

# UNOFFICIAL COPY

93759281

## THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BROOK HILLS TOWNHOMES ORLAND PARK, COOK COUNTY, ILLINOIS

35-  
EA

THIS THIRD AMENDMENT, is made and entered into by MARQUETTE NATIONAL BANK, a national banking corporation, not individually, but as Trustee under Trust Agreement dated November 18, 1976 and known as Trust Number 7565 ("Trustee"):

### R E C I T A L S:

1. Trustee has executed as titleholder the Plat of Subdivision for Brook Hills P.U.D. Townhomes Phase One which plat was recorded in the Office of the Recorder of Deeds, Cook County, Illinois on October 18, 1989 as Document No. 89492483 and Trustee has executed as titleholder the Plat of Subdivision for Brook Hills P.U.D. Townhomes Phase Two which Plat was recorded in the Office of the Recorder of Deeds, Cook County, Illinois on June 6, 1990 as Document No. 90264244 and re-recorded on November 8, 1990 as Document No. 90545309, and Trustee has executed as titleholder the Plat of Subdivision for Brook Hills P.U.D. Townhomes Phase Three which Plat was recorded in the Office of the Recorder of Deeds of Cook County, Illinois on March 9, 1992 as Document No. 92149975.

2. Trustee has executed and recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for BROOK HILLS TOWNHOMES, Orland Park, Cook County, Illinois (hereinafter referred to as "Declaration"), in the Office of the Recorder of Deeds, Cook County, Illinois, on October 18, 1989 as Document No. 89492484 and the First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for BROOK HILLS TOWNHOMES (hereinafter referred to as "First Amendment"), in the Office of the Recorder of Deeds, Cook County, Illinois, on June 20, 1990 as Document No. 90291166 and re-recorded on November 8, 1990 as Document No. 90545309 and the Second Amendment to the Declaration of Covenants, Restrictions and Easements for BROOK HILLS TOWNHOMES (hereinafter referred to as "Second Amendment"), in the Office of the Recorder of Deeds of Cook County, Illinois on March 11, 1992 as Document No. 92155899.. The Declaration originally affected the following described real estate located in the Village of Orland Park, County of Cook, State of Illinois:

(See Page 1(A) for Legal Description)

This Instrument Prepared By:  
Harry E. DeBruyn, Esq.  
DeBruyn, Taylor & DeBruyn, Ltd.  
15252 South Harlem Avenue  
Orland Park, Illinois 60462  
(708) 532-3223  
RETURN TO: BOX 360

General Address of Property:  
Brook Hills Drive and Wolf Rd.  
Orland Park, Illinois 60462  
P.I.N. #27-30-400-011

3500  
12-7-93 10:06  
J. K.

73-56-333d

93759281

# UNOFFICIAL COPY

## LEGAL DESCRIPTION

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 61 IN BROOK HILLS P.U.D UNIT 1, BEING A PLANNED UNIT DEVELOPMENT IN THE SOUTHEAST QUARTER OF SECTION 30 AFORESAID; THENCE SOUTH 81-13'-27" EAST ALONG THE SOUTH LINE OF BROOK HILL DRIVE AS DEDICATED IN BROOK HILLS P.U.D UNIT 1 AFORESAID FOR A DISTANCE OF 200.0 FEET TO A POINT OF CURVE THEREIN; THENCE EASTERLY ALONG SAID SOUTHERLY LINE BEING AN ARC OF A CIRCLE CONVEX NORTHERLY AND HAVING A RADIUS OF 662.0 FEET FOR A DISTANCE OF 98.31 FEET TO A POINT OF TANGENCY (THE CHORD OF SAID ARC HAVING A BEARING OF SOUTH 76-58'-12" EAST); THENCE CONTINUE ALONG THE SOUTH LINE OF BROOK HILL DRIVE SOUTH 72-42'-57" EAST 195.23 FEET; THENCE SOUTH 33-19'-46" WEST 234.43 FEET; THENCE SOUTH 17-17'-03" WEST 67.48 FEET; THENCE SOUTH 03-43'-49" WEST 223.23 FEET; THENCE NORTH 86-16'-11" WEST 362.16 FEET; THENCE NORTH 05-16'-49" EAST 93.91 FEET TO A POINT OF CURVE; THENCE NORTHERLY ALONG AN ARC OF A CIRCLE CONVEX EASTERLY AND HAVING A RADIUS OF 115.0 FEET FOR A DISTANCE OF 58.15 FEET (THE CHORD OF SAID ARC HAVING A BEARING OF NORTH 09-12'-16" WEST); THENCE SOUTH 66-38'-38" WEST 60.0 FEET; THENCE NORTH 23-41'-22" WEST 44.48 FEET; THENCE SOUTH 66-18'-38" WEST 40.75 FEET; THENCE NORTH 23-41'-22" WEST 60.0 FEET; THENCE WESTERLY ALONG AN ARC OF A CIRCLE CONVEX SOUTHEASTERLY AND HAVING A RADIUS OF 352.0 FEET FOR A DISTANCE OF 34.36 FEET (THE CHORD OF SAID ARC HAVING A BEARING OF SOUTH 69-06'-25" WEST); THENCE NORTH 23-41'-22" WEST 156.82 FEET; THENCE NORTH 09-53'-04" EAST 117.83 FEET TO A CORNER OF LOT 59 IN BROOK HILLS P.U.D. UNIT 1 AFORESAID; THENCE SOUTH 81-30'-21" EAST ALONG A SOUTHERLY LINE OF LOT 59 AFORESAID 77.52 FEET; THENCE NORTH 71-42'-55" EAST ALONG A SOUTH LINE OF LOT 59 AND A SOUTH LINE OF LOT 60 FOR A DISTANCE OF 100.0 FEET; THENCE NORTH 47-45'-42" EAST ALONG A SOUTHEASTERLY LINE OF LOT 60 FOR A DISTANCE OF 92.90 FEET TO A CORNER OF LOT 60; THENCE NORTH 08-46'-33" EAST ALONG THE EAST LINE OF LOTS 60 AND 61 FOR A DISTANCE OF 136.26 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

General Address of Property: Brook Hills Drive and Wolf Road  
Orland Park, Illinois 60462

Permanent Index No.: 27-30-400-009

9369281

# UNOFFICIAL COPY

3. The First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for BROOK HILLS TOWNHOMES affected the following described real estate located in the Village of Orland Park, County of Cook State of Illinois:

Lots 10-1, 10-2, 10-3, 10-4, 10-5, 11-1, 11-2, 11-3, 11-4, 11-5, 12-1, 12-2, 12-3, 12-4, 13-1, 13-2, 13-3, 13-4, 14-1, 14-2, 14-3, 14-4, 14-5, 15-1, 15-2, 15-3, 15-4, 15-5, 16-1, 16-2, 16-3, 17-1, 17-2, 17-3, 17-4, 18-1, 18-2, 18-3, 18-4, 18-5, 18-6, 19-1, 19-2, 19-3, 19-4, 19-5, 19-6, 20-1, 20-2, 20-3, 20-4, 20-5, 20-6, 21-1, 21-2, 21-3 and Lot C in Brook Hills P.U.D. Townhomes Phase Two being a Planned Unit Development in the Southeast Quarter of Section 30, Township 36 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois according to the Plat thereof recorded with the Recorder of Deeds, Cook County, Illinois on June 6, 1990 as Document No. 90264144 and re-recorded on November 8, 1990 as Document No. 90545309.

4. Lots 1 through 9, Lots "A" & "B" and Lake Brook Drive in Brook Hills P.U.D. Townhomes, Phase One is the same property described in Exhibit "A" of the Declaration and set forth above in Paragraph 2.

5. Lots 10-1 through 21-3, Lot "C" and Brook Crossing Drive in Brook Hills P.U.D. Townhomes, Phase Two is the same property set forth above in Paragraph 3.

6. The Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for BROOK HILLS TOWNHOMES affected the following described real estate located in the Village of Orland Park, County of Cook and State of Illinois:

Lots 22-1, 22-2, 22-3, 22-4, 22-5, 23-1, 23-2, 23-3, 23-4, 23-5, 24-1, 24-2, 24-3, 24-4, 25-1, 25-2, 25-3, 25-4, 26-1, 26-2, 26-3, 26-4, 26-5, 27-1, 27-2, 27-3, 27-4, 28-1, 28-2, 28-3, 28-4, 28-5, 28-6, 29-1, 29-2, 29-3, 29-4, 29-5, 30-1, 30-2, 30-3, 30-4, 30-5, 30-6, 31-1, 31-2, 31-3, 31-4, 31-5, 32-1, 32-2, 32-3, 32-4, 32-5, 32-6, 33-1, 33-2, 33-3, 33-4, 34-1, 34-2, 34-3, 34-4, 35-1, 35-2, 35-3, 35-4, 35-5, 36-1, 36-2, 36-3, 36-4, 36-5, 37-1, 37-2, 37-3, 37-4, 37-5, 38-1, 38-2, 38-3, 39-1, 39-2, 39-3, 39-4, 39-5, 39-6, 40-1, 40-2, 40-3, 41-1, 41-2, 41-3, 41-4 and Lots D, E, F, G and H in Brook Hills P.U.D. Townhomes Phase Three being a Planned Unit Development in the Southeast Quarter of Section 30, and the Northeast Quarter of Section 31, all in Township 36 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois according to the Plat thereof recorded with the Recorder of Deeds, Cook County, Illinois on March 9, 1992 as Document No. 92149975.

93999281

# UNOFFICIAL COPY

7. In paragraph 20 of the Declaration, the Developer, as beneficial owner of the Future Parcel, reserved the right and power to annex, add, submit, and subject to the provisions of the Declaration any part or all of the Future Parcel, as described on Exhibit B to the Declaration.

8. Paragraph 20 of the Declaration is set forth in its entirety as follows:

"20. RESERVATION OF RIGHT TO ANNEX ADDITIONAL PROPERTY. The Developer, as the beneficial owner of the Future Parcel, intends hereafter, but shall not be obligated, to develop and improve the Future Parcel, or a portion thereof, with Townhomes. The Developer intends, but shall not be required, to submit to the provisions of this Declaration and annex and add to the Parcel a part or all of the Future Parcel as any one or more such Townhomes are completed on part or all of the Future Parcel, or thereafter, as hereinafter provided in this paragraph 20.

Subject to the foregoing restrictions, the Trustee and the Developer, for themselves and their respective successors and assigns, hereby reserve the right, from time to time, to annex and add to the Parcel and the Development and thereby to add to the plan of ownership created by this Declaration, without notice thereof to or the consent of any Townhome Owner or mortgagee of any Townhome, all or any portion of the Future Parcel. No rights or interests of any kind whatsoever in all or any part of the Future Parcel shall attach to any Townhome except as to that portion described in a recorded "Amendment To the Declaration" annexing and adding such portion of the Future Parcel to the Parcel and the Development and submitting such portion of the Future Parcel to this Declaration.

Each Townhome Owner and his successors and assigns, by acceptance of a deed to his Townhome, and each mortgagee of a Townhome by acceptance of a mortgage, acknowledge, consent and agree for themselves and their successors and assigns as follows, with respect to each Amendment to the Declaration recorded pursuant to this paragraph 20:

(a) An Amendment to the Declaration may contain such modifications of and additions to the provisions of this Declaration as the Trustee and Developer deem reasonably necessary to comport with the character of the construction upon the Additional Parcel described in such Amendment To The Declaration; provided, however, that any such modifications or additions shall be applicable only to the Additional Parcel described in such Amendment To The Declaration. Any such Amendment to the Declaration shall contain such reasonable terms and provisions as the Trustee and Developer deem necessary to annex and add the Additional Parcel to the Parcel under terms equitable to all Townhome Owners.

# UNOFFICIAL COPY

(b) The Additional Parcel described in each such Amendment to the Declaration shall be governed in all respects by the provisions of this Declaration as modified by such Amendment to the Declaration.

(c) Upon the recordation of such Amendment to the Declaration, each Townhome Owner's Share corresponding to each Townhome shall be consistent with the formula set forth in the Definitions, paragraph 23. Such Townhome Owner's Share shall correspond to the style of the respective Townhome as set forth in the Definitions, paragraph 23.

(d) Upon the recordation of such Amendment to the Declaration, the Common Area shall be deemed to include any additional Common Area annexed to the Development pursuant to such Amendment to the Declaration.

(e) The recording of any such Amendment to the Declaration shall not alter the amount of the lien for Common Expenses assessed against a Townhome prior to such recording.

(f) For purposes of this Declaration, the Trustee and the Developer adding Additional Property to the Present Parcel, pursuant to Amendments to the Declaration, shall be deemed to be made by agreement of all Townhome Owners and all those who claim under them, including any mortgagees.

(g) The Trustee and Developer and their successors and assigns have the right to amend this Declaration in the manner provided in this paragraph 20, and each Townhome Owner agrees to execute and deliver any documents necessary or desirable to effect any such Amendment to the Declaration."

9. Trustee and Developer now desire to exercise the rights and powers provided in Paragraph 20 of the Declaration to annex, add, submit and subject certain additional real estate located within the Future Parcel and owned by Trustee, to the provisions of the Declaration.

10. Trustee has executed as titleholder the Plat of Subdivision for Brook Hills P.U.D. Townhomes Phase Four which Plat was recorded in the Office of the Recorder of Deeds, Cook County, Illinois on November 15, 1993 as Document No. 93924270.

NOW, THEREFORE, Trustee, as the record owner of the real estate, hereinafter described, pursuant to the power reserved in the Declaration to the Developer directing the Trustee, and for the purpose above set forth, Trustee hereby amends the Declaration as follows:

1. Terms. If not otherwise defined herein, the terms used herein shall have the meanings set forth in the Declaration.

# UNOFFICIAL COPY

2. The Additional Property. The following described real estate which is part of the Future Parcel is hereby annexed and added to the Declaration as Additional Property:

Lots 42-1, 42-2, 42-3, 42-4, 42-5, 42-6, 42-7, 43-1, 43-2, 43-3, 44-1, 44-2, 44-3, 44-4, 44-5, 44-6, 44-7, 45-1, 45-2, 45-3 and Lot I in Brook Hills P.U.D. Townhomes Phase Four being a Planned Unit Development in the Southeast Quarter of Section 30, Township 36 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois according to the Plat thereof recorded with the Recorder of Deeds, Cook County, Illinois on November 15, 1993 as Document No. 93924270.

3. The Added Common Area. The following described real estate which is part of the above Additional Property is hereby annexed and added to the Common Area:

Lot I in Brook Hills P.U.D. Townhomes Phase Four being a Planned Unit Development in the Southeast Quarter of Section 30, Township 36 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois, according to the Plat thereof recorded with the Recorder of Deeds, Cook County, Illinois on November 15, 1993 as Document No. 93924270.

4. Covenants to Run with the Land. The covenants, conditions, restrictions and easements contained in the Declaration and the First Amendment to the Declaration, and as amended by this THIRD Amendment to the Declaration, shall run with the land.

5. Ratification of Declaration as Amended. In all other respects the Declaration, as hereby amended, is ratified and confirmed and shall continue in full force and effect.

6. Effectiveness of the Third Amendment. This Third Amendment shall be effective as of the date it is recorded with the Cook County Recorder of Deeds.

7. This Third Amendment is executed by MARQUETTE NATIONAL BANK, as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee (and MARQUETTE NATIONAL BANK, hereby warrants that it possesses full power and authority to execute this instrument.) It is expressly understood and agreed by every person, firm, or corporation hereafter claiming any interest under this Third Amendment that MARQUETTE NATIONAL BANK, as Trustee aforesaid, and not personally, has joined in the execution of this Third Amendment for the sole purpose of subjecting the title holding interest in the Trust Estate under said Trust No. 7565, to the terms of this Third Amendment in the Declaration, and that any and all obligations, duties and covenants and agreements of every nature, herein set forth by MARQUETTE NATIONAL BANK, as Trustee aforesaid, to be kept or performed, are intended to be kept, performed and discharged by

# UNOFFICIAL COPY

the beneficiaries under said Trust No. 7565, or their successors and not be MARQUETTE NATIONAL BANK, personally;

And further, that no duty shall rest upon MARQUETTE NATIONAL BANK, either personally or as Trustee, to sequester Trust Assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligations, express or implied, arising under the terms of this Third Amendment, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. 7565, and after the trustee has first been supplied with funds for that purpose. In the event of a conflict between the terms of this paragraph and the remainder of the Declaration, the First Amendment, the Second Amendment, or this Third Amendment, or any question of apparent liability or obligation resting upon said Trustee, the exculpatory provisions hereof shall be controlling.

IN WITNESS WHEREOF, MARQUETTE NATIONAL BANK, a banking corporation, as Trustee aforesaid and not personally, has caused its corporate seal to be affixed hereunto, and has caused its name to be signed hereto by its duly authorized officers this 6th day of December, 1993.

MARQUETTE NATIONAL BANK, as Trustee  
as aforesaid and not personally,  
under Trust No. 7565

By: [Signature]

(SEAL)

Title: Trust Officer

ATTEST: [Signature]

Title: Asst. Secretary

# UNOFFICIAL COPY

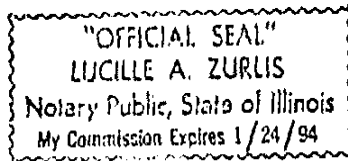
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF C O O K )

## ACKNOWLEDGEMENT

The undersigned, a notary public in and for said county, in the state aforesaid, do hereby certify that Glenn E. Skinner, Jr. as Trust Officer of the MARQUETTE NATIONAL BANK, and Lisa M. Rivera, as Asst. Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such as Trust Officer and Asst. Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said bank, as Trustee, for the uses and purposes therein set forth; and that said Asst. Secretary did also then and there acknowledge that she, as custodian of the corporation seal of said bank, did affix the corporate seal of said bank to said instrument as her own free and voluntary act and as the free and voluntary act of said bank, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 6th day of December, 1993.

(SEAL)



Lucille A. Zurlis  
Notary Public  
My Commission Expires: 1-24-94

RECORDED  
INDEXED  
1993 DEC -7 PM 12:13

03539281

This Instrument Prepared By:  
Harry E. DeBruyn, Esq.  
DeBruyn, Taylor and DeBruyn, Ltd.  
15252 South Harlem Avenue  
Orland Park, Illinois 60462  
(708) 532-3223  
COND05:brook3rd.amd

03539281