



City of Chicago



O2021-642

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 2/26/2021

Sponsor(s): Reilly (42)

Type: Ordinance

Title: Extension of privilege term to Chicago Title Land Trust Co.
for maintenance and use of public plaza deck at 430 N
Michigan Ave

Committee(s) Assignment: Committee on Transportation and Public Way

ORDINANCE

WHEREAS, the City of Chicago (the "City"), as a home rule unit of government under the 1970 Constitution of the State of Illinois, has the authority to promote the health, safety and welfare of its inhabitants, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes; and

WHEREAS, Chicago Title Land Trust Company as Trustee under a trust agreement dated December 1, 1975, No. 38176, an Illinois land trust (the "Grantee"), is the owner of that certain property with improvements located thereon and commonly known as 430 North Michigan Avenue, Chicago, Illinois (the "430 Property"); and

WHEREAS, the City is the owner of certain public right of way located between the buildings at 430 and 444 North Michigan Avenue, Illinois; and

WHEREAS, the City Council of the City of Chicago (the "City Council"), by ordinances adopted on July 8, 1998 (published in the Journal of the Proceedings of the City Council ("Journal") for such date at pages 73004 through 73013) granted to Grantee permission and authority to construct and maintain a public plaza deck spanning the east/west alley located between 430 North Michigan Avenue and 444 North Michigan Avenue ("Original Privilege"); and

WHEREAS, the Department of Revenue of the City of Chicago issued a permit to Grantee (Permit No. 42582) to maintain and use the public plaza in accordance with the ordinance for a period of twenty (20) years; and

WHEREAS, the Original Privilege has expired and Grantee has requested the City to extend the term of the Privilege, and the City supports continued grant of privilege for this public plaza; and

WHEREAS, the City, acting through its Department of Transportation ("CDOT"), and the Grantee now wish to extend the Privilege for a period of twenty-five (25) years; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The above recitals are expressly incorporated in and made a part of this ordinance as though fully set forth herein.

SECTION 2. Permission and authority ("*Privilege*") are hereby renewed, extended and granted to Chicago Title Land Trust Company as Trustee under a trust agreement dated December 1, 1975, No. 38176 ("*Grantee*"), upon the terms and subject to the conditions of this ordinance, to occupy a portion of the public alley lying between the buildings at 430 and 444 North Michigan Avenue ("*Abutting Properties*") for purposes of maintaining an already constructed elevated public plaza ("*Improvements*"). The Privilege shall be for a period beginning with effective date of the permit renewal

issued by the Director of Revenue in accordance with Section 8 of this ordinance, and extending for a period of twenty-five (25) years. The Improvements shall be maintained in strict accordance with the drawings which are attached hereto as **Exhibit A** and by reference incorporated and made a part of this ordinance. Such Privilege and the Improvements shall be maintained and used in accordance with all applicable laws, including the ordinances of the City of Chicago, and the directions of the Commissioner of Streets and Sanitation, the Commissioner of Buildings, the Commissioner of Transportation and the Director of Revenue. The Grantee shall keep the Improvements and that portion of the public way in, over, under or adjacent to the Improvements in good condition and repair, safe for public use and travel, free from snow, ice debris to the satisfaction of the Commissioner of Streets and Sanitation.

SECTION 3. This ordinance is subject to amendment, modification or repeal, and permission and authority herein granted may be revoked by the Mayor of the City of Chicago or the Director of Revenue at their discretion, at any time, on sixty (60) days written notice, without the consent of said Grantee. At any time prior to the termination of the Privilege herein granted, by lapse of time or otherwise, the Grantee may, and not later than the termination or expiration of the Privilege herein granted, the Grantee shall, without cost or expense to the City of Chicago, remove the improvements herein authorized and restore the public way where disturbed by said Improvements or by the removal thereof, to a proper condition under the supervision and to the satisfaction of the Commissioner of Streets and Sanitation and in accordance with the City Municipal Code. Grantee shall have a reasonable time to complete such removal, in no event less than ninety (90) days following the sixty (60) day notice period above.

SECTION 4. In the event of failure, neglect or refusal of Grantee so to perform any of its obligations under this ordinance, the City may give written notice to the Grantee. If, within sixty (60) days following receipt of such notice, if Grantee fails to promptly initiate and diligently pursue action necessary to cure such failure, the City may, at its option, either: (a) perform such work and charge the cost thereof to Grantee, or (b) determine what the cost of said work shall be and bill Grantee for said cost, or (c) combine the two methods. Within sixty (60) days of receipt of notice of such cost, Grantee shall pay the City such amount.

SECTION 5. Grantee shall be responsible and pay for the removal, relocation, alteration, repair, maintenance and restoration of City-owned structures or appliances located in or adjacent to the public way including pavement, bridges, conduits, pipes and other facilities and utilities, which are necessary or appropriate on account of Grantee's use of the public way. The Commissioner of Streets and Sanitation is hereby authorized, in his or her discretion and from time to time during Grantee's use and occupancy of the public way until the restoration of the public way, to determine the work which is or will be necessary or appropriate and the cost involved to perform such work. The Commissioner is authorized to collect a deposit prior to commencing any work and to charge grantee all actual costs for causing all such work to be performed. The decision of such Commissioner shall be final and binding. The Grantee, upon receiving written notification from the Commissioner of Streets and Sanitation of the

required deposit or the cost of such work, shall immediately pay or deposit such amount as directed by the Commissioner.

SECTION 6. The Grantee shall provide and maintain, or cause to be provided and maintained, or cause to be provided and maintained, at Grantee's own expense during the term of the Privilege and continuing until all Improvements have been removed and the public way restored as herein required, the insurance coverages and requirements specified below:

1. Commercial General Liability (*Primary and Umbrella*). Commercial General Liability Insurance or equivalent with limits of not less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (*for a minimum of two (2) years following project completion*), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (*with no limitation endorsement*). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Privilege granted by this ordinance.

2. Automobile Liability (*Primary and Umbrella*). When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Grantee shall provide Automobile Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage.

The Grantee shall furnish to the Department of Revenue, De Paul Center, Room 310, 333 South State Street, Chicago, Illinois 60604, with original Certificates of insurance evidencing the required coverage to be in force, and Renewal Certificates of Insurance, or similar evidence, if the coverages have an expiration or renewal date occurring during the term of the Privilege. The Grantee shall submit evidence of insurance on the City of Chicago Insurance Form or the equivalent prior to issuance of the permit described in Section 8 of this ordinance. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the ordinance have been fully met or that the insurance policies indicated on the certificate are in compliance with all ordinance requirements. The failure of the City to request certificates or other insurance evidence from Grantee shall not be deemed to be a waiver by the City. The Grantee shall advise all insurers of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the ordinance and the City retains the right to stop any work, terminate any permit, or rescind the Privilege until proper evidence of insurance is provided. The insurance shall provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed. Any and all deductibles or self insured retentions on the referenced insurance coverages shall be borne by Grantee. The Grantee agrees that insurers shall waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents or representatives. The Grantee shall expressly understand and agree that any coverages and limits furnished by the Grantee shall in no way limit the Grantee's liabilities and responsibilities specified within the ordinance or by law. The Grantee shall expressly

understand and agree that any insurance or self insurance programs maintained by the City of Chicago shall not contribute with the insurance provided by Grantee under this ordinance. The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitations placed on the indemnity therein given as a matter of law. On or about the fifth, tenth and fifteenth anniversary of the issuance of the permit described in Section 8 of this ordinance, the City Comptroller, or the municipal official succeeding the Comptroller to the responsibility of risk manager for the City, may revise the insurance coverages and limits required by this ordinance in accordance with commercially reasonable risk management practices. Upon such revision, such official shall notify the Grantee in writing of such revised requirements. Within thirty (30) days of such notice, the Grantee shall comply with such revised requirements and shall forward a copy of a revised certificate of insurance to such official.

SECTION 7. The Grantee shall indemnify, keep and save harmless the City of Chicago, its agents and employees against all claims, liabilities, judgments, costs, damages and other expenses which may in any way arise or accrue against, be charged to or recovered from the City, its agents or employees in consequence of the permission given by this ordinance, or any act or thing done or omitted or neglected to be done by the Grantee, its agents or employees in and about the construction, reconstruction, maintenance, operation, use or removal of the authorized structures or appliances or the use, operation or restoration of the public way as herein required, including those arising from any personal injuries or deaths or damage or destruction of property.

SECTION 8. The permission and authority herein granted shall not be exercised unless and until a permit authorizing such shall have been issued by the Director of Revenue. Such permit shall be conditioned upon the faithful observance and performance of all of the conditions and provisions of this ordinance, including the obligations to indemnify, keep and save harmless the City of Chicago and to provide insurance coverage. Such permit shall not be issued unless and until the Grantee has submitted to the Department of Revenue evidence of the insurance coverage required by this ordinance, and has submitted to the Corporation Counsel: (1) sufficient evidence of title, satisfactory to the Corporation Counsel, indicating Grantee's ownership of or interest in the Abutting Property south of and abutting the public way subject to the Privilege sufficient to permit the obligations and benefits of this ordinance to run with such Abutting Property and bind future owners of such Abutting Property to such obligations, (2) sufficient evidence of an interest in the Abutting Property north of and abutting the public way subject to the Privilege sufficient to permit the construction and maintenance of the Improvements for a period not less than the term of the Privilege, such interest to run with and to bind future owners of such Abutting Property; and (3) a written acceptance of the terms and conditions of this ordinance binding the Grantee and the successors and assigns of its interests in the Abutting Properties to such terms and conditions.

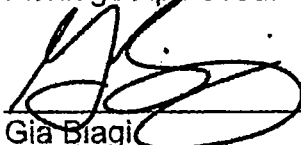
SECTION 9. Upon issuance of the permit described in Section 8 of this ordinance, the permission and authority granted by this ordinance shall run with the Abutting Properties. The Grantee shall agree that it will not convey or assign its interest in the Abutting Properties without providing the City with not less than sixty (60) days notice and disclosure of the person or entity to whom the Grantee intends to convey or assign its interest.

SECTION 10. All notices under this ordinance shall be in writing and delivered, if to Grantee, c/o Chicago Title Land Trust Company, 10 S. LaSalle St., Suite 2750, Chicago, IL 60603.

SECTION 11. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

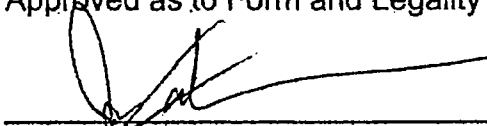
SECTION 12. This ordinance shall take effect and be in force from and after its passage and approval.

Privilege Approved:



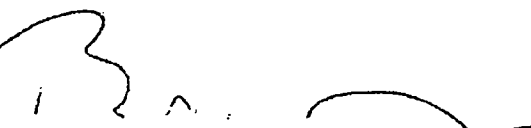
Gia Biagi
Commissioner of Transportation

Approved as to Form and Legality



Joseph Cashman
Assistant Corporation Counsel

Introduced By:



Honorable Brendan Reilly
Alderman, 42nd Ward

EXHIBIT A

Renderings of Public Plaza

Exhibit "A"
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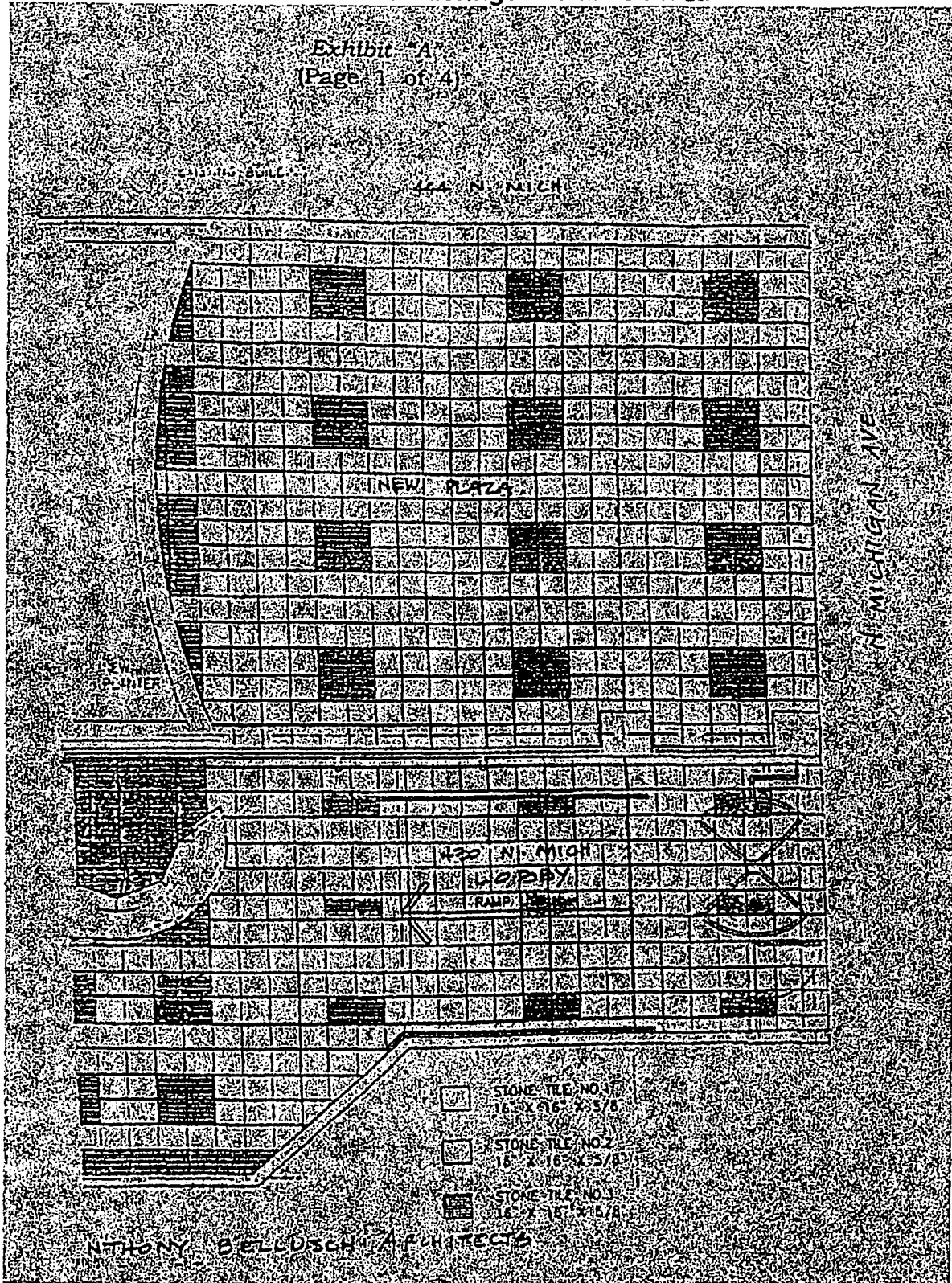


Exhibit "A"
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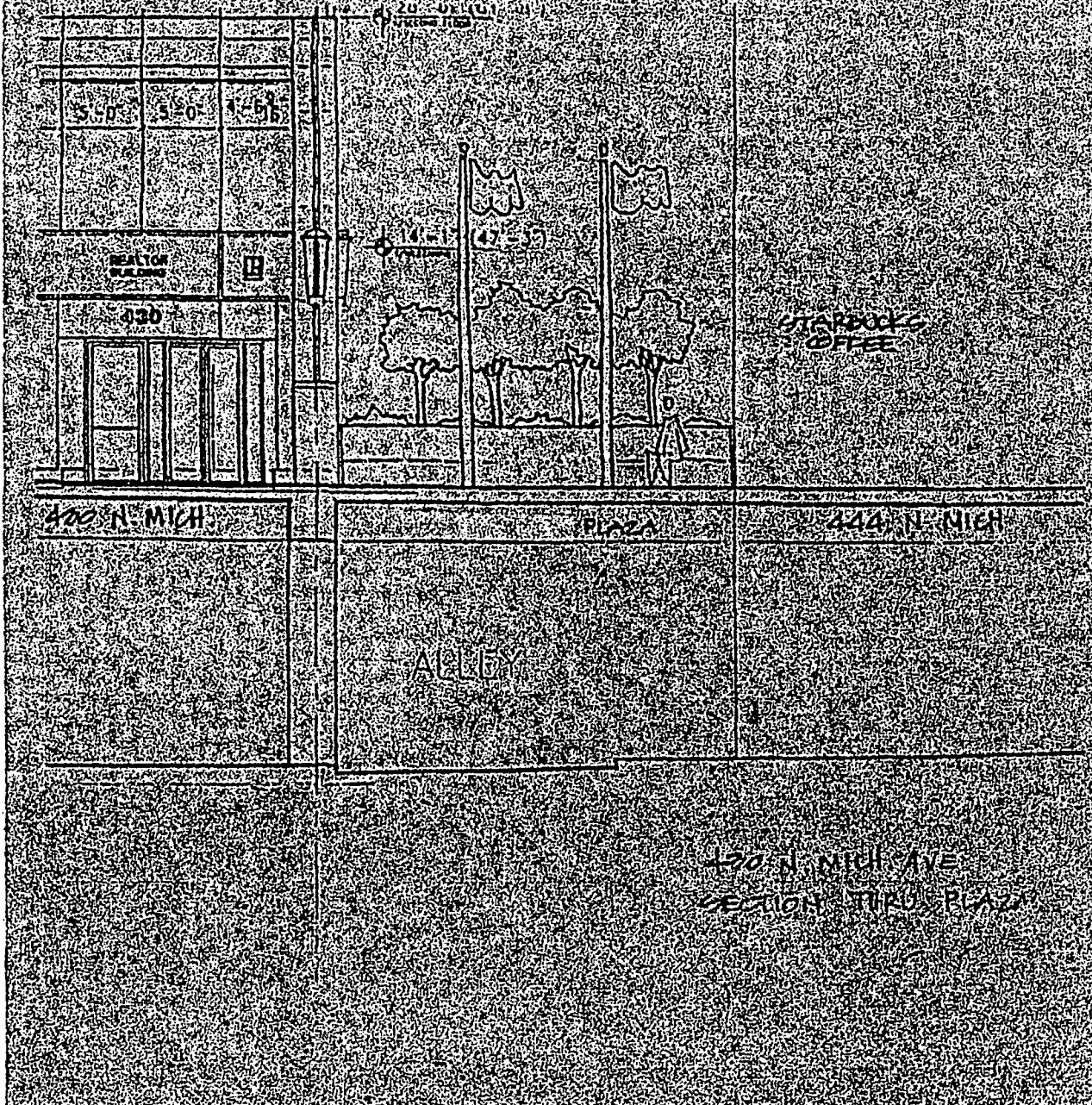
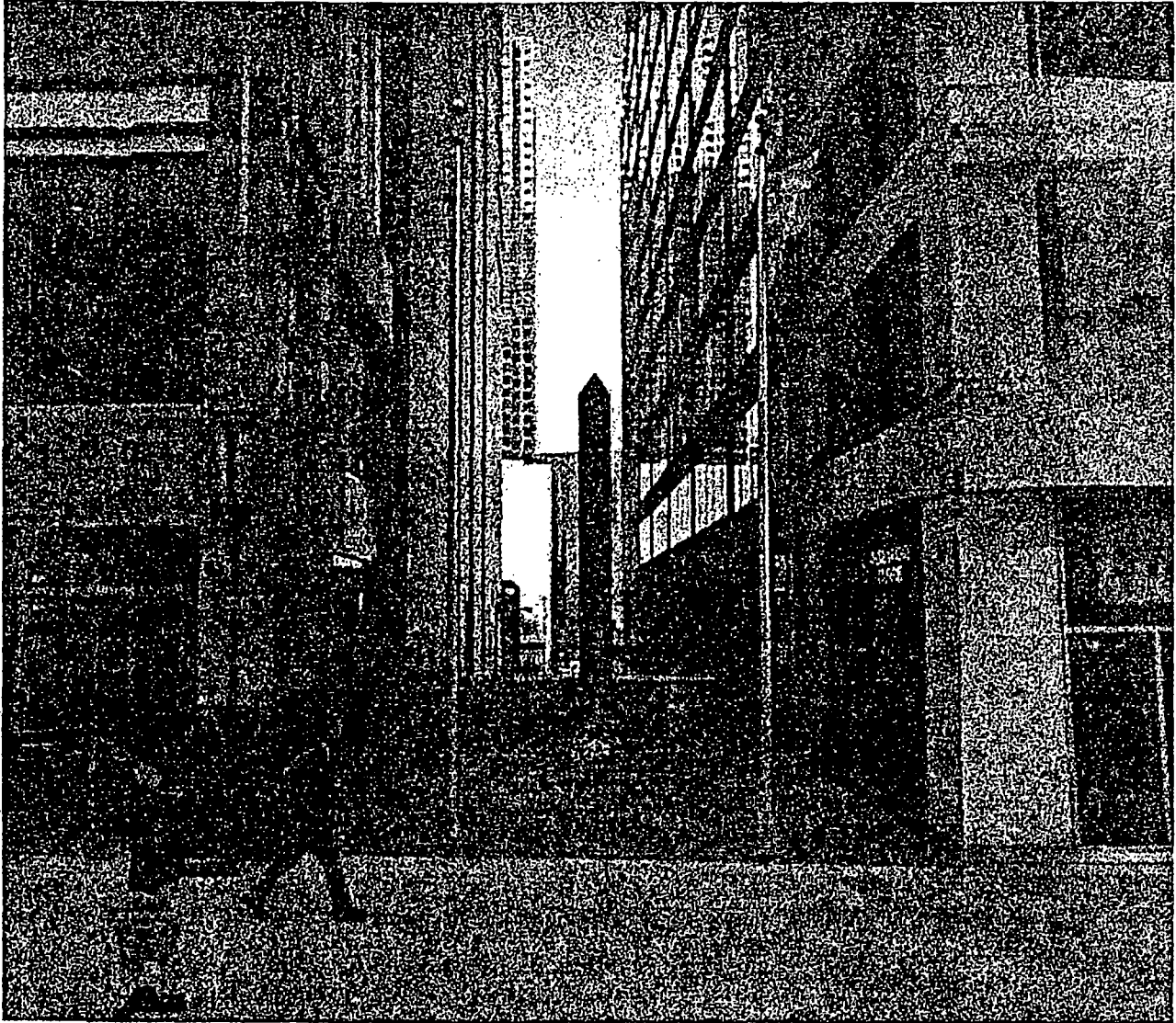
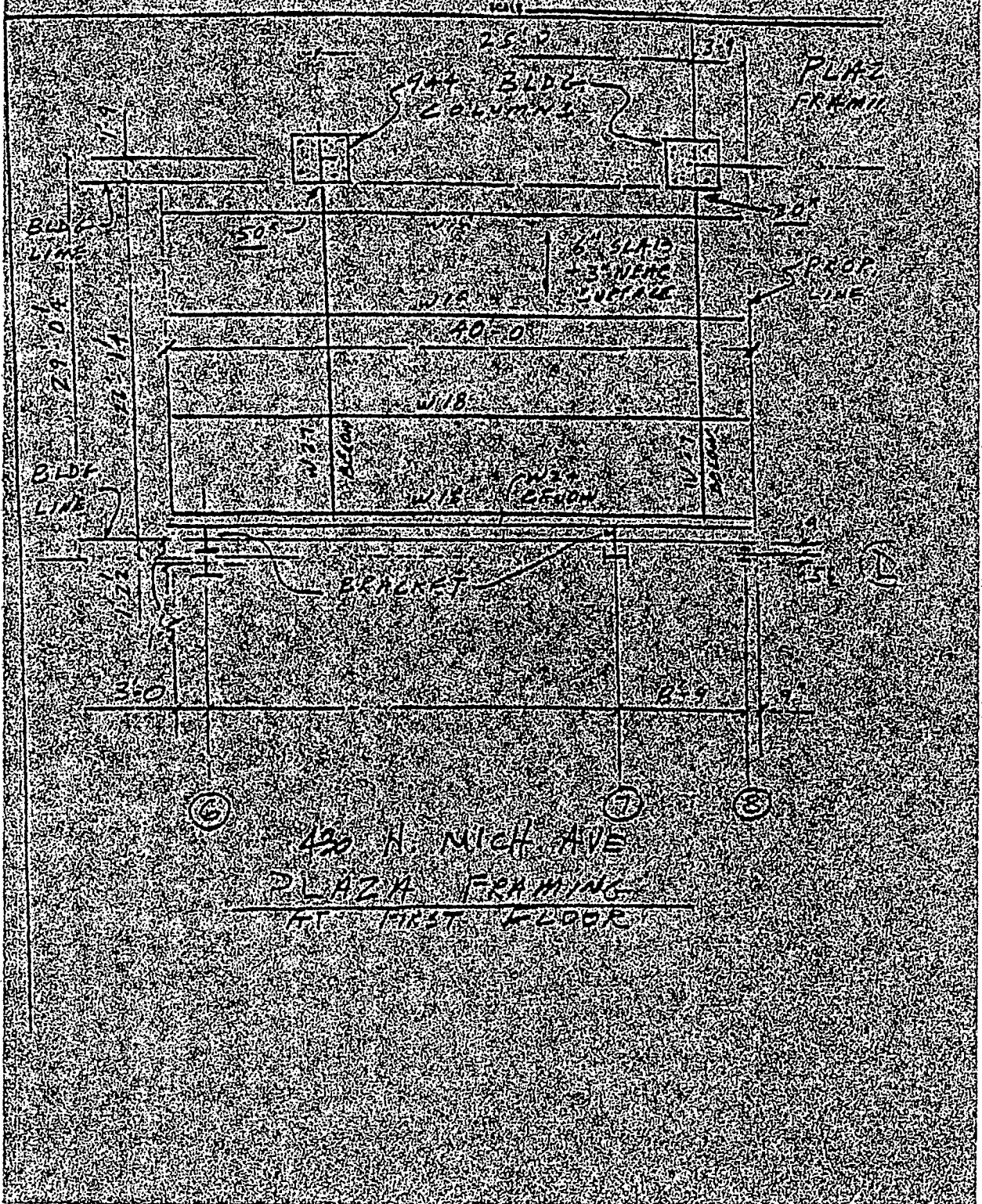


Exhibit "A"
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430 N. MICH AVE
PLAZA FRAMING
FIRST FLOOR