

**PETITION FOR SPECIAL ASSESSMENTS AND AFFIDAVIT**

\_\_\_\_\_, 2005

To the Council of the City of Columbus, Ohio:

WHEREAS, it is represented by Dominion Homes, Inc., an Ohio corporation, and Michael A. Ornstein and Marcus S. Ornstein, both individually and as Trustees U/A dated July 13, 1992 (the "*Ornsteins*") (Dominion Homes, Inc. and the Ornsteins are collectively known as the "*Property Owners*") that the Property Owners are the respective owners of certain real property (which real property represents 100% of the real property described on Exhibit A attached hereto and by reference made a part hereof and referred to herein as the "*Property*", which Property is further referenced herein by various "*Parcels*" as identified on Exhibit A), all of which real property is located within the City of Columbus, Ohio (the "*City*"); and

WHEREAS, the Property Owners, upon being duly sworn, depose and state that this Petition for Special Assessments and Affidavit (this "*Petition*") is, among other things, intended for the purpose of stating facts relating to the happening of any condition or event that may create an interest or estate in the Property; and

WHEREAS, the Property Owners acknowledge that, in connection with the development of the Property, the Property will benefit from: the improvement of Lancaster Avenue, a public road; the improvement of East Broad Street, a public road; the improvement of the approaches and intersection of Lancaster Avenue and East Broad Street; the improvement of the approaches and intersection of East Broad Street and Brannockburn Boulevard; the construction of Tatum Way, a new road; the construction of Shallotte Drive, a new road; and the construction of Reynolds Crossing Drive, a new 2600 foot collector road connecting Lancaster Avenue and East Broad Street (beginning from Lancaster Avenue approximately 1000 feet south of the intersection, continuing in a northeasterly direction, and ending at East Broad Street approximately 2400 feet east of the intersection), by excavating, grading, and paving the public streets and parking areas, planting of hedges and trees including street trees, installing drainage, street and parking area lighting, decorative street lamps, conduit, curbs and gutters, sidewalks, bicycle parking, ADA compliant handicapped ramps, traffic pavement markings, street signs, traffic signalization, loop detectors, and controllers together with all necessary and related appurtenances (collectively, the "*Improvement*"); and

WHEREAS, the Property Owners hereby petition the City for the construction of the Improvement and further, that certain costs of that Improvement be assessed against the Property in accordance with Section 1 of this Petition; and

WHEREAS, the Property Owners acknowledge and agree that the Property includes all of the real property to be assessed pursuant to this Petition, all of which Property shall receive special benefits from the construction of the Improvement; and

WHEREAS, the Property Owners further depose and state that this Petition and actions provided for herein impose burdens and obligations upon the Property and provides for special assessments to be levied upon that Property in accordance with this Petition, and that this Petition is available for inspection at the office of the Clerk of Council of the City;

NOW, THEREFORE, the Property Owners hereby petition the Council of the City of Columbus, Ohio as follows:

**1. Special Assessments.** The Property Owners state that they are the respective owners of 100% of the Property (as described in Exhibit A). Acting pursuant to the Charter of the City of Columbus, Ohio (the “*Columbus Charter*”), Sections 164-191, and Ohio Revised Code (the “*Revised Code*”), Chapter 727, the Property Owners petition the Council for the construction of the Improvement, and in consideration for the construction of the Improvement, agree that no real property, other than the Property, will receive special benefits from the Improvement, and agree that the Property will receive special benefits from the construction of the Improvement, and respectfully request that certain costs of the Improvement be assessed on the Property as follows:

(a) the actual costs of the Improvement (reference to costs of the Improvement in this Petition include costs described in Revised Code Section 727.08) shall be assessed against Parcels No. 1, No. 2, No. 3 and No. 4 in the following amounts:

<u>Parcel Number</u>	<u>Amount of Assessment</u>
1 (Commercial Sub-Area 1)	\$ 103,448.80
2 (Commercial Sub-Area 2)	59,368.40
3 and 4 (Residential Sub-Areas 1 and 2)	1,859,243.60

, with further apportionment, as may be required upon the subdivision of any of those Parcels, to be based on the hereinafter described methodology;

(b) any actual costs of the Improvement in excess of the \$2,022,060.80 of assessments identified above, shall be paid by Dominion Homes, Inc.

The Property Owners acknowledge that the City will act in good faith and in cooperation with the Property Owners to equalize the assessments of the Property as the Property may hereafter be subdivided; provided, however, that the apportionment is subject to acceptance by the Franklin County Auditor.

**2. Duration of Special Assessments.** The Property Owners hereby request and agree that the special assessments and the interest thereon be payable in twenty (20) annual installments of principal and interest (each annual installment to be payable semi-annually at the time real estate taxes in Franklin County, Ohio are payable), that the interest on the special assessments be computed at the rate of five percent (5%) per annum, calculated on the basis of a 360 day year comprised of twelve 30-day months, and that the annual amounts for principal and interest be computed utilizing a methodology which produces the same amount, or approximately the same amount, each year. The Property Owners acknowledge and agree that the City will certify the special assessments and interest thereon to the Franklin County Auditor for collection as soon as

practicable after the completion of the Improvement and ascertainment of the final costs of that Improvement.

**3. *Payment of Special Assessments.*** In consideration of the Improvement, the Property Owners, individually and collectively for themselves and their grantees or other successors with respect to the Property, agree to pay promptly all special assessments levied against the Property as they become due, and agree that the determination by the Council of the special assessments in accordance with the terms hereof will be final, conclusive and binding upon the Property Owners and the Property.

The Property Owners covenant and agree to place a notice in the public records through a recorded document, which will be part of the chain of title for all of the Property to be specially assessed, that states that the Property is subject to an outstanding special assessment and that such transferees assume responsibility for payment thereof and shall be bound by the waiver of any rights as waived pursuant to this Petition.

**4. *Action by Council.*** The Property Owners, for their successors and assigns, further consent and request that all legislation required to be enacted to permit the Improvement to commence immediately be enacted at one Council meeting.

**5. *Waivers.*** The Property Owners, individually and collectively, consent and request that these special assessments be levied and collected without limitation as to the value of the property assessed, and waive all the following relating to the Improvement and the special assessments:

(a) any and all rights, benefits and privileges specified by Section 180 and 181-1 of the Columbus Charter and Sections 727.03 and 727.06 of the Revised Code or by any other provision restricting these special assessments to 33 $\frac{1}{3}$ % of the actual improved value of the lots and lands as enhanced by the Improvement to be made;

(b) any and all rights, benefits and privileges specified by Section 182 of the Columbus Charter and Section 727.04 of the Revised Code or by any other provision limiting special assessments for reimprovement when a special assessment has been levied and paid previously;

(c) any and all rights specified by Section 171 of the Columbus Charter and Section 727.15 of the Revised Code to contest or to oppose the assessment levied for said cost, now or anytime in the future;

(d) any and all damages or claims for damages of whatsoever kind, character or description resulting from the Improvement or the making of the Improvement, including but not limited to all rights, benefits and privileges specified by Sections 174 through 176 and Section 177 of the Columbus Charter and Sections 727.18 through 727.22 and Section 727.43 of the Revised Code;

(e) any and all resolutions, ordinances and notices required for the making of the Improvement, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special

assessments, any increase in the cost of labor and materials over the estimated cost, the passage of the assessing ordinance, and the right to apply for deferment of the special assessments pursuant to Section 727.251 of the Revised Code, and including, but not limited to, notices authorized and required by Sections 170, 172 and 173 of the Columbus Charter and Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code; and

(f) any limitation on the addition of interest to the special assessments specified by Section 727.301 of the Revised Code; and

(g) any limitation or restriction on the levy and collection of special assessments against the Property for the Improvement as specified in Section 929.03 of the Revised Code; and

(h) any and all irregularities and defects in the proceedings.

*(signature pages to follow)*

IN WITNESS WHEREOF, the Property Owners have caused this Petition to be duly executed in their respective names, all as of the date hereinbefore written.

DOMINION HOMES, INC.,  
an Ohio corporation

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF FRANKLIN        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005, before me a Notary Public personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Dominion Homes, Inc., an Ohio corporation, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of Dominion Homes, Inc. and the voluntary act and deed of Dominion Homes, Inc.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.

\_\_\_\_\_  
Notary Public





**EXHIBIT A**

**Legal Description of the Property**

The Property includes the following real property divided into various Parcels:

<b><u>Parcel No.</u></b>	<b><u>Tax Identification Number</u></b>	<b><u>Property Owner(s)</u></b>
1		Dominion Homes, Inc. and The Ornsteins
2		Dominion Homes, Inc. and The Ornsteins
3		Dominion Homes, Inc. and The Ornsteins
4		Dominion Homes, Inc. and The Ornsteins

**Legal Description of Parcels No. 1, 2, 3& 4**