

# UNOFFICIAL COPY

THIS INSTRUMENT PREPARED  
BY AND AFTER RECORDING  
RETURN TO:  
Paul A. Kolpak  
Kolpak and Lerner  
Attorneys At Law  
6767 N. Milwaukee Ave., Suite 202  
Niles, Illinois 60714



Doc#: 0516406128  
Eugene "Gene" Moore Fee: \$36.50  
Cook County Recorder of Deeds  
Date: 06/13/2005 01:50 PM Pg: 1 of 7

## DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT ("Declaration") is made this ..... day of *June*, 2005 by DAVID A. TUDRON & THOMAS E. STAIB (sometimes hereinafter referred to as "Owner" or "Declarant")

## RECITALS

**WHEREAS**, Declarant is the Owner and legal titleholder of a certain parcel of real estate in Chicago, Cook county, Illinois commonly known as 5040 Rutherford, Chicago, Illinois, and legally described on Exhibit "A", attached hereto and made a part hereto ("Premises"); and

**WHEREAS**, Declarant intends that the Premises be utilized as two (2) single family homes with detached garages. The homes will have a twenty (20) foot front yard setback and four (4) foot side yards that will be built in accordance with current R2 zoning ("Intended Use") and

**WHEREAS**, the present zoning for the Premises is R2 District; and

**WHEREAS**, in order to accommodate Declarant's Intended Use, Declarant intends to effectuate a zoning change for the Premises to RS3 District; and

**WHEREAS**, if the proposed zoning change to RS3 District, is approved by the city of Chicago, it shall be subject to a restrictive covenant being recorded against the Premises restricting the Premises to the construction of two (2) single family homes with detached garages as to the construction within the terms of the underlying R2 district

**WHEREAS**, Declarant in consideration of the City's consent to the RS3 zoning change, shall encumber the Premises with a restrictive covenant setting forth the aforesaid restriction, all as more specifically set forth below.

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## DECLARATIONS:

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purposes states herein, Declarant declares as follows:

1. The recitals set forth hereinabove are fully incorporated herein by this reference.
2. All of the Premises are and shall be held, sold and conveyed subject to the covenants, conditions and restrictions herein stated, all of which shall run with the land and be binding upon all parties now or hereinafter having any right, title or interest in the Premises or in any part thereof, and upon those claiming under them, which such limitations or exceptions as are herein expressed.
3. The Premises, or any portion thereof, shall be used solely for the purposes of the construction, development and subsequent sale of two (2) single family homes with detached garages built in accordance with current R2 zoning and for no other purposes whatsoever.
4. Trees and shrubbery shall be planted in accordance with the city of Chicago Landscape Ordinance.
5. No building shall be erected on the Premises, not shall construction begin in any building, unless the plans and specifications of any building proposed to be erected have been submitted to the City and written approval therefrom has been secured. Issuance of a building permit by the City for the Premises shall constitute the City's approval of the submitted plans and specifications.
6. Breach of any of the covenants or violation of any other portion of this Declaration shall not defeat or render invalid the lien of any mortgage or trust deed made in good faith and for value as to any portion of the Premises, but all provisions of this Declaration shall be binding and effective against any owner of any portion of the Premises whose title thereto is acquired by foreclosure, trustee sale or otherwise under such mortgage or trust deed, and shall remain effective as to each portion of the Premises so acquired.
7. Enforcement of the provisions of this Declarations shall be by any proceeding at law or in equity, brought by the Declarant, its successors and or assigns, of the 41<sup>st</sup> Ward Zoning Advisory Board, or the City, against any person or persons violating or attempting to violate any covenant, restriction or other provision hereof, wither to restrain or percent such violation or attempted violation or to recover damages, or both. Enforcement of the provisions of this Declaration may also be through arbitration or mediation in accordance with the rules of the American Arbitration Association or other reputable

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Arbitration Association. The parties agree that the arbitrator(s) or mediator(s) shall be experienced in the construction and development of projects such as the project proposed by the Declarant.

8. Invalidation of any covenant, restriction or other provision of this Declaration by judgment or court order shall in no way affect any of the other provisions of this Declaration and such other provisions shall remain in full force and effect.
9. All covenants, conditions, and restrictions contained in this Declaration shall run with the land and shall be binding upon all parties and all persons owing any portion of the Premises and all persons claiming under them.
10. This Declaration is executed by David A. Tudron & Thomas E. Staib. No personal liability shall be asserted or be enforceable against the officer because or in respect to this Declaration or its making, issue or transfer, and all such liability, if any, is expressly waived by each taker and holder hereof; except that the officer in his personal and individual capacity warrants that he as officer possesses full power and authority to execute this Declaration.
11. If the Declarant or Successors and/or assigns violates the terms of this Declaration, the forty-first (41<sup>st</sup>) Ward Zoning Advisory Board and/or the City of Chicago or Successors and/or assigns shall be entitled to reasonable attorney's fees and cost incurred in the enforcement of this Declaration.

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## EXHIBIT "A"

Legal Description:

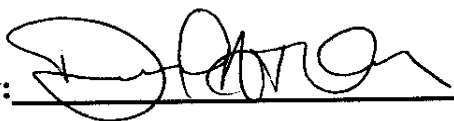
LOTS 47 & 48 IN WILLIAM ZELOSKY'S SUBDIVISION OF BLOCKS 1, 2, 3 AND 4 IN RIDGELAND A SUBDIVISION OF THE SOUTH ½ OF THE NOTHEAST ¼ OF THE SOUTHWEST ¼ AND THE SOUTH ½ OF THE NORTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 7, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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**IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.**

**DECLARANT:**

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

Name: David A. Tudron

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

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

Name: Thomas E. Staib

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

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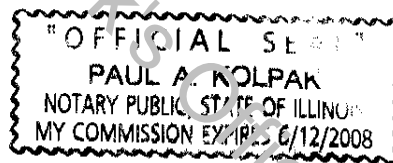
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STATE OF ILLINOIS        )  
                                       )  
                                       )        SS  
 COUNTY OF COOK         )

I, Paul A. Kolpak, a notary public in and for said County in the State aforesaid, DO HEREBY CERTIFY that David A. Tudron, personally known to me to be the same person whose name is subscribed to the foregoing **DECLARATION OF RESTRICTIVE COVENANT** appeared before me this day in person and acknowledged that he signed sealed and delivered the said instrument has his own free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes there in set forth.

GIVEN under my hand and seal, this 2 day of June, 2005.

Paul A. Kolpak  
 Notary Public



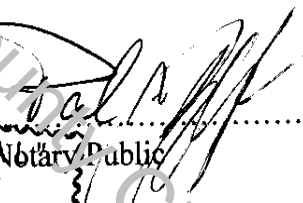
# UNOFFICIAL COPY

STATE OF ILLINOIS        )  
                                   )  
 COUNTY OF COOK         )

SS

I, Paul A. Kolpak, a notary public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Thomas E. Staib, personally known to me to be the same person whose name is subscribed to the foregoing **DECLARATION OF RESTRICTIVE COVENANT** appeared before me this day in person and acknowledged that he signed sealed and delivered the said instrument has his own free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes there in set forth.

GIVEN under my hand and seal, this 2 day of June, 2005.

  
 "OFFICIAL SEAL" Notary Public  
 PAUL A. KOLPAK  
 NOTARY PUBLIC, STATE OF ILLINOIS  
 MY COMMISSION EXPIRES 6/12/2008

County of Cook Clerk's Office