

UNOFFICIAL COPY

89074508

DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
WELLINGTON COURT TOWNHOME ASSOCIATION

THIS DECLARATION is made as of FEBRUARY 6, 1989 by Harris Bank Hinsdale as Trustee under Trust Agreement dated July 27, 1987 and known as Trust No. L-1660 "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of certain property in the Village of Schaumburg, County of Cook, State of Illinois, which is legally described in Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as the "Property") and

WHEREAS, the Declarant now proposes to develop the Property as a Townhome community.

WHEREAS, the Declarant will convey the Property subject to certain protective covenants, conditions, restrictions, reservations and changes as hereinafter set forth:

NOW THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions and conditions will run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to the WELLINGTON COURT TOWNHOME ASSOCIATION, an Illinois not-for-profit corporation, its successors and assigns.

Section 2. "Property" shall mean and refer to the tract described on Exhibit A to be developed by the Declarant as a townhome community.

Section 3. "Lot" for the purpose of this Declaration shall mean and refer to a platted Lot upon which individual Units are to be constructed.

Section 4. "Parcel" shall mean a part of the Lot on which an individual townhome is constructed or to be constructed which may be deeded to an Owner in fee simple and shall have a separate legal description.

THIS INSTRUMENT WAS PREPARED BY
Peter J. Brennan, Attorney
125 W. 55th Street
Clarendon Hills, Illinois 60514

89074508

\$34.00

71-56-289 W

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Section 5. "Developer" shall mean any person who offers Units legally or equitably owned by it for sale in the ordinary course of his business, including any successor or successors to such Developers' entire interest in the Property other than the purchaser of an individual Unit.

Section 6. "Member" shall mean and refer to every person or entity which holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to a Unit which is a part of the Property, but excluding those having an interest in such Unit or part thereof merely as a security for the performance of an obligation.

Section 8. "Declarant" shall mean and refer to Harris Bank-Hinsdale as Trustee under Trust Agreement dated July 7, 1987 and known as Trust No. L-1660 including its successors and assigns except those successors defined herein as owners.

Section 9. "Unit" shall mean and refer to an individual townhome and the Parcel upon which it is built.

Section 10. "Non Maintenance Area" shall mean an area so noted on the survey as part of the Owner's Parcel to be in the exclusive control and responsibility of the Owner for landscaping.

Section 11. "Common Expense" means the proposed or actual expenses, including reserves, affecting the Property, assessed by the Board.

Section 12. "Common Area" shall refer to Outlots A and B in the Wellington Court subdivision, and any other areas within the Property designated by the Declarant from time to time as a Common Area.

ARTICLE II MEMBERSHIP

Every person or entity who or which is a record owner of a fee or undivided fee interest in any one Unit which is subject to assessment by the Association shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Unit shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of a Unit which is subject to assessment by the Association. Ownership of such Unit shall be the sole qualification for membership.

ARTICLE III VOTING RIGHTS

The Association shall have two classes of voting membership:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

CLASS A. Class A members shall be all the Owners as defined in Article I with the exception of the Declarant. Class A members shall be entitled to one vote for each Unit in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Unit all such persons shall be members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Parcel.

CLASS B. The Class B member shall be the Declarant. The Class B member shall be entitled to six (6) votes for each Unit in which it holds the interest required for membership by Article II provided that the Class B membership shall be closed and be converted to Class A membership as follows:

- a. Four months after 75% of the Units in the project have been conveyed to Owners; or
- b. Three years after the first Unit is conveyed.

ARTICLE IV EASEMENTS

There is hereby granted as appurtenant to each Parcel a perpetual easement over and across adjacent Parcels for the purpose of access to the rear of the benefitted Parcel.

All easements herein described are easements appurtenant, running with the land; they shall at all times be to the benefit of and be binding on the undersigned, all its grantees and their respective heirs, successors, personal representatives or assigns perpetually in full force and effect.

The Declarant and Developer and each of their agents, employees, contractors, guests, invitees and licensees shall have an easement at all times over and across all Parcels (i) to perform any construction, maintenance, repair, renovation, restoration or rehabilitation of, in or under all or any part of the Property, (ii) for the purpose of selling and displaying one or more of the Units and any improvements thereon, (iii) for the purpose of erecting, maintaining and displaying one or more of the signs desired by Developer.

Reference in the respective deeds of conveyance, or in any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said Units as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2008/001

UNOFFICIAL COPY

ARTICLE V

DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDING

A. Sufficient Insurance.

1. The Board of Directors shall acquire as a Common Expense, a policy or policies of insurance insuring the Common Areas and the Buildings containing the Units ("Buildings") against loss or damage from fire, lightning and other hazards contained in the customary fire and extended coverage Vandalism and malicious mischief endorsements for the full insurance replacement value of the Common Areas and the Buildings in the name of and to require a provision in such policy that the proceeds thereof shall be payable to the members of the Board, as trustees for each of the Owners.

2. Each Owner shall be responsible for acquiring insurance on his personal property in his Unit as well as obtaining personal liability insurance.

3. All said policies (1) shall contain standard mortgage clause endorsements in favor of the mortgagee or mortgagees of each Unit, if any, as their respective interest may appear, (2) shall provide that the insurance, as to the interest of the Board shall not be invalidated by any act or neglect of any Owner, (3) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the event the Owners elect to sell the Property, (4) shall contain an endorsement to the effect that such policy shall not be terminated for non-payment of premiums without at least ten (10) days prior to written notice to the mortgagee of each Unit, (5) shall contain a clause endorsement whereby the insurer waives any right to the subrogated to any claim against the Association its officers, members of the Board, the Declarant, the Developer, the managing agent, if any, their respective employees and agents and the Owners and Occupants, and (6) shall contain a "Replacement Cost Endorsement." The proceeds of such insurance shall be applied by the Board or agent on behalf of the Board for the reconstruction of the Building or shall be otherwise disposed of, in accordance with the provisions of this Declaration; and the rights of the mortgagee of any Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary, therein contained at all times be subject to the provisions of this Declaration with respect to the application of insurance proceeds to reconstruction of a Building. The Board may engage the services of and such insurance may be payable to a bank or trust company authorized to do, execute and accept trusts in Illinois to act as Insurance Trustee, or as Agent or Depositary as an alternative to acting as Trustee, and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of this Declaration. The fees of such bank or trust company shall be Common Expense.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

In the event of any loss the Board shall solicit bids from reputable contractors.

Payment by an insurance company to the Board or to such corporate trustee or agent of the proceeds of any policy, and the receipt of release from the Board or such corporate trustee or agent of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust or agency agreement under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee.

4. Appraisal. The full, insurable replacement cost of the Property, including the Buildings and Common Areas shall be determined from time to time (but no less frequently than once in any twelve month period) by the Board.

The Board shall have the authority to obtain an appraisal by a reputable appraisal company as selected by the Board.

5. Public Liability and Property Damage Insurance. The Board of Directors shall acquire, as a Common Expense, comprehensive public liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Property in amounts deemed sufficient in the judgment of the Board of Directors, insuring the Developer and Owners, individually and severally, the Board, the Association, the Management Agent, and their respective employees, agents and all persons acting as agents. The Developer shall be included as an additional insured in his capacity as Owner and Board member. The Owners shall be included as additional insureds but only with respect to that portion of the premises not reserved for their exclusive use. The insurance shall cover claims of one or more insured parties against other insured parties. The insurance shall contain a waiver of any rights to subrogation by the insuring company against any of the above named insured persons.

6. Workmen's Compensation and Other Insurance. The Board of Directors shall acquire, as a Common Expense, workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board, in its judgment, shall elect to obtain, including, but not limited to insurance for the Association, its officers and manage against liability from good faith actions alledgedly beyond the scope of their authority.

7. Waiver. Each Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, and Association, its officers, members of the Board, the Declarant, the Manager and managing agent of the Building, if any, and their respective employees

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025/03/10 10:10:00

UNOFFICIAL COPY

and agents, for damage to the Common Areas, the Buildings, or to any personal property located in the Units or Common Areas, caused by fire or other casualty, to the extent that such damage is covered by fire or other forms of casualty insurance.

8. Notice. The Board shall notify insured persons concerning the cancellation of insurance obtained pursuant to the terms of this Article.

The coverage shall contain an endorsement to the effect that said coverage shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice or such greater notice as may be required by law, and at least ten (10) days' prior written notice of termination or modification for any other reason or such greater time period as may be required by law to the Association and any first mortgage of record who specifically requests such notice. The insurance policy shall contain waivers of subrogation with respect to the Board, its employees and agents, Owners, members of their household and mortgagees.

B. Insufficient Insurance.

1) If the insurance proceeds are insufficient to reconstruct any Building or portion of a Building containing the Units and the Owners and all other parties in interest do not voluntarily make provisions for reconstruction of these areas within one-hundred and eighty (180) days from the date of damage or destruction, the Board may record a notice setting forth such facts and upon the recording of such notice:

(a) The Buildings and Common Areas shall be deemed to be deeded to the Association.

(b) Any liens affecting the Buildings and Common Areas shall be the equal responsibility of all Unit Owners.

2) In the case of damage or other destruction upon the affirmative vote of not fewer than three-fourths (3/4) of the Unit Owners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Owner shall be on an equal basis. Any insurance or other proceeds available in connection with the withdrawal of any portion of Property, shall be allocated on an equal basis for each Owner.

ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.
The Declarant, for each Lot owned within the Property, hereby covenants and each Owner of any Parcel thereof by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

10/10/2024

UNOFFICIAL COPY

(a) Annual assessments or charges payable monthly.

(b) Special assessments for capital improvement, together with such interest thereon and costs of collection thereof, as hereinafter provided.

These assessments (Annual and Special) shall be a charge on the Property and shall be a continuing lien upon the Unit against which each such assessment is made, and the said Unit and the Owner thereof shall be responsible to the Association for such assessments together with such interest, costs and attorney's fees as aforesaid in any action by the Association in any court of competent jurisdiction for the amount thereof and said assessments together with such interest, costs and reasonable attorney's fees shall be a lien against the Unit. Each such assessment together with such interest, costs and reasonable attorney's fees shall be the personal obligation of the person who was the Owner of such Unit at the time the Assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, but the lien shall remain until paid. Where the mortgagee of a mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of the mortgage, such acquirer of title, his successors and assigns shall not be liable for the share of the assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid Assessments shall be deemed to be a Common Expense collectable from all Owners.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used specifically for the purpose of promoting the health, safety and welfare of the residents on the Property.

Section 3. Increase in Assessments. Any reasonable increase in Assessments, not to exceed 10% can be adopted by the Board without Owners approval.

Section 4. The Association shall have an easement over all Parcels for uses and purposes for exterior maintenance of the Units.

Section 5. Areas noted on surveys of Parcels as "Non Maintenance Areas" are to be the exclusive responsibility of Owners for landscaping.

Section 6. Estimated Annual Budget and Assessments. Each year on or before January 1st, immediately following the conveyance of the first Unit to an Owner, the Board shall estimate the total amount necessary to pay the cost of all Common Expenses which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. The annual budget shall set forth with particularity all anticipated assessments and other income. The budget shall also set forth each Owners proposed annual assessment. Each Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Directors a copy of the proposed annual budget.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

The annual assessment shall be fixed at a uniform rate for all Units regardless of their size and shall be collected on a monthly basis or such other basis as set forth by the Board of Directors. All meetings of the Board of Directors shall be open to any Owner, and that notice of such meeting shall be mailed at least ten (10) days prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. Each Owner shall deposit with the Association a sum equal to three (3) months dues of the Association as fixed by the Directors of the Association at the time of closing by the Owner. Said sum shall be held and be used to apply to any extraordinary expenses of the Association.

Section 7. Quorum for Action. At the first meeting called, the presence at the meeting of Members or of proxies eligible to vote twenty-five per cent (25%) of all the votes eligible to vote shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in the Bylaws and the required quorum at any such subsequent meeting shall be one half of the required quorum. No such subsequent meeting shall be held more than forty-five (45) days following the preceding meeting.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Units on the date of closing of the transaction for each Unit. The Board of Directors shall fix the amount of the annual assessment against each Unit at least sixty (60) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand by any interested party at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Unit has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessment: Remedies of the Association. In addition to any remedies or liens provided by law or by this Declaration, if an Owner is in default in the payments of the aforesaid charges or assessments or any installment thereof for thirty (30) days, the Association may bring suit to enforce collection thereof or to foreclose the lien therefore as provided herein or by law; and there shall be added to the amount due the costs of said suit, together with interest and reasonable attorney fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Unit.

Any first mortgage or first trust deed made, owned or held by a bank, savings and loan association or insurance company, and recorded prior to the recording or mailing of a notice by the Board of the amount owing by an Owner who has refused or failed to pay his share of any assessment when due shall be superior to the lien of such unpaid assessment set forth in said notice and to all assessments which become

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

due and are unpaid subsequent to the date of recording of such first mortgage or first trust deed; provided, however, that after written notice to the holder of any such mortgage or trust deed, such mortgage or trust deed shall be subject to the lien of unpaid assessments which are due and payable subsequent to the date when such holder takes possession of the Unit, accepts a conveyance of such Unit, or has a receiver appointed in a suit to foreclose the lien of such mortgage or trust deed.

Section 10. Exempt Property. No assessments shall be levied against the Declarant until the Unit or Units affected have had construction completed.

ARTICLE VII PARTY WALLS

All dividing walls which straddle the boundary line between Units shall at all times be considered party walls, the cost of maintenance, repair or replacement of which shall be borne equally by the Owners of the Units served thereby.

In the event that any party wall or portion thereof now or at any time hereafter, because of shifting, settling, original construction or otherwise, actually encroaches upon any portion of the Unit of another Owner, there shall be deemed to be an easement therefore in favor of the Unit whose party wall so encroaches, but only to the extent and for so long as such encroachment shall exist.

Except as herein expressly provided to the contrary in Article IV above or elsewhere, the easements, or cross-easements hereby created shall not terminate in the event that any party wall, or portion thereof, has been destroyed or materially damaged by fire or other cause but shall remain in full force and effect. License is hereby granted to Owners of the Units for reasonable access onto adjoining Units for the purpose of rebuilding destroyed or materially damaged party walls, and any electric wiring or plumbing pipes or fixtures contained therein. Any Owner served by such materially damaged or destroyed party wall who shall have rebuilt same shall be entitled to receive from the Owner of the other adjacent dwelling Unit also served by such party wall, an amount equal to one-half (1/2) of the cost of rebuilding same, including the costs of foundations and supports necessarily installed.

Whenever any party wall, or portion thereof, shall be repaired, replaced or rebuilt, it shall be erected as nearly plumb as possible on the same line provided such line is located exactly on the dividing line of the Unit and shall be of the same size and the same or similar materials of like quality as the present party wall, and it shall conform in all respects to the laws and ordinances regulating the construction of buildings in force at that time.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00000000

UNOFFICIAL COPY

ARTICLE VIII ARCHITECTURAL CONTROL

No fencing of any kind, other than landscaping fencing approved by the Association shall be erected on any Parcel or other than fencing installed by the Declarant. No building, wall or structure other than the townhome erected by the Declarant shall be commenced, erected or maintained upon any Parcel unless it shall conform in architecture, material and color to the dwelling as originally constructed by the Declarant.

ARTICLE IX EXTERIOR MAINTENANCE OF THE UNITS AND COMMON AREAS

Section 1. (a) The Association shall provide normal and customary exterior maintenance of each Unit without special charge to the Owner as follows:

1. Care of trees and grass unless surrounded by shrubs in such a manner as to preclude convenient access by large equipment.
2. Repair of shingles, roof and flashing on roofs.
3. Painting and repair of exterior walls.
4. Painting and cosmetic repair of garage doors.
5. Painting of gutters and downspouts.
6. Repair and replacement of chimneys and exterior fireplace parts.
7. Removal of snow from driveways and walks.

(b) The Association shall be responsible for the maintenance, repair and restoration of the Common Areas.

(c) The Association may at its discretion provide maintenance for the following items with or without special charge to Owners:

1. Replacement of trees, grass and shrubs.
2. Repair and maintenance of front and rear stoops.
3. Repair and maintenance of outside electrical fixtures.
4. Repair and maintenance of patios, decks or other homeowner installed improvements.
5. Repair and maintenance of sewer and water lines.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

6. Repair and maintenance of glass surfaces.
7. Repair and maintenance of walks and driveways.
8. Care of trees, grass and shrubs situated within enclosed areas or Non-Maintenance Areas.
9. Replacement of roofs.

Section 2. The cost of any exterior maintenance which, by the terms of this Declaration, the Association is required to furnish shall be paid for with funds from the annual assessment to which each Unit is subject to under the provisions of Article VI Section 1.

If the Association furnishes maintenance with respect to a Unit at the request of an Owner of such Unit other than that required by this Declaration, the Association will require such Owner to pay the cost thereof.

Section 3. For the purpose solely of performing the exterior maintenance required or authorized by this Article, the Association through its duly authorized agents or employees shall have the right after reasonable notice to the Owner to enter upon any Unit at reasonable hours on any day. Landscaping and snow removal work shall not require prior notice.

Section 4. The foregoing services provided by the Association with respect to exterior surfaces of a Unit shall be limited to normal wear, tear and deterioration, and the Owner shall be solely responsible for all exterior repair and replacement as well as all interior and structural repair and replacement, occasioned by insurable casualty as hereinafter provided. In the event the Owner shall fail to effect promptly the repairs and replacements occasioned by insurable casualty, the Association may (but shall not hereby be required) to effect such repairs and replacements and the Association shall be entitled to reimbursement in full from the Owner for its costs of every kind incurred in this connection, including the right to receive applicable insurance proceeds. Each Owner shall keep the Unit now or hereafter insured against loss or damage by fire, lightning and windstorm under policies issued by the Company or Companies approved by the Board of Directors and providing for payment of monies sufficient to cover the full cost of replacing or repairing the same under insurance policies payable in case of loss or damage to the Owner or to the Association as their interest may appear and shall deliver to the Association evidence of such insurance and the renewal thereof from time to time upon request. If, in such circumstances, the Association shall elect to undertake such repairs and replacements, the Association shall have the right through its agents, employees and independent contractors, to enter upon the Unit and to both the exterior and interior of the Unit to the extent necessary for the aforesaid purpose and shall not be guilty of any trespass. These costs shall become the personal obligation of the Owner and a continuing lien on the Unit recoverable with interest, costs and reasonable

89074508

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/18/2009

UNOFFICIAL COPY

attorney's fees in the same manner and to the same extent as provided under Article V hereof with respect to delinquent assessments.

ARTICLE X BUILDING AND USE RESTRICTIONS

Section 1. No Owner shall make any exterior architectural change or additions to any Unit without Board approval.

Section 2. The Property is hereby restricted to an attached single family residential community consisting of townhomes. All buildings or structures erected on a Lot shall be of new construction and no subsequent buildings or structures other than townhomes shall be built on any lot or part thereof where the Declarant has theretofore constructed a townhome. No building or structure of a temporary character including, without limitation on the generality thereof, trailer, basement, tent, shack, garage, barn or other outbuilding shall be placed or erected in any Parcel or part thereon adjoining or as an addition to any townhome at any time or be used for residential purposes either temporarily or permanently.

Section 3. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Unit or part thereof, or in any townhome erected thereon, except dogs, cats, or other customary and usual household pets kept for other than commercial purposes. Said allowed pets shall be subject to the rules and regulations adopted by the Association.

Section 4. No more than one "For Rent" or "For Sale" sign of not more than six square feet in area, and not over 3 feet in heights, may be placed on a Unit by the Owner of such Unit. No other advertising signs, nor billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Unit nor shall any Unit or portion thereof be used in any way for any purpose which may endanger the health or unreasonably disturb the residents of the townhome development. No commercial activities of any kind whatever shall be conducted in any Unit or on any portion of the Property. The foregoing restrictions shall not apply to the commercial or sales activities or the signs and billboards, if any, of the Declarant or its agents during the construction and sales period or of the Association in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation, By-Laws and Rules and Regulations, as the same or amendments thereof may be in force from time to time.

Section 5. All clotheslines, equipment, woodpiles and storage piles shall not be kept outside any townhome. All rubbish, trash, and garbage shall be regularly removed from the development and the Units thereon and shall not be allowed to accumulate thereon, or become unsightly, or a nuisance. No garbage cans may be placed at any time on the exterior of any townhome. Nothing shall be affixed to the exterior walls or roof of any townhome without the prior written consent of the Association.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

10/10/2010

UNOFFICIAL COPY

Section 6. All garage doors when not in use must remain closed.

Section 7. Maintenance or repair of vehicles shall not be allowed to take place outside of any townhome.

ARTICLE XI UTILITIES EASEMENTS

All public utilities serving the property are hereby granted and conveyed the right and easement to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other equipment into, under and through the Lots and with utility services, provided that no easement extends to any area either now or hereafter improved with a permanent structure so long as such improvement shall have been made prior in time to the location of said conduits, cables, pipes, mains, ducts, wires and other equipment on such improved site. The Association has the right to grant permits, licenses and easements over the Property for utilities, roads and other purposes necessary for proper project operation.

ARTICLE XII GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Conflicts. In the event of a conflict between the provision of the by-laws of the Association and those of the Declaration, the provisions of the Declaration shall govern and inure.

Section 4. Notices. Any notices required to be sent any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Personal Liability. This Declaration is executed by the exercise of the power and authority conferred upon and vested in it as such Trustee. All the covenants and conditions to be performed hereunder by the Trustees are undertaken by it solely as Trustee as aforesaid and no personal liability shall be asserted or enforceable against the Trustees by reason of any of the provisions contained in the declaration.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/15/2011

UNOFFICIAL COPY

Section 6. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Unit subject to this Declaration, his or their respective legal representative, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenant shall be automatically extended for successive periods of ten (10) years each. The terms of this Declaration may be amended during the first twenty (20) year period by an instrument signed and acknowledged by no less than eighty percent (80%) of the Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. The covenants and restrictions of this Declaration require that 51% of the eligible mortgage holders approve any amendment for items of a material nature concerning any of the following:

1. Voting rights.
2. Assessments, assessment liens or subordination of assessment liens.
3. Reserve for maintenance, repair and replacement.
4. Responsibility for maintenance and repairs.
5. Expansion or contraction of the property or the addition, annexation or withdrawal of property to or from the project.
6. Insurance or fidelity bonds.
7. Leasing of Units.
8. Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit.
9. Restoration or repairs of the project (after a hazard, damage or partial condemnation) in a manner other than that specified in the documents.
10. Any action to terminate the legal status of the project after substantial destruction or condemnation occurs.
11. Any provision that expressly benefit mortgage holders, insurers or guarantors.

Any such amendment must be properly recorded.

Section 7. Special Amendment. Declarant, successor, and assign reserve the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00000000

UNOFFICIAL COPY

Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, the Village of Schaumburg or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgage covering Unit Ownerships, (iii) to bring this Declaration into compliance with the Ordinance of the Village of Schaumburg or (iv) to correct clerical or typographical errors in this Declaration of any Exhibit or supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendment. The rights reserved under this section shall terminate at such time as the Declarant no longer holds or controls title to a Unit. The right of the Declarant to amend the Declaration as provided herein shall not in any way reduce, limit or otherwise impair the interest of any Owner who acquired title to his Unit prior to the effective date of any such amendment.

ARTICLE VIII VILLAGE OF SCHAUMBURG RIGHTS

A. In General. In addition to any rights, powers or easements granted to the Village of Schaumburg elsewhere in this Declaration, the Village of Schaumburg shall have the rights powers and easements set forth in this Article.

B. Easements. The Village of Schaumburg is hereby granted the right and easement of access over, across and through the Property for any purposes reasonably related to the proper exercise of the rights and powers of the Village of Schaumburg, including, without limitation, the right and easement (i) to come upon the Property for the purpose of reading water meters installed by or on behalf of the Village of Schaumburg and (ii) to come upon the Property and to install lay, construct, renew, operate, maintain, repair and replace lines, pipes, pumps and other equipment (including housings for such equipment) into, over, under, along, and through the Property for the purpose of providing water, storm sewer and sanitary sewer services.

C. Maintenance. The Association shall maintain the property in compliance with all applicable laws and ordinances of the Village of Schaumburg and all governmental bodies having jurisdiction over the Property, as such laws and ordinances may be amended and enforced from time to time. Without limiting the foregoing, the Association shall:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

1. Maintain the Property free from accumulation of debris and growth of weeds;
2. Maintain all buildings and structures in accordance with applicable building, safety and other codes and ordinances;
3. Maintain all parkway areas on dedicated rights of way as a Common Expense; and
4. Otherwise maintain the Property (including the Common Area) in such manner as to not be detrimental to the health, safety and welfare of the residents of the Village of Schaumburg and the residents of the townhomes and members of the Association.

If the Association fails to comply with any of the foregoing requirements, the Village of Schaumburg shall have the right (but shall not be obligated) to give notice to the Association of its failure to perform its obligations under this Section. If such notice is given and the Association does not perform to the satisfaction of the Village of Schaumburg within thirty days after the giving of such notice, then the Village of Schaumburg may (but shall not be obligated to) enter upon the Property and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Village of Schaumburg. The Association shall, upon demand, reimburse the Village of Schaumburg for the reasonable cost of such work and if payment is not made within thirty days after demand, then, with respect to such Unit, the amount due shall become a lien on the Unit Ownership. Each such lien shall be subordinate to the lien of the First Mortgage on the Unit Ownership, but shall be superior to the Association's assessment lien with respect to the Unit Ownership for assessments which become due after the date on which the Village of Schaumburg's lien attaches to the Unit Ownership. At the request of the Village of Schaumburg, the Association shall levy a special assessment for the payment of any such amounts which become due to the Village of Schaumburg and the Village of Schaumburg shall have the right to seek an injunction causing the Association to make such a special assessment or, in the alternative, to record an appropriate notice of lien against all of the Units and to foreclose any such lien as provided for or permitted under applicable law.

D. Parking Regulations. The Village of Schaumburg shall have the right and power to pass ordinances regulating traffic flow, fire lanes and "no parking" areas with respect to the Property. The Village of Schaumburg shall have the right and power to issue citations to persons violating any such ordinances and/or to cause violating automobiles to be removed from the Property in the event of a parking violation.

E. Limitation of Liability/Indemnity. If the Village of Schaumburg comes upon the Property pursuant to the rights, powers and easements granted or provided for in this Declaration the following shall apply:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

1. If the Village of Schaumburg deems it necessary or appropriate to excavate in order to repair driveways, sidewalks or utilities for which it is responsible, the Village will only be required to fill the excavated hole to ground level (after settling) and the Association shall be responsible for seeding or sodding the filled area. The Association shall be responsible for repairing any other damage caused to the Property as a result of or in connection with any repair of streets, sidewalks and utilities by the Village of Schaumburg, and neither the Association nor any Owner shall have any claim against the Village for the cost of any such repair work; and

2. If a leak occurs in a utility line at a point which is at or near the point where Village ownership of the line ends and the line becomes part of the Property, the repair of the line and any related work done will be performed and costs thereof shall be paid in the manner in which such matters are then performed and paid for under ordinances, procedures or policies properly adopted by the Village of Schaumburg with respect to such occurrences and in effect at such time.

The Village of Schaumburg shall not be liable to the Association or any Owner for any claims, damages or other causes of action relating or resulting from action taken by the Village of Schaumburg pursuant to the rights, powers and easements granted to the Village of Schaumburg in this Declaration. The Association shall indemnify and hold the Village of Schaumburg harmless from any claims, damages or causes of action made by an Owner against the Village of Schaumburg relating to any exercise by the Village of Schaumburg of the rights, powers and easements granted to the Village of Schaumburg in this Declaration.

ARTICLE XIV MISCELLANEOUS PROVISIONS

A. No provision of the Declaration relating to changing of the plans or concept of the development or to the Common Areas, facilities or maintenance thereof shall be made without the Village of Schaumburg's approval.

B. Within 12 months of the issuance of the initial occupancy permit for units to be constructed by the Developer, an informal general meeting shall take place. All Owners will be invited and thereafter these meetings shall take place not less than annually until the first formal meeting of the Association is held. Owners will select potential future Board of Directors-candidates who would form an informal board and meet semi-annually with the first Board.

C. All Association meetings shall be held within the limits of the Village of Schaumburg.

D. Individual utility meters shall be provided for the Units in lieu of a master meter.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

E. Off Street Parking.

1. Each Unit has been provided a minimum of two (2) designated off-street parking stalls; one (1) stall is within the attached one (1) car garage, one (1) stall is on the driveway in front of each garage.
2. Storage of household goods or other material within the attached garage in such a manner as to prevent use of the garage as a designated off-street parking stall is prohibited.
3. Storage of vehicles or R.V.'s is not allowed in spaces designated for public parking, except for a period not to exceed seventy-two (72) hours.

F. Storage of vehicles or R.V.'s are not allowed in spaces designated for public parking.

F. These Covenants, Conditions and Restrictions and Association By-Laws are subservient to ordinances and regulations of the Village of Schaumburg.

G. The Association shall have an annual audit of its financial records.

H. Each Owner shall receive a complete listing of all land, building, equipment, facilities and other holdings of the Association, or those proposed, and a complete description of each.

I. Developer shall provide to homebuyer information setting forth a time schedule for the maintenance of major facilities, including streets, street signs, sidewalks, parking areas and buildings. An annual maintenance program shall be established and funds budgeted.

J. The Developer shall be assessed for all constructed but unsold Units on the same basis as sold units.

K. The Developer shall supply to prospective buyers the following information regarding the Association, assessments, and fiscal program.

1. Organizational structure of the Association;
2. Membership and voting rights of homeowners and Developer;
3. Requirements for dissolution;
4. The formula for the maximum amount of assessments, the assessment lien, and the method of enforcement;
5. Method of changing the maximum assessment;
6. Optional facility of program-user fees, if any;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

7. Services provided by the Association;
8. Exterior maintenance of dwellings, if any;
9. Architectural control;
10. Nature of common property including improvements.

L. Developer shall provide to the homebuyer a review and administrative program which details the procedures to be used in organizing and administrating the Association's affairs. The program will include:

1. Selection of the Board of Directors;
2. Topics of initial board meetings;
3. Submission of policies adopted at the initial board meeting;
4. Management technique utilized in running an Association;
5. How services are to be provided while Developer is in control;
6. How service levels can be maintained during the control transition period;
7. Establishment of operating and sinking funds accounts.
8. How formal control will be transferred, including the transmission of an audited set of books to the new homeowners' association officers.
9. How education of the homeowners on association's operations is to be accomplished.
10. Management procedures, contracts, etc. to be in place at turnover.
11. Training to be made available to Homeowners Association officers as a prelude to turnover (CAI courses, auditor training, etc.)
12. List and status of documents and records to be turned over.
13. Requirements that organization is running under the Covenants, Conditions and Restrictions prior to turnover.
14. Participation of Homeowners Association in functioning prior to turnover.
- M. Developer shall in the transitional turnover designate a member

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

of his staff to become liaison between himself and homeowners and furnish information outlining the following:

1. Schedule educational meetings to be held explaining to new Owners the operation and budget of the Association.
2. The proposed schedule for phasing control of Association operation.
3. A program for establishing community associations' functions, including provisions of services, budgetary management, and building or reserve funds.
4. A program describing how these functions can be made continuous through the transition period.
5. A program for covenant enforcement that can be continued after homeowner control.
6. A program establishing when homeowners will be authorized to have a walk-through inspection tour of the Property and have a description of warranty on same.
7. The Association must be established before the first Unit closing.
8. Mandatory membership of all Owners within the development is required in the Association and the Owners have an obligation to share the responsibility for the expenses incurred by the Association in meeting its responsibilities.
9. Responsibilities of the Association are to include obtaining appropriate property, casualty and liability insurance covering any Common Areas and Association activities, as well as responsibility for meeting the obligation of payment of local taxes, where applicable.

N. When Owners consider termination of the legal status of the development for reasons other than substantial destruction or condemnation of the Property the eligible mortgage holders representing at least 67% of the votes of the mortgaged Units must agree.

O. If a sale, lease, devise or gift of any Unit Ownership is made by any Unit Owner, the purchaser, lessee, devisee, or donee thereunder shall be bound by and be subject to all of the obligations of such Unit Owners with respect to such Unit Ownership as provided in this Declaration and By-Laws. Any Unit Owner making any such lease shall not be relieved thereby from any obligation under this Declaration and By-Laws. All leases shall be in writing. No lease shall have an initial term of less than thirty (30) days.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

612650000

UNOFFICIAL COPY



P. Any holder, insurer or guarantor of the mortgage on any Unit in the development shall be entitled to timely written notice of the following:

1. Any condemnation or casualty loss which affects either a material portion of the project or the Unit securing the mortgage.
2. Any 60 day delinquency in the payment of assessments or charges owed by the owner of any Unit on which it holds a mortgage.
3. Any lapse cancellation or material modification of any insurance policy or fidelity bond coverage maintained by the Association.
4. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

Q. Separate Real Estate Taxes. It is understood that real estate taxes are to be separately taxed to each Unit Owner for his Townhome.

IN WITNESS WHEREOF, Harris Bank Hinsdale as Trustee under a Trust Agreement dated July 27, 1987 and known as Trust No. L-1660 has authorized these presents to be signed by its Vice President and its corporate seal to be hereto affixed and attested by its Trust Officer this 6th day of FEBRUARY, 1989.

ATTEST

BY:  BY: 
Vice President Assistant Trust Officer

This document is made by the HARRIS BANK Hinsdale as Trustee and accepted upon the express understanding that the HARRIS BANK Hinsdale enters into the same not personally, but only as Trustee and that no personal liability is assumed by nor shall be asserted or enforced against the HARRIS BANK Hinsdale because of or on account of the making or executing this document or of anything therein contained, all such liability, if any being expressly waived, nor shall the HARRIS BANK Hinsdale be held personally liable upon or in consequence of any of the covenants of this document, either expressed, or implied.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE)

I, THE UNDERSIGNED a Notary Public in and for said County and State, do hereby certify that JANET HALL and _____ respectively of Harris Bank-Hinsdale N.A. personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President and VICE PRESIDENT, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 6th day of FEBRUARY, 1989.

Georgianna DeMory
Notary Public

"OFFICIAL SEAL"
Georgianna DeMory
Notary Public, State of Illinois
My Commission Expires 12/12/92

"OFFICIAL SEAL"
Georgianna DeMory
Notary Public, State of Illinois
My Commission Expires 12/12/92

COOK COUNTY, ILLINOIS
FILED FOR RECORD
1989 FEB 17 AM 10:03

89074508

89074508

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "A"

PROPERTY

Outlots A and B and Lots 1 through 25 in Wellington Court being a subdivision of part of the West Half of the Northwest Quarter of Section 33, Township 41 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded December 29, 1988 as Document No. 88-598270 in Cook County, Illinois.

07-33-101-004

905

VACANT LAND
WISE ROAD AND RODENBURG, SCHAUMBURG, ILL

PREPARED BY:
MAIL TO:
PETER BRENNAN
C/O TOWN AND COUNTRY
125 W. 55TH STREET
CLARENDON HILLS, ILL 60514

BOX 888-CC

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

CONSENT OF MORTGAGEE

LaSalle Bank/Lakeview holder of a mortgage on the Property, dated September 14, 19 88 and recorded on November 17, 19 88 as Document No. 88530590 hereby consents to the execution and recording of the within Declaration of Townhome Ownership and agrees that said mortgage is subject to the provisions of said Townhome.

IN WITNESS WHEREOF, the said LaSalle Bank/Lakeview has caused this instrument to be signed by its duly authorized officer on its behalf, all done at Dallas, Texas, on this 9th day of February, 19 89.

Michael J. McHugh V.P.

Property of Cook County Clerk's Office

89074508

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2011-11-19 10:00