

State: Washington  
Market: Seattle  
Cell ID.: SE110 West Mercer  
LEA31CAC032889-CA110890

THIS LEASE IS THE PROPERTY OF: McCaw Cellular Communications  
5808 Lake Washington Blvd NE  
Kirkland, Washington 98033  
Attn: Jennifer Marsh

**SITE LEASE AGREEMENT**

THIS AGREEMENT (this "Lease") is entered into this 23rd  
day of September, 19 90 between Thomas C. Benis and  
Helen D. Benis ("Landlord") and Interstate Mobilephone Company, a  
Washington General Partnership ("Tenant").

For good and valuable consideration, the parties agree as follows:

DATED as of the date first set forth above.

1. Premises. Subject to the following terms and conditions, Landlord leases to Tenant use of a portion of the real property (the "Property") described in Exhibit A attached hereto. Tenant's use of the Property shall be limited to that portion of the Property identified on the map attached hereto as Exhibit B, together with easements for access and utilities as provided herein (collectively, the "Premises"). The Premises shall comprise use of a roof and approximately 400 square feet of Unit #"X", which shall consist of the currently configured living room, kitchen and dining area.

2. Use.

a. The Premises may be used by Tenant for the transmission and reception of radio communication signals in any and all frequencies, for the construction and maintenance of related facilities, antennas, or buildings and for related activities. Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits required for Tenant's use of the Premises (the "Governmental Approvals") and to allow Tenant to perform surveys, testing and other engineering procedures on, under, and over the Property necessary to determine that Tenant's use of the Property will be compatible with Tenant's engineering specifications, system design, and Governmental Approvals. However, Landlord makes no warranty to

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Tenant as to the sufficiency of the Premises for tenant's intended use and purposes or whether required Governmental Approvals can be obtained. Tenant accepts full responsibility for configuring, maintaining and operating the premises in conformity with all applicable municipal and other regulations.

b. By taking possession of the premises, Tenant acknowledges that they were in good and tenantable condition and as represented by Landlord.

c. Tenant will not store any material or equipment on the outside of the Premises which will in any way be visible or which will in any way indicate that a non-residential use is contained therein. Tenant will not cause or permit to be displayed any signs indicating its use or possession of the Premises without Landlord's prior consent.

d. Tenant will not in any way cause or permit damage to the roof or weather integrity of any Building on the Property and will immediately upon notice repair any such damage caused by Tenant or Tenant's agents or invitees.

3. Term. The term of this Lease shall be five years, commencing upon the sooner of (a) written notification by Tenant to Landlord of Tenant's receipt of all Governmental Approvals, or the date of the execution of this Lease by both parties (the "Commencement Date") and terminating at Midnight on the last day of the month in which the fifth anniversary of the Commencement Date shall have occurred. Tenant shall have the right to extend this Lease for five additional five-year terms ("Renewal Terms"). Each Renewal Term shall be on the same terms and conditions as set forth herein. This lease shall automatically be renewed for each successive Renewal Term unless Tenant shall notify Landlord of Tenant's intention not to renew the Lease at least ninety (90) days prior to the expiration of the term or any Renewal Term. However, prior to any five year renewal taking effect, Landlord and Tenant shall at the inception of said renewal adjust the base rent to reflect the prevailing rent for that period and area. The rent so adjusted shall become the new base rent for the following five year term. No renewal shall have effect as other than a month-to-month tenancy unless Landlord and Tenant have agreed to an adjustment in the base rent.

4. Rent.

a. Upon the Commencement Date, Tenant shall pay Landlord, as rent, the sum of Four Hundred and [REDACTED] Dollars ([REDACTED]) per month ("Rent"). Upon receipt of all government approvals, the Rent will increase by [REDACTED] Dollars ([REDACTED]) per month for access to roof. The total rent will then be [REDACTED] ([REDACTED]). Rent shall be payable on the first day of each month in advance to Mr. Thomas C. Benis at Landlord's address specified in Paragraph 13 below. Commencing twelve (12) calendar months after the

commencement date, and each and every year thereafter during the term of this lease, the above base rental rate plus changes provided for in Paragraph 8, "Taxes," shall be adjusted to reflect the change in the Consumer Price Index of the Seattle-Everett area, All Items Index (1967 = 10 or 1977 = 100, whichever is the current base year as established by the Bureau of Labor Statistics of the United States Department of Labor) not to exceed five percent (5%). Cumulatively, such that only annual adjustments of less than five percent (5) shall be carried over to successive years. The indexes used shall be those published for the nearest period preceding the month in which the initial lease year begins and the same period preceding the anniversary date. The percentage of change from the earlier index to the later index shall be multiplied by the total rental rate at the beginning of each lease year and the result added to that beginning rate to arrive at an adjusted rate which will apply to each of the twelve (12) months of the succeeding lease year. However, in no event shall the rent rate be less than [REDACTED] Dollars ([REDACTED]) per month. If at the time of rental adjustment the Index is no longer published, the parties shall adopt for use such other index as is then generally recognized for similar determination of purchasing power.

b. Tenant is responsible for payment of all utilities used in the premises, including hook-up charges.

c. Rent is due and payable by the 10th of the month. Rent not received by the tenth will be subject to a five percent (5%) late payment charge.

d. If this Lease is terminated at a time other than on the last day of a month, Rent shall be prorated as of the date of termination, and, in the event of termination for any reason other than nonpayment of Rent, or failure to receive governmental approvals, all prepaid Rents shall be refunded to Tenant.

5. Interference. Landlord shall not use, nor shall Landlord permit its lessees, licensees, invitees, or agents to use, any portion of Landlord's properties in any way which materially interferes with the operations of Tenant. Such interference shall be deemed a material breach by Landlord, and Landlord shall have the responsibility to terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference will cause irreparable injury to Tenant, and therefore Tenant shall have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease immediately upon notice to Landlord. Material interference shall be defined with reference to the mixed use aspect of the building and due regard to the normal activities of the other tenants.

6. Improvements; Utilities; Access.

a. Tenant shall have the right, at its expense, to erect and maintain within the Premises improvements, personal property and facilities, including without limitation, radio transmitting and receiving antennas, and an electronic equipment (collectively the "Antenna Facilities"). The Antenna Facilities shall remain the exclusive property of Tenant, and Tenant shall have the right to remove the Antenna Facilities following any termination of this Lease.

b. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Premises (including, but not limited to the installation of emergency power generators). Tenant shall have the right permanently to place utilities on (or to bring utilities across) the Property in order to service the Premises and the Antenna Facilities. Landlord shall execute an easement evidencing this right upon Tenant's request. Tenant's installation, use or removal of utilities and Antenna Facilities shall be in compliance with all applicable municipal or other regulations and Tenant shall be solely responsible for obtaining any required permits or other approvals and for paying the cost of all work performed in installing or removing the same. Landlord shall review any such planned installation or removal on the basis of aesthetics, compatibility with other uses in the building, or other grounds within five (5) business days. Landlord's approval shall not be unreasonably withheld. Tenant shall not suffer or permit any lien to be filed against the Property or the Premises or any part thereof. If any such lien is filed, Tenant shall cause the same to be discharged of record within thirty (30) days after the date of filing the same.

c. Landlord represents and warrants to Tenant that Tenant shall enjoy ingress, egress, and access from an open and improved public road and within the building to the Premises adequate to service the Premises and the Antenna Facilities at all times during this Lease at no additional charge to Tenant. To the degree such access is across the Property, Landlord shall execute an easement evidencing this right upon Tenant's request. However, Landlord shall in no way be responsible for limitations of access interfering with this right where such limitation is beyond Landlord's control, such as due to natural forces or municipal or other road work.

7. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability, on 30 days' written notice as follows: (a) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within 60 days of receipt of written notice of default (without, however, limited any other rights available to the parties at law, in equity, or pursuant to any other provisions hereof); (b) by Tenant if it is unable to obtain or maintain any license, permit or other Governmental

Approval necessary to the construction and/or operation of the Antenna Facilities or Tenant's business, or if Tenant reasonably determines the cost or time involved in obtaining such approval is prohibitive; or (c) by Tenant if the Premises are or become unacceptable under the Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong. However, Tenant shall remain liable to Landlord for rent during any period after termination during which it occupies the Premises or until such time as the Premises are restored to their condition at the commencement of tenancy. Tenant further agrees that upon termination or expiration of its occupancy, tenant will restore the Premises to their condition at commencement of the tenancy, including interior and exterior of the Premises, reasonable wear and tear excepted. Also, Tenant shall not have to replace any carpets or other flooring if this Lease terminates anytime after the fifth anniversary date.

8. Taxes. Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Antenna Facilities. Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Premises.

9. Insurance.

a. Tenant will provide Comprehensive General Liability Insurance in an aggregate amount of \$1,000,000.00, and name Landlord as an additional insured on the policy or policies. Tenant may satisfy this requirement by obtaining appropriate endorsement to any umbrella policy of liability insurance Tenant may maintain.

b. Neither party shall be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire or any of the risks enumerated in a standard "All Risk" insurance policy, and, in the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.

c. Tenant shall further, at its sole cost and expense, obtain a policy of property casualty insurance covering damage caused to the Premises by Tenant's operations or equipment and shall name Landlord as an additional insured thereunder. Tenant may satisfy this requirement by obtaining an appropriate endorsement to any umbrella policy of insurance Tenant may maintain.

10. Destruction of Premises. If the Premises or the Antenna Facilities are substantially destroyed or damaged so as, in Tenant's judgment to hinder the effective use of the Antenna Facilities, Tenant may elect to terminate this Lease as of the date of the damage or destruction by so notifying the Landlord not more than 45 days following the date of damage. In such

event, all rights and obligations of the parties shall cease as of the date of the damage or destruction and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant.

11. Condemnation. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's determination, to render the Premises unsuitable for the use which Tenant was then making of the Premises, this Lease shall terminate as of the date the title vests in the condemning authority. The parties shall be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Premises or as determined in the condemnation award if possible (which for Tenant shall include, where applicable, the value of its Antenna Facilities, moving expenses, prepaid rent, and business dislocation expenses). Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of the power, shall be treated as a taking by condemnation.

12. Hold Harmless. Tenant agrees to hold Landlord harmless from any and all claims arising from the installation, use, maintenance, repair or removal of Tenant's Antenna Facilities, except for claims arising from the negligence or intentional acts of Landlord, its agents or independent contractors.

13. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Landlord, to:

Mr. Thomas C. Benis  
Benis Investments  
P.O. Box 1371  
Mercer Island, Washington 98040

If to Tenant, to:

Interstate Mobilephone Company/  
Cellular One  
617 Eastlake Ave. E.  
Seattle, Washington 98109  
Attn: Real Estate Administrator

with a copy to:

Legal Department  
5808 Lake Washington Blvd. N.E.  
Kirkland, Washington 98033  
Attention: Jennifer Marsh

14. Title and Quiet Enjoyment.

a. Landlord warrants that (i) it has full right, power, and authority to execute this Lease; (ii) it has good title to the Premises subject to the liens or mortgages listed in Exhibit C attached hereto, and (iii) the Premises constitute a legal lot that may be leased without the need for any subdivision or platting approval. Landlord further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Lease. Tenant recognizes the mixed use aspect of the real property of which the Premises are a part and agrees to conduct its operations in a manner compatible with a residential structure. Tenant's Quiet Enjoyment shall not interfere with other residential tenants.

b. Tenant has the right to obtain a title report commitment for a leasehold title policy from a title insurance company of its choice. If, in the opinion of Tenant, such title report shows any defects of title or any liens or encumbrances which may adversely affect Tenant's use of the Premises or Tenant's ability to obtain leasehold financing, Tenant shall have the right to cancel this Lease immediately upon written notice to Landlord.

c. Tenant shall have the right to have the Premises surveyed, and, in the event that any defects are shown by the survey which, in the opinion of Tenant, may adversely affect Tenant's use of the Premises or Tenant's ability to obtain leasehold financing, Tenant shall have the right to cancel this Lease immediately upon written notice to Landlord.

d. Landlord represents and warrants to Tenant that hazardous substances have not been generated, stored or disposed of on the Premises nor have the same been transported to or over the Premises. "Hazardous substance, shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease. Landlord will hold Tenant harmless from and indemnify Tenant against and from any damage, loss, expenses or liability resulting from any breach of this representation and warranty including all attorneys' fees and costs incurred as a result thereof.

e. Tenant represents and warrants to Landlord that it will not generate, store, dispose of, or transport hazardous substances to or over the Premises. Hazardous substances shall be defined as above in paragraph #14(d). Tenant will hold

Landlord harmless from and indemnify Landlord against and from any damage, loss, expenses or liability resulting from any breach of this representation and warranty including all attorney's fees and costs incurred as a result thereof.

15. Assignment. Tenant may assign or sublet this Lease upon notice to Landlord. Any sublease that is entered into by Tenant shall be subject to the provisions of this Lease. Additionally, Tenant may, upon notice to Landlord, mortgage or grant a security interest in this Lease and the Antenna Facilities, and may assign this Lease and the Antenna Facilities to any such mortgagees or holders of security interests including their successors or assigns (hereinafter collectively referred to as "Mortgagees"). In such events, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant and Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant except that the cure period for any Mortgagee shall not be less than 10 days after receipt of the default notice.

16. Successors and Assigns. This Lease shall run with the Property described on Exhibit A. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

17. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws, and Landlord gives Tenant the right to remove all or any portion of same from time to time in Tenant's sole discretion and without Landlord's consent.

18. Miscellaneous.

a. The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.

b. Each party agrees to furnish to the other, within 10 days after request, such truthful estoppel information as the other may reasonably request.

c. This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to said Lease must be in writing and executed by both parties.

d. If either party is represented by a real estate broker in this transaction, that party shall be fully responsible



for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

e. Landlord and Tenant agree to cooperate in executing any documents (including a Memorandum of Lease) necessary to protect each party's rights hereunder or their respective uses of the Property.

f. This Lease shall be construed in accordance with the laws of the state in which the Property is located.

g. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

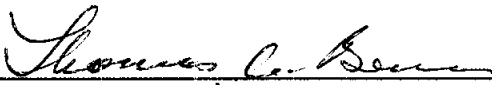

h. The captions in this lease are for the convenience of the reader and are not to be considered in the interpretation of its terms.

i. The parties signing this agreement represent and warrant that they have authority to bind their respective Principals.

j. No failure by Landlord to insist upon the strict performance of any provision of this Agreement shall be construed as depriving Landlord of the right to insist on strict performance of such provision or any other provision in the future. No waiver by Landlord of any provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by Landlord. No acceptance of rent or other payment by Landlord after any default by Tenant shall constitute a waiver of any such default or any other default. Consent by Landlord in any one instance shall not dispense with necessity of consent by Landlord in any other instance.

DATED as of the date first set forth above.

LANDLORD:

  
\_\_\_\_\_  
Thomas C. Benis  
  
\_\_\_\_\_  
Helen D. Benis

TENANT:

INTERSTATE MOBILEPHONE COMPANY  
  
\_\_\_\_\_  
Robert Lewis  
General Manager



TENANT

STATE OF WASHINGTON

COUNTY OF KING

On this 28<sup>th</sup> day of December, 1990,  
before me, a Notary Public in and for the State of  
Washington, personally appeared Robert L. Lewis, known to me  
to be the General Manager of Interstate Mobilephone Company,  
the partnership that executed the within and foregoing  
instrument, and acknowledged the said instrument to be the  
free and voluntary act and deed of said partnership for the  
uses and purposes therein mentioned, and on oath stated that  
he was authorized to execute said instrument.

WITNESS my hand and the official seal affixed the day  
and year first above written.

Susan Hochstetter

Notary Public in and for the State of  
Washington residing at Napeleville, WA

My commission expires 3-17-93

EXHIBIT A

LEGAL DESCRIPTION

to the Lease Agreement dated Jan. 23, 1990 between Thomas C. Benis and Helen D. Benis as Landlord and Interstate Mobilephone Company as Tenant.

The Property is described as follows:

Lot A

Lots 1, 2, 3, and the west 10 feet of Lot 36, all in Block 19, East Seattle, according to plat recorded in Vol. 3 of Plats, page 22, records of King County, Washington.

Lot B

Lot 35 EXCEPT the east 11 feet thereof, and Lot 36 EXCEPT the west 10 feet thereof, all in Block 19, East Seattle, according to plat recorded in Vol. 3 of Plats, page 22, records of King County, Washington.

EXHIBIT B

to the Lease Agreement dated DEC. 23, 1990 between  
Thomas C. Benis & Helen D. Benis as Landlord  
and Interstate Mobilephone Company as Tenent.

The location of the Premises within the Property is more particularly described or depicted as follows:

A land survey will replace this Exhibit B upon receipt thereof by Tenent.

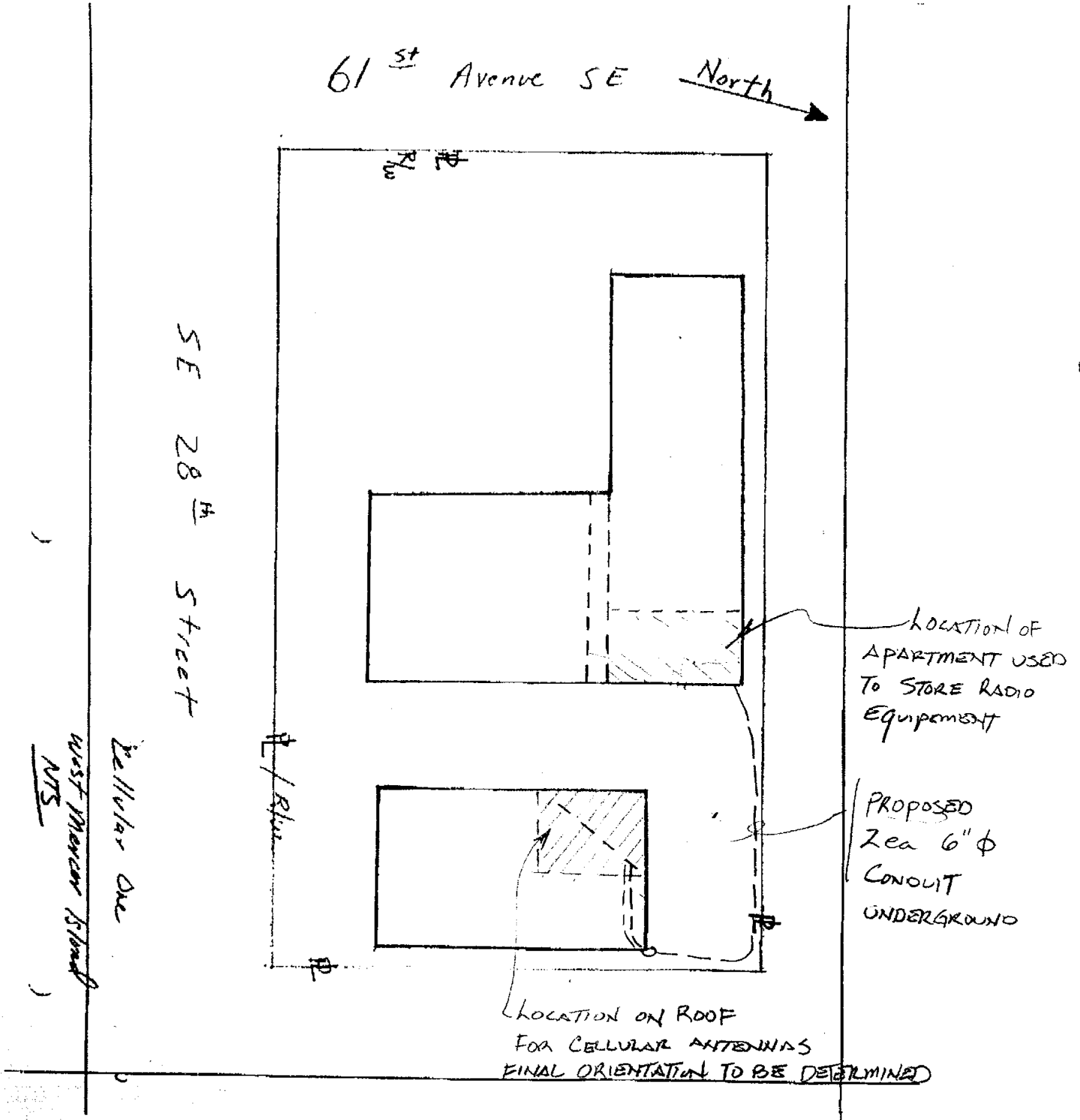


EXHIBIT C

- 1) Security interest in the subject property held by

[REDACTED]