

APN: 1318-22-002-028

Douglas County - NV  
Werner Christen - Recorder

Page: 1 Of 7 Fee: 20.00  
BK-0708 PG- 124 RPTT: 0.00

**When Recorded, Mail to:**

✓ Steven C Kenninger  
QMO, LLC  
P.O. Box 129  
Zephyr Cove, NV 89448



**MEMORANDUM OF AGREEMENT AND IRREVOCABLE SPECIAL POWER-OF-ATTORNEY  
REGARDING TRANSFER OF RESIDENTIAL DEVELOPMENT RIGHT**

This Memorandum of Agreement and Irrevocable Special Power-of-Attorney Regarding Transfer of Residential Development Right ("Memorandum and Irrevocable Special Power-of-Attorney") is made as of this 27th day of March 2008 ("Effective Date"), by and between GREGORY COHEN, an unmarried man ("Seller") and QMO, LLC, a Delaware limited liability company ("Purchaser").

**RECITALS**

- A. On or about March 27, 2008, Seller and Purchaser entered into an Agreement for the Purchase and Sale of an Existing Residential Development Right (the "Agreement") with respect to the sale and purchase of one (1) residential development right ("the Development Right"), as defined in the Tahoe Regional Planning Agency ("TRPA") Code of Ordinances, banked on and appurtenant to that certain real property located at 173 Michele Drive, Stateline, Nevada in Douglas County, Nevada, as more particularly described on Exhibit "1" to the Memorandum and Irrevocable Special Power-of-Attorney, and commonly known as Assessor's Parcel Number 1318-22-002-028 (the "Sending Parcel"). Seller is the sole legal and equitable owner of both the Sending Parcel and the Development Right. The Development Right was transferred to the Sending Parcel by Seller on May 30, 2006 (TRPA File #2006-0587) for the purpose of building a new residential unit, which TRPA approved on August 14, 2006, which has a permit expiration date of August 14, 2009 (TRPA File #2006-0474), and which permit Seller acknowledged on September 28, 2006, but which has not yet been exercised. Seller has delivered to TRPA a written request for rescission of this permit (TRPA File #2006-0474), which request TRPA has acknowledged and accepted.
- B. Seller and Purchaser have executed this Memorandum and Irrevocable Special Power-of-Attorney for the limited purposes of:
- (1) Memorializing of record the close of the sale of the Development Right to Purchaser and for the purpose of affording constructive notice of such sale to all subsequent purchasers and encumbrancers;
  - (2) Granting to Purchaser an Irrevocable Special Power-of -Attorney which is set forth below relating to the transfer of the Development Right from the Sending Parcel to a receiving parcel to be later designated by Purchaser, or its assignees, and approved by TRPA; and
  - (3) Providing constructive notice that each successive grantee of the Sending Parcel is bound by the provisions of this Memorandum and Irrevocable Special Power-of-Attorney and is required to

execute and cause to be recorded concurrently with the deed conveying title to the Sending Parcel, or any portion thereof, an agreement substantially in the form of this Irrevocable Special Power-of-Attorney Regarding Transfer of Residential Development Right, assuming Seller's obligations thereunder, in favor of Purchaser, or its assignees, ("Grantee Special Power of Attorney").

NOW, THEREFORE, Seller and Purchaser hereby memorialize the Agreement of record and Seller hereby grants to Purchaser, or its nominees, an irrevocable special power of attorney as follows:

1. **Memorandum of Agreement.** This Memorandum and Irrevocable Special Power-of-Attorney is recorded for the purpose of serving as constructive notice to all subsequent purchasers and encumbrancers that: (a) on or about March 6<sup>th</sup> 2008, Purchaser bought from Seller the Development Right described on Recital A hereof which is banked on the Sending Parcel owned by Seller; (b) Purchaser is the owner of the Development Right and Seller has no right, title or interest in, or claim or lien on the Development Right; (c) Seller has delivered to TRPA a written request for rescission of this permit (TRPA File #2006-0474), which request TRPA has acknowledged and accepted, allowing the Development Right to be transferred to a receiving parcel approved by TRPA; and (d) Purchaser is entitled to bank the Development Right on the Sending Parcel pursuant to the terms of the Agreement until such time as Purchaser transfers the Development Right to a receiving parcel approved by TRPA. Seller has agreed, among other things, not to use, transfer, encumber or limit the transferability of the Development Right in any manner and to fully cooperate to facilitate the transfer of the Development Right off of the Sending Parcel as specified by Purchaser and approved by TRPA. This Memorandum and Irrevocable Special Power-of-Attorney will further serve as constructive notice to all subsequent purchasers and encumbrancers that each successive grantee of the Sending Parcel by accepting title to all or any portion of the Sending Parcel, is bound by the provisions of this Memorandum and Irrevocable Special Power-of-Attorney and is required to execute and record a Grantee Special Power of Attorney, which obligation is a covenant running with the land binding the present and future owners of the Sending Parcel and every portion of the Sending Parcel and interest therein in favor of Purchaser and its assignee. In the event any such grantee fails to execute and record such Grantee Special Power of Attorney, then such grantee, by acceptance of its deed to the Sending Parcel, shall be deemed to have granted the powers set forth in this Memorandum of Agreement and Special Power of Attorney to Purchaser or its assignees and shall be deemed to have assumed the obligations of Seller under the Agreement as the owner of the Sending Parcel.

2. **Irrevocable Special Power-of-Attorney.** Seller authorizes, empowers and appoints Purchaser, and/or its assignee(s), or a person or persons later designated by Purchaser, and/or its assignee(s), as their attorney(s)-in-fact to act as the attorney-in-fact and agent (the "Agent") for Seller, as the legal owner of both the Development Right and the Sending Parcel, for the limited purposes of executing and recording all documentation and taking all action(s), from time to time, necessary to transfer (i) the Development Right to an appropriate receiving parcel later designated by Purchaser (and/or its assignee(s)) and approved by TRPA, and/or (ii) to Purchaser's third party assignee(s) any or all of Purchaser's rights, authority and remedies under the Agreement to later transfer the Development Right to an appropriate receiving parcel to be later designated by Purchaser's third party assignee(s) and approved by TRPA, including but not limited to Agent being irrevocably authorized, empowered and appointed to do each and all of the following acts:

- a) Executing and acknowledging as the attorney-in-fact of the owner of the Sending Parcel (i) the TRPA Project Review Application Form(s); (ii) any and all other and/or further TRPA required applications, forms, deeds, deed restrictions and/or other declarations of covenants, conditions, and restrictions or documents; and/or (iii) any permits or approvals issued by TRPA, which are necessary to apply for, to obtain approval for and to transfer the Development Right from the Sending Parcel to an appropriate receiving parcel as approved by TRPA, including all other documentation necessary to transfer the Development Right a second time, if applicable, from the first receiving parcel designated by Purchaser and approved by TRPA to a second receiving parcel designated by Purchaser and

approved by TRPA.

- b) Recording against and encumbering the Sending Parcel, as the attorney-in-fact of the owner of the Sending Parcel and of the Development Right, all TRPA required deeds, deed restrictions and other declarations of covenants, conditions, and restrictions pertaining to the transfer the Development Right from the Sending Parcel to an appropriate receiving parcel as approved by TRPA, including all other documentation necessary to transfer the Development Right a second time, if applicable, from the first receiving parcel designated by Purchaser and approved by TRPA to a second receiving parcel designated by Purchaser and approved by TRPA.

(The foregoing authorized actions are sometimes collectively referred to herein as the "Authorized TRPA Designated Development Right Transfer Actions and Documentation").

Seller hereby grants to Purchaser (and/or its assignee(s)) or its Agent the irrevocable power of attorney coupled with an interest to perform and execute (A) all Authorized TRPA Designated Development Right Transfer Actions and Documentation and (B) all post-closing covenants and obligations of Seller under the Agreement with respect to the future transfer of the Development Right from the Sending Parcel to an appropriate receiving parcel as approved by TRPA.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement and Irrevocable Special Power-of-Attorney Regarding Transfer of Residential Development Right of Use effective as of date first set forth above.

**Seller:**

GREGORY COHEN  
An unmarried man

By: \_\_\_\_\_  
GREGORY COHEN

**Purchaser:**

QMO, LLC  
A Delaware Limited Liability Company

By:   
STEVEN C. KENNINGER, President



approved by TRPA.

- b) Recording against and encumbering the Sending Parcel, as the attorney-in-fact of the owner of the Sending Parcel and of the Development Right, all TRPA required deeds, deed restrictions and other declarations of covenants, conditions, and restrictions pertaining to the transfer the Development Right from the Sending Parcel to an appropriate receiving parcel as approved by TRPA, including all other documentation necessary to transfer the Development Right a second time, if applicable, from the first receiving parcel designated by Purchaser and approved by TRPA to a second receiving parcel designated by Purchaser and approved by TRPA.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement and Irrevocable Special Power-of-Attorney Regarding Transfer of Residential Development Right of Use effective as of date first set forth above.

**Seller:**

GREGORY COHEN  
An unmarried man

By: 

GREGORY COHEN

**Purchaser:**

QMO, LLC  
A Delaware Limited Liability Company

By: 

STEVEN C. KENNINGER, President

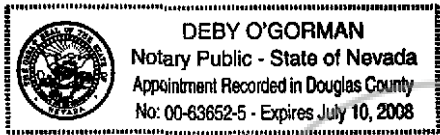
STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

This instrument was acknowledged before me on \_\_\_\_\_, 2008, by Gregory Cohen.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF Nevada )  
County of Douglas ) ss.

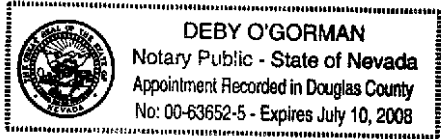
This instrument was acknowledged before me on March 6, 2008, by Steven C. Kenninger, as Trustee of the Steven C. Kenninger Living Trust, the Managing Member of QMO, LLC, a Nevada limited liability company.



Deby O'Gorman  
Notary Public  
My Commission Expires: 7/10/08

STATE OF Nevada )  
 ) ss.  
County of Douglas )

This instrument was acknowledged before me on May 9, 2008, by Gregory Cohen.

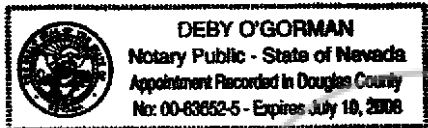


Deby O'Gorman  
Notary Public

My Commission Expires: 7/10/08

STATE OF Nevada )  
 ) ss.  
County of Douglas )

This instrument was acknowledged before me on March 6, 2008, by Steven C. Kenninger, as Trustee of the Steven C. Kenninger Living Trust, the Managing Member of QMO, LLC, a Nevada limited liability company.



Deby O'Gorman  
Notary Public

My Commission Expires: 7/10/08



**Exhibit "1"**  
**Legal Description of Sending Parcel**

**LOT 42 IN BLOCK 2, AS SHOWN ON THE OFFICIAL MAP OF OLIVER PARK, FILED IN THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS COUNTY, STATE OF NEVADA, ON FEBRUARY 2, 1959, IN BOOK 1 OF MAPS, AS DOCUMENT NO. 14034.**

