows:

"EXCLUSION FROM COMMON ELEMENTS: There is hereby specifically excluded from the Common Elements appurtenant to said Unit the four car garage structure and driveway area accessing said structure. The location of said structure and driveway area is generally described as: Commencing at the Southwest corner of said Lot 10 in Block 117 of John Wood's Addition, thence East along the South line of said Lot 40.7 feet to the West side of the driveway leading to said garage structure and the true point of beginning, thence North along the West line of said drive 52 feet 7 inches to the Northwest corner of said drive, thence East 47 feet 3 inches along the North line of said drive and the North line of said garage structure to the Northeast corner of the garage, thence South along the East line of said garage to the South line of said Lot 10, thence West along the South line of Lot 10 to the point of beginning."

The undersigned, being all of the Unit Owners and members of the Homeowner's Association of Theater Condominium, hereby unanimously amend for the second time the Declaration of Condominium for Theater Condominium to provide that the total garage structure (consisting of four garage spaces) and the driveway area, both referred to above, are considered as annexed to Unit 100 and an appurtenance thereto which is to be conveyed as part of Unit 100 and subject to the right of first refusal heretofore existing. As part of said appurtenance, the owner of Unit 100 will have an access easement to the property lying immediately East of the garage in order to do maintenance work on the garage.

In addition, the undersigned, except for Tammy J. Kruser, hereby decline to exercise any first right of refusal they may hold with respect to Unit 100 or property appurtenant thereto and further hereby grant and convey to the said Tammy J. Kruser all of their respective interest in said garage structure and driveway areas more particularly described immediately above and as follows:

Part of Lots 9 and 10 in Block 117 in John Wood's Addition to the City of Quincy, Adams County, IL, described as follows: Commencing at the Southwest corner of said Lot 10, thence East along the South line of said Lot 40.7 feet, more or less, to the West side of the driveway leading to said garage structure and the true point of beginning, thence North along the West line of said drive 52 feet 7 inches, more or less, to the Northwest corner of said drive, thence East 47 feet 3 inches, more or less, along the North line of said drive and the North line of said garage structure to the Northeast corner of the garage, being 7.42 feet West of the property line, thence South along the East line of said garage to the South line of said Lot 10, thence West along the South line of Lot 10

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to the point of beginning, together with an access easement over a strip of land approximately 7.42 feet in width lying between the East side of the garage and the East property line of the Condominium for maintaining the garage structure.