

Original
File copy

By
J.L.C.

AMENDED AND RESTATED
PARTNERSHIP AGREEMENT
OF
CAPITAL PROPERTIES COMPANY
Dated as of July 1, 1981

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I FORMATION, NAME, PURPOSES AND TERM	2
ARTICLE II CAPITAL CONTRIBUTIONS	3
ARTICLE III PROFITS, LOSSES AND DISTRIBUTIONS	5
ARTICLE IV MANAGEMENT AND CONTROL	7
ARTICLE V TERMINATION	9
ARTICLE VI ACCOUNTING, REPORTS, ETC.	10
ARTICLE VII PARTITION	11
ARTICLE VIII OTHER INTERESTS OF THE PARTNERS	12
ARTICLE IX TRANSFERS OF INTERESTS	12
ARTICLE X GENERAL PROVISIONS	14

AMENDED AND RESTATED
PARTNERSHIP AGREEMENT
of
CAPITAL PROPERTIES COMPANY

AGREEMENT, made as of the 1st day of July, 1981, between ALVIN DWORMAN, having an office at Olympic Tower, 645 Fifth Avenue, New York, New York ("Dworman") and MICHAEL PALIN, having an office at 969 Third Avenue, New York, New York ("Palin") (Dworman, and Palin being hereinafter sometimes collectively referred to as the "Partners" and individually as a "Partner").

WHEREAS, by Agreement dated December 29, 1966 (the "Formation Date"), as modified and amended by Modification and Amendment Agreement of the same date (collectively, the "Original Agreement"), Capital Properties Company, a New York general partnership (the "Partnership"), was formed by Dworman, Norman Spelke ("Spelke") and Francis Levien ("Levien");

WHEREAS, the Partnership was formed for the purposes set forth in Article 1 of the Original Agreement, including, without limitation, the ownership, operation, management, leasing, exchanging and disposition of certain properties, or interests therein, as more particularly described on Exhibit "A" thereto and as hereinafter more particularly described on Exhibit "A" hereto (said properties being hereinafter referred to individually as a "Property" and collectively as the "Properties");

WHEREAS, either prior to the date hereof or simultaneously herewith, Levien has withdrawn as a partner of the Partnership and Spelke has assigned his partnership interest, by mesne assignments, in equal shares to Palin and to Dworman;

WHEREAS, by Assignment and Assumption Agreement dated as of the date hereof (the "Assignment Agreement"), Dworman has agreed to assign to Palin a 50% interest in Dworman's partnership interest in the Partnership, and, by his execution of this Agreement, Palin wishes to be admitted as a Partner and Dworman (and any other partners, if any) hereby consents to such act; and

WHEREAS, the parties hereto wish to set forth their entire agreement with respect to the Partnership and the Properties and to amend and restate the Original Agreement in its entirety.

NOW THEREFORE, in consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the parties hereby agree as follows:

ARTICLE I

FORMATION, NAME, PURPOSES AND TERM

1.1 Formation, Name and Office.

(a) The Partners hereby continue the Partnership under the Uniform Partnership Act of New York to be conducted under the name of "Capital Properties Company," or such other name as the Partners hereafter from time to time shall determine.

(b) A Partner's interest in the Partnership shall be personal property for all purposes. All real and other property owned by the Partnership shall be deemed owned by the Partnership as an entity, and no Partner, individually, shall have any ownership of such property.

(c) The principal office of the Partnership shall be located at c/o Alvin Dworman, Olympic Tower, 645 Fifth Avenue, New York, New York, or at such other place as the Partners hereafter from time to time shall determine.

1.2 Purposes. The purposes of the Partnership shall be:

(a) to acquire the Properties and to own, hold, manage, improve, operate, maintain, repair, refurbish and otherwise deal with the Properties;

(b) to lease all or any part of the Properties;

(c) to sell, dispose of, mortgage and otherwise encumber all or any part of the Properties;

(d) to engage in any of the above-described activities with respect to any other assets or properties hereinafter acquired by the Partnership;

(e) to incur indebtedness, whether secured or unsecured for any of the foregoing purposes; and

(f) to engage in such other related activities and do all things as may be necessary or incidental to the foregoing.

In carrying out the foregoing purposes, the Partnership may act in conjunction with others through joint ventures, partnerships or otherwise. The Partnership shall not engage in any other business or activity without the written consent of all Partners.

1.3 Term. The term of the Partnership shall continue until December 31, 2000 unless sooner terminated as hereinafter provided.

1.4 Withdrawal of Spelke and Levien and Admission of Palin. Spelke and Levien either have withdrawn or, as of the date hereof, are withdrawing Partners of the Partnership. Palin is hereby admitted as a Partner of the Partnership.

ARTICLE II

CAPITAL CONTRIBUTIONS

2.1 Original Capital Contributions. On the Formation Date, Dworman made an original capital contribution to the Partnership. The capital contribution of Palin shall be deemed to be the consideration paid by him pursuant to the terms of the Assignment Agreement.

2.2 Additional Capital Contributions. Notwithstanding anything to the contrary contained herein, at any time from and after the date hereof, and in addition to the capital contributions required pursuant to Section 2.1, the Partners may by mutual consent agree to make additional cash contributions to the Partnership (the "Additional Capital Contributions") in proportion to their Percentage Interests or in such other proportions as all the Partners may agree.

Each Partner shall make his Additional Capital Contribution within fifteen (15) days after receiving written notice from the Partnership requesting such contribution, or within such longer period as the Partners empowered to make such request shall determine.

2.3 Default in Payment of Capital Contributions.

(a) In the event either Partner fails or neglects to contribute, promptly when due, his Additional Capital Contribution, then from and after the date hereof the other Partner may, but shall not be obligated to, loan an amount equal to such deficiency or any part thereof to the Partnership ("Deficit Loans"). Any Deficit Loan so advanced by either Partner shall be a liability and obligation of the Partnership and the Partner so making such Deficit Loan shall be entitled to the repayment thereof, with interest thereon at an annual rate equal to the lesser of: (i) 2% in excess of the "Base Rate" charged by Citibank, N.A. for substantial commercial loans from time to time or (ii) the highest interest rate permissible under applicable law calculated, from the date of such Deficit Loan, and said obligation shall be paid by the Partnership out of the next available Net Cash Flow (as said term is hereinafter defined) and prior to any further distribution by the Partnership to the Partners in accordance with Section 3.3 hereof, or otherwise.

(b) If either Partner (a "Defaulting Partner") shall hereafter fail to make any Additional Capital Contribution pursuant to the terms of Section 2.2, within 10 days following written notice from the Partnership that such contribution is due, and the other Partner does not elect to make a Deficit Loan in lieu thereof, the Partnership (without prejudice to any other right it may have) may, in the sole discretion of the other Partner, withhold any distributions otherwise distributable to the Defaulting Partner, as a set-off, and, in addition, bring suit against such Defaulting Partner for the unpaid amount of his capital contribution, together with costs of collection, attorney's fees and interest accruing after default at an annual rate equal to the lesser of: (i) 2% in excess of the "Base Rate" charged by Citibank, N.A. for substantial commercial loans from time to time, or (ii) the highest rate permissible under applicable law (and such Defaulting Partner shall continue to be liable to the Partnership until such defaulted capital contribution and such costs, fees and interest have been paid in full).

2.4 No Withdrawals or Interest.

(a) No Partner shall have the right to withdraw any part of his capital contribution, or receive any distribution, except in accordance with the provisions of this Agreement.

(b) No interest shall be paid on any capital contributed to the Partnership.

ARTICLE III

PROFITS, LOSSES AND DISTRIBUTIONS

3.1 Definition of "Percentage Interests". The Percentage Interests of the Partners shall be 50% for Dworman and 50% for Palin.

3.2 Allocation of Income, Gains and Losses. The net profits and net losses of the Partnership from operations and from all capital transactions (which shall include a refinancing, an insurance award, condemnation, easement sale, sale of all or part of the Properties, or any other transaction which is attributable to capital rather than operations) shall be determined each year in accordance with the accounting methods followed by the Partnership for federal income tax purposes. All such net profits and net losses shall be allocated to the Partners as follows:

(a) in the case of net income from operations, (i) first, an amount of net income up to the aggregate amount of Net Cash Flow (as hereinafter defined) distributed or available for distribution to the Partners, in the same ratio as such Net Cash Flow was, or is to be, distributed and (ii) then, the balance of net income in accordance with the Percentage Interests of the Partners;

(b) in the case of gains from capital transactions, they will be recognized in accordance with generally accepted tax treatment as follows: net sale proceeds

allocated to each Partner pursuant to his profit and loss ratio and subject to the respective basis of land and undepreciated building cost as originally allocated upon amendment and restatement of the Partnership Agreement on July 1, 1981; and

(c) in the case of all losses, to the Partners in accordance with their Percentage Interests.

3.3 Distributions.

(a) Net Cash Flow for each fiscal year (or part thereof) of the Partnership shall be distributed, at convenient periodic intervals not less frequently than quarterly, as follows:

(i) first, to any Partners who have made Deficit Loans, an amount equal to the aggregate Deficit Loans made, together with all accrued and unpaid interest thereon, to said Partners in proportion to the amount of Deficit Loans made by each of such Partners; and

(ii) then, to all of the Partners in accordance with their Percentage Interests.

(b) Net proceeds from capital transactions shall be distributed to the Partners as follows:

(i) first, to any Partners who have made Deficit Loans, an amount equal to the aggregate unpaid Deficit Loans made, together with accrued and unpaid interest thereon, to said Partners in proportion to the amount of the Deficit Loan made by each of such Partners; and

(ii) then, the remaining proceeds shall be distributed to the Partners in accordance with their Percentage Interests.

(c) For purposes of this Agreement, (i) the "Net Cash Flow" of the Partnership for any given period shall

be defined as the excess of gross rental receipts of the Partnership from the operation of the Properties for such period over the sum of: (A) all operating expenses paid by the Partnership for such period, (B) all expenditures for capital improvements of the Properties (in excess of any loan proceeds applied to the payment of capital expenditures or any insurance proceeds received if such expenditures are made in connection with the occurrence of an insured event) during such period, (C) all debt service payments made during such period on account of loan obligations of the Partnership and (D) any reasonable provision for working capital, repairs, payables and capital improvements.

3.4 Distributions in Kind. If any assets of the Partnership shall be distributed in kind, such assets shall be distributed to the Partners entitled thereto as tenants-in-common (if real property) or joint owners without right of survivorship (if personal property) in the same proportion as the Partners would have been entitled to cash distributions.

3.5 No Salaries. No salary or other compensation shall be paid to any Partner by the Partnership, but the Partnership shall reimburse any Partner for reasonable expenses incurred by it in connection with the business of the Partnership.

ARTICLE IV

MANAGEMENT AND CONTROL

4.1 Control of Partnership's Affairs. Except as specifically provided in this Agreement to the contrary, the business and affairs of the Partnership shall be carried on and managed by Dworman. The Partners shall use their best efforts to carry out the purposes and the business of the Partnership and shall devote to the Partnership business such time as they shall, in their sole discretion, determine to be required for its welfare and success.

4.2 Major Decisions. Dworman, as managing Partner, shall not be empowered, without the prior written consent of Palin:

(i) to do any act in contravention of this Agreement;

(ii) to do any act which would make it impossible to carry on the ordinary business of the Partnership;

(iii) to confess a judgment against the Partnership;

(iv) to possess Partnership property or assign any rights in specific Partnership property for other than a Partnership purpose;

(v) to change or reorganize the Partnership into any other legal form;

(vi) to incur, refinance, recast, modify or extend any indebtedness of the Partnership, whether or not secured by a lien on any of the Properties; or

(vii) to sell, exchange or otherwise dispose of all or any portion of the Properties (but subject to obtaining the approval of both Partners sale, exchange or disposition of the Properties shall be a valid purpose of the Partnership).

4.3 Professional Management of the Properties.

The Partners hereby agree to engage Carard Management Company, or any other affiliated company, to perform the duties necessary to coordinate the business and affairs of the Partnership and to perform for the Partnership all services customarily performed by a property management company in accordance with sound management practices and the performance of such other duties as are required for the proper management, maintenance and operation of residential buildings similar to the Properties. The Partnership shall pay to said management company such fair and reasonable compensation and fees as shall be agreed upon between the Partnership and said management company in an amount equal to the aggregate annual costs and expenses directly or indirectly incurred by said management company in performing its duties and obligations hereunder or under any management agreement executed by Dworman on behalf of the Partnership and by said management company.

4.4 Miscellaneous. Each of the Partners shall keep the other informed with respect to the Properties and the business and affairs of the Partnership.

ARTICLE V

TERMINATION

5.1 Events of Termination. The Partnership shall be dissolved and its affairs wound up upon the first to occur of the following:

(a) the sale or other disposition of all of the assets of the Partnership;

(b) a determination of the Partners to dissolve;

(c) the bankruptcy or insolvency of a Partner (as said terms are defined in Title 11 of the United States Code (the "Bankruptcy Code")); or

(d) the expiration of the term of the Partnership.

5.2 No Voluntary Dissolution. Except as hereinafter provided in Articles IX and X, each Partner hereby agrees to take no action which would result in the dissolution of the Partnership, except with the consent of the other Partners.

5.3 Winding Up. Upon a dissolution of the Partnership requiring the winding up of its affairs, the Partner(s) acting as such (or if no Partner is then acting as such, a special liquidator appointed by the legal representatives of the Partner(s)) shall wind up the Partnership's affairs. The assets of the Partnership shall be sold within a reasonable period of time, to the extent necessary to pay or provide for the debts and liabilities of the Partnership, and may be sold to the extent deemed commercially feasible by the person or persons winding up the affairs of the Partnership, and all assets of the Partnership shall be distributed as provided in Section 5.4 hereof.

5.4 Distributions. The proceeds of any dissolution shall be applied and distributed in the following order of priority (to the extent that such order of priority is consistent with the laws of the State of New York):

(a) to the payment of the debts and liabilities of the Partnership (except those payable to any Partner or his affiliate, if any, other than debts payable to any entity affiliated with a Partner which debt accrued prior to the admission of such Partner into the Partnership) and the expenses of dissolution and liquidation;

(b) to the setting up of any reserves which the person or persons winding up the affairs of the Partnership shall deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Partnership, and, at the expiration of such period as the aforesaid person or persons may deem advisable, for distribution in the manner hereinafter provided; and

(c) the balance in accordance with Section 3.3(b).

5.5 Final Statement. Upon a dissolution of the Partnership requiring a winding-up of its affairs, a statement shall be prepared by the Partnership's accountants, which shall set forth the assets and liabilities of the Partnership as of the date of dissolution.

ARTICLE VI

ACCOUNTING, REPORTS, ETC.

6.1 Books and Records. The Partners hereby agree to engage the firm of Shanholt, Marinoff & Fleiss ("Fleiss") as the certified public accountant of the Partnership. The Partners may agree, by mutual consent, to replace Fleiss at any time. Fleiss shall maintain true and correct books and records of the Partnership in accordance with the accounting methods followed by the Partnership for Federal income tax purposes, showing all costs, expenditures, receipts, assets and liabilities, and profits and losses and all other records necessary, convenient or incidental to recording the Partnership's business and affairs and sufficient to record the allocation of profits, losses, and distributions as provided for herein.

6.2 Fiscal Year. The fiscal year of the Partnership shall be the calendar year.

6.3 Reports. As soon as reasonably practicable after the close of the Partnership's fiscal year, Fleiss shall cause to be prepared and sent to each Partner (a) a balance sheet and a statement of income of the Partnership and (b) a report setting forth in sufficient detail all such information and data with respect to business transactions effected by or involving the Partnership during such fiscal year as shall enable such Partner to prepare his federal, state and local income tax returns in accordance with the laws, rules and regulations then prevailing. Fleiss shall also cause to be prepared and filed all federal, state and local tax returns required of the Partnership. All such financial statements, reports and tax returns shall be prepared at the expense of the Partnership.

6.4 Bank Accounts. All excess funds of the management company, as provided for in Section 4.3 hereof, will be deposited in the name of the Partnership in the Partnership's bank account or accounts. All such accounts shall be in such banks located within the City of New York, as Dworman, in his sole discretion, from time to time shall determine. Except as hereinbelow provided, withdrawals from such banks shall be made only on signatures of both Partners or their previously designated representatives. The Partnership shall also maintain at least one separate bank account in any of such banks to be used for operation of the Properties. The Partners shall mutually agree on the amounts to be deposited into such operating account and withdrawals from such account may be made on the signature of one Partner or such other person designated by the Partners. There shall be no commingling of the funds of the Partnership with funds of any other entity.

6.5 Accounting Decisions. All decisions as to accounting principles and tax elections shall be made by the unanimous consent of both Partners.

ARTICLE VII

PARTITION

7.1 No Partition. The Partners waive any right of partition they may have with respect to any assets of the Partnership now existing or hereafter acquired; and any such waiver shall survive the dissolution and termination of the Partnership.

ARTICLE VIII

OTHER INTERESTS OF THE PARTNERS

8.1 Other Interests. Any Partner may engage in and possess an interest in other business ventures of every nature and description, independently or with others, including, but not limited to the real estate business in all of its aspects, and neither the Partnership nor the other Partner shall have any rights in and to such independent ventures or the profits, losses, income or other distributions derived therefrom.

ARTICLE IX

TRANSFERS OF INTERESTS

9.1 Transfers Generally Prohibited. Each Partner covenants and agrees that he will not sell, assign, transfer, or in any other manner dispose of his entire interest, or any part thereof (collectively referred to as "Transfer"), in the Partnership or the Properties, except in accordance with the provisions of this Article.

9.2 Permitted Transfers. Each Partner may, free of the restrictions of this Agreement, assign his interest in whole or in part, in the Partnership or the Properties, to a member of his immediate family, i.e., his parent(s), wife and/or issue, or to a trust for their benefit or to a corporation or other entity which he controls and continues to control by virtue of not less than an eighty percent (80%) ownership thereof. In addition to the foregoing, Dworman agrees that Palin shall be permitted to enter into a subparticipation arrangement with respect to his interest in the Partnership; provided however, that the terms of any such subparticipation arrangement shall provide that Palin shall have the sole right to make all decisions with regard to his interest in the Partnership, and, for purposes of this Agreement and the business and affairs of the Partnership, Palin shall be the Partner and no subparticipant shall be a Partner in the Partnership.

9.3 Transferee Generally Not a Partner. Notwithstanding the provisions of Sections 9.1 and 9.2, without the express written consent of each of the other Partners, no Transfer by a Partner of all or any portion of its interest

in the Partnership shall be deemed to make the transferee a "Partner" hereunder for any purpose whatsoever, or to grant to the transferee any rights herein other than to receive the allocation of profits and losses and the distributions transferred to it, or to release or relieve the transferring Partner of any obligation or liabilities hereunder, whether or not accrued as of the date of Transfer; provided, however, that a Transfer to any existing Partner shall not be limited by the terms of this Section; and provided, further, that the terms of the first sentence of Section 9.6 hereof shall supercede the provisions of this Section 9.3.

9.4 Notice of Transfer. No Transfer shall be effective as against the Partnership or the other Partners unless the Partnership and such other Partners shall have received a copy of the instrument of Transfer executed by the transferor and transferee, in form and substance satisfactory to counsel for the other Partners, which instrument shall contain, inter alia, the agreement of the transferee agreeing to be bound by all the terms and conditions of this Agreement applicable to the transferee.

9.5 Cross-Purchase Procedure. In the event that Palin and Dworman cannot agree on any action to be taken by the Partnership, then either of said Partners (the "Initiating Partner") can make an offer to purchase the other Partner's entire interest in the Partnership (subject to existing secured debt) on the terms hereinafter set forth in subsection (b) of this Section 9.5, by written offer (the "Offer") to the other Partner (the "Electing Partner") setting forth the amount of cash he is willing to pay for such interest (the "Price"). At any time within a 90-day period commencing with the day as of which the Initiating Partner shall have delivered the Offer, the Electing Partner either shall:

(a) accept the Offer, by delivering written notice thereof to the Initiating Partner stating a closing date for the purchase which shall be not greater than sixty (60) nor less than thirty (30) days after the date of delivery of such notice (failure to give such notice, when coupled with a failure to elect under the succeeding subsection, shall be deemed an acceptance under this subsection (a)); or

(b) elect to purchase the entire interest of the Initiating Partner in the Partnership for all cash, by delivering to the Initiating Partner written notice of

such election, specifying the closing date for the purchase (which shall be not greater than sixty (60) nor less than thirty (30) days after the date of delivery of such notice), together with a cash deposit in an amount equal to 10% of the Price.

At the closing, the purchasing Partner shall make a cash payment equal to the balance of the Price (which Price shall be adjusted to include all customary real estate closing adjustments payable in such transactions, calculated on the basis of the Percentage Interest being transferred) to the other Partner, as aforesaid, against receipt of all duly executed instruments and documents necessary (in the responsible judgment of counsel for the purchasing Partner) to transfer to the purchasing Partner, or its designee, free and clear of all liens, claims and encumbrances, all right, title and interest of the selling Partner in the Partnership. At the closing, the purchasing Partner shall also pay to the selling Partner, in cash, the amount of any Deficit Loans then outstanding from the selling Partner.

9.6 Death of a Partner. Upon the death of either Dworman or Palin, the estate of the deceased Partner shall become a Partner and the Partnership shall continue as heretofore provided herein; provided, however, if Dworman is the deceased Partner, the management and control of the business and affairs of the Partnership shall be assumed by Palin, subject to the terms of Article IV of this Agreement. The surviving Partner may make an offer to the estate of the deceased Partner to purchase said Partner's partnership interest in the Partnership. Such offer shall be made in accordance with the procedure set forth in Section 9.5 hereof and thereafter the estate of the deceased Partner shall have the right to accept or reject such offer in the same manner as set forth in said Section 9.5.

ARTICLE X

GENERAL PROVISIONS

10.1 Arbitration. Except as otherwise provided herein, any controversy or dispute arising out of or relating to this Agreement or the breach hereof shall be settled by arbitration. Such arbitration shall be effected by each Partner's counsel, who, in the event of a failure to reach a settlement, shall be empowered to appoint a third party as the arbitrator of the dispute. Such third party shall be

mutually agreeable to counsel for both Partners. The written decision of such third-party arbitrator shall be binding, final and conclusive upon the parties involved, and judgment may be entered on any such decision in any federal or state court having jurisdiction. The fees of the arbitrator and the expenses of the arbitration shall be borne by the Partners in accordance with their Percentage Interests.

10.2 Indemnification.

(a) Each Partner ("Indemnitee") shall be indemnified and held harmless by the other Partners ("Indemnitor") against and from all claims, demands, losses or damages which shall or may arise by virtue of anything done or omitted to be done by the Indemnitor (directly or by agents or other representatives) outside the scope of, or in breach of the terms of, this Agreement; provided that the Indemnitor shall be promptly notified of the existence of the claim, demand, loss or damage, and shall be given reasonable opportunity to participate in the defense thereof, and further provided that failure to give such notice shall not affect the Indemnitor's obligations hereunder except to the extent of any actual prejudice to it resulting therefrom.

(b) Notwithstanding anything to the contrary contained herein or in any other instrument or document executed by the Partnership prior to the date hereof, Palin shall be jointly and severally indemnified by the Partnership and by the other Partner from all claims, demands, losses, damages, expenses and liabilities of Spelke and Levien relating to all acts of the Partnership or any Partner thereof whether or not such acts were within the scope of the Original Agreement except claims relating to the management of the Properties by Carard Management Company or any other entity affiliated with Palin.

10.3 Inspection. Each Partner or his authorized representative may examine any of the books, records and properties of the Partnership during normal business hours upon reasonable notice.

10.4 Integration. This Agreement is the entire agreement among the parties with respect to the subject matter hereof, and supersedes all prior written or oral understandings among the parties with respect to the subject matter hereof.

10.5 Amendments. This Agreement may be modified or amended only upon the written consent of both of the Partners.

10.6 Notices. All notices, demands, offers or other communications required or permitted by this Agreement shall be in writing and shall be sent by prepaid registered or certified mail, return receipt requested, or by hand delivery, and addressed to the Partners at their respective addresses set forth above or to such other address as shall, from time to time, be supplied by either party to the other by like notice, and shall be deemed given upon the date the return receipt is signed on behalf of the receiving party or, if hand delivered, upon delivery.

10.7 Benefits and Obligations. The covenants and agreements herein contained shall inure to the benefit of (subject to Article IX), and be binding upon, the parties hereto and their respective successors and assigns.

10.8 Severability. If any provision of this Agreement or the application thereof to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstance, other than those as to which it is so determined to be invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

10.9 Enforcement of Provisions, etc. The failure to enforce any provision of this Agreement or to require at any time performance by a party of any provision hereof shall in no way be construed to be a waiver of such provision, or to affect either the validity of this Agreement, or any part hereof, or the right of any party thereafter to enforce each and every provision in accordance with the terms of this Agreement.

10.10 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

10.11 Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute the same instrument.

10.12 Headings. The headings in this Agreement are solely for convenience of reference and shall not affect its interpretation.

IN WITNESS WHEREOF, the parties have caused this Partnership Agreement to be executed as of the day and year first above written.


ALVIN DWORMAN


MICHAEL PALIN

FJB

DESCRIPTION

80-01-00202

Section 5 Block 1271 on the Tax Map of New York County.

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

Beginning at a point on the northerly side of 55th Street distant 152 feet 6 inches easterly from the corner formed by the intersection of the northerly side of 55th Street with the easterly side of 6th Avenue; running

THENCE northerly parallel with the 6th Avenue and part of the way through the centre of a party wall 100 feet 5 inches to the centre line of the block between 55th and 56th Streets;

THENCE easterly along the centre line and parallel with 55th Street 117 feet 6 inches;

THENCE southerly parallel with 6th Avenue and part of the way through the centre of a party wall 100 feet 5 inches to the northerly side of 55th Street;

THENCE westerly along the northerly side of 55th Street 117 feet 6 inches to the point or place of beginning.

NOT INSURED: Said premises known as 57-59-61-63-65 and 67 West 55th Street.

Exhibit A

DESCRIPTION

8001-00201

Section 5 Block 1310 on the Tax Map of New York County.

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of East 55th Street, distant 115 feet westerly from the corner formed by the intersection of the northerly side of East 55th Street and the westerly side of Third Avenue; running

THENCE northerly parallel with Third Avenue and part of the way through a party wall 100 feet 5 inches to the center line of the block;

THENCE westerly along center line of the block 130 feet;

THENCE southerly parallel with Third Avenue 100 feet 5 inches to the northerly side of East 55th Street; and

THENCE easterly along the northerly side of East 55th Street 130 feet to the point or place of BEGINNING.

DESCRIPTION

80-01-00203

Section 5 Block 1331 on the Tax Map of New York County.

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of East 58th Street distant 150 feet east of the corner formed by the intersection of the southerly side of 58th Street with the easterly side of Third Avenue; running

THENCE southerly at right angles to East 58th Street and part of the distance through a party wall 94 feet 3 3/4 inches;

THENCE easterly parallel with East 58th Street 7 feet;

THENCE southerly parallel with Third Avenue, 6 feet 1 1/2 inches to the center line of the block;

THENCE easterly along the center line of the block 93 feet;

THENCE northerly again at right angles to the southerly side of East 58th Street and part of the distance through a party wall 100 feet 5 inches to the southerly side of East 58th Street;

THENCE westerly along the southerly side of East 58th Street 100 feet to the point or place of BEGINNING.

TOGETHER with an easement for light and air over premises adjoining on the west. Pursuant to agreement dated June 30, 1959 between 210 East 58th Street Realty Corp. and 208 East 58th St. Realty Corp. recorded August 13, 1959 in Liber 5008 cp 330.

NOT INSURED: Said premises known as 210 through 218 East 58th Street.

FIRST AMENDMENT
TO THE
AMENDED AND RESTATED
PARTNERSHIP AGREEMENT

of

CAPITAL PROPERTIES COMPANY

AGREEMENT, made as of the 13th day of September, 1993, among ALVIN DWORMAN, having an office at Olympic Tower, 645 Fifth Avenue, New York, New York ("Dworman"), MICHAEL PALIN, having an office at 969 Third Avenue, New York, New York ("Palin") and Capital Enterprises Co., a New York General Partnership, having an office c/o Michael Palin at 969 Third Avenue, New York, NY 10022 ("Enterprises").

WHEREAS, as of July 1, 1981, an Amended and Restated Partnership Agreement ("Partnership Agreement") of Capital Properties Company ("Capital") was signed by Dworman and Palin; and

WHEREAS, in accord with the provisions of a Nominee Agreement of July 1, 1981, Palin has been holding the 50% interest in Capital as a nominee for Enterprises; and

WHEREAS, the parties hereto wish to amend the Partnership Agreement by, 1. changing the term thereof; 2. accepting the resignation of Palin as a general partner of Capital; and 3. admitting Enterprises as a general partner of Capital.

NOW THEREFORE, in consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the parties hereby agree as follows:

1. The provisions of Article I, Section 1.3 of the Partnership Agreement which sets forth the termination date of the partnership as being December 31, 2000, is hereby amended to read December 31, 2050.

2. The transfer of all of Palin's interest as a general partner of Capital to Enterprises is accepted and confirmed and the provision of Article 9 Section 9.1 of the Partnership Agreement is waived in this instance.


3. Effective as of September 13, 1993, Palin resigns as a general partner of Capital.

4. Enterprises agree to become a General Partner in place of Palin and agrees to be bound by all of the provisions of the Partnership Agreement.

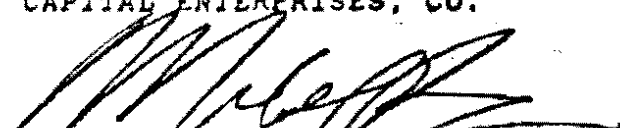
5. Except as specifically amended herein, the Partnership Agreement shall remain in full force and effect.

In Witness Whereof, the undersigned have executed this First Amendment to the Amendment and Restated Partnership Agreement as of the date above written.


Alvin Dworman


Michael Palin

CAPITAL ENTERPRISES, CO.

by: 
Michael Palin, General Partner