

MISC 2017016029



MAR 01 2017 15:49 P 7

Fee amount: 46.00
FB: 07-05690
COMP: MB

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
03/01/2017 15:49:45.00



2017016029

Upon Recording Return to:
Troy F. Meyerson
Fraser Stryker PC LLO
500 Energy Plaza
409 South 17th Street
Omaha, NE 68102-2663

RESTRICTIONS AND EASEMENTS AGREEMENT

THIS RESTRICTIONS AND EASEMENTS AGREEMENT (this "Agreement") is made and executed as of the 28 day of FEBRUARY, 2017, by Brown Eyed Girl Investments, LLC, a Nebraska limited liability company ("BEGI"), and Capitol Place, LLC, a Nebraska limited liability company ("Capitol"). BEGI and Capitol may be referred to individually as a "Party" or collectively as the "Parties."

WHEREAS, BEGI owns the following real estate (the "BEGI Property"):

Capitol Place Lot 2, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, Capitol owns the following real estate (the "Capitol Property"):

Capitol Place Lot 1, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, a depiction of the BEGI Property and the Capitol Property is attached hereto as Exhibit A.

WHEREAS, the Parties entered into a certain Real Property Purchase Agreement dated December 3, 2016 (the "Purchase Agreement"), in which the Parties agreed to establish certain restrictions, easements, covenants, and conditions in regard to the BEGI Property and the Capitol Property.

NOW, THEREFORE, the Parties, for themselves, their successors and assigns, do hereby declare that the Capitol Property and the BEGI Property shall be subject to and shall be used in conformance with the following restrictions, easements, covenants, and conditions:

1. No Build Area. The Parties agree that neither of them will construct, cause to be constructed, or allow the construction of any improvements in the No Build Area identified on Exhibit A attached hereto.

2. Access Easement. Capitol hereby grants and conveys to BEGI and its residents, guests, and invitees a permanent and non-exclusive easement for the purpose of pedestrian ingress, egress, and access over and across the No Build Area identified on Exhibit A attached hereto; provided, however, that such access may be limited and/or reduced by Capitol for reasonable security and/or operational matters or concerns so long as such reduction or limitation does not eliminate the only access for BEGI and its residents, guests, and invitees.

3. Parking Easement. Capitol hereby grants and conveys to BEGI and its residents, guests, and invitees a non-exclusive easement, for the limited purpose of parking motor vehicles, to two (2) parking stalls in the parking lot to be constructed in the Northeast corner of the Capitol Property, with the specific location of such parking stalls to be designated by Capitol, in its sole discretion, and such location may be changed from time to time by same (the "Designated Parking Stalls"), from 8:00 a.m. to 5:00 p.m. on Mondays through Fridays (the "Parking Easement"), excluding federal holidays. To the extent reasonably necessary to utilize the Parking Easement, Capitol hereby grants and conveys to BEGI and its residents, guests, and invitees a non-exclusive easement for the limited purpose of pedestrian and vehicular ingress, egress, and access over and across the parking lot containing the Designated Parking Stalls. BEGI and its residents, guests, and invitees shall not (i) park anywhere on the Capitol Property other than in the Designated Parking Stalls, or (ii) park in the Designated Parking Stalls, or allow a car to remain parked in the Designated Parking Stalls, at any time other than the above-designated time frame. The Parties acknowledge and agree that Capitol shall have the right, but not the obligation, to take any action necessary or desirable, without limitation or liability, to enforce the restrictions and obligations of this Section 3, including but not limited to: (i) posting signage to identify the Designated Parking Stalls and the times during which they may be used by BEGI and its residents, guests, and invitees; and (ii) towing vehicles, at the owner's expense, that are parked on the Capitol Property outside of the Designated Parking Stalls or at times other than the above-designated time frame.

4. Indemnification. Each Party (as "Indemnifying Party") shall indemnify, defend and hold harmless the other Party and its members, directors, officers, agents, employees, contractors, affiliates, successors, and permitted assigns (collectively, "Indemnified Party") against all claims, damages, losses, and expenses, including reasonable attorneys' fees and costs, fees and costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, to the extent arising out of or resulting from any claim, action, or other proceeding that is based upon or arises out of (a) Indemnifying Party's breach of this Agreement, or (b) the acts or omissions of Indemnifying Party or its residents, guests, or invitees related to this Agreement.

5. Amendment and Waiver. This Agreement may be amended, modified, released, waived, or terminated only by a written agreement signed by Capitol and BEGI, or their respective successors or assigns, and shall be effective only when recorded in the official real property records of Douglas County, Nebraska. Failure of the Parties to insist upon strict performance of any of the terms, covenants, or conditions hereof shall not be deemed a waiver of

any rights or remedies which the Parties may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants, or conditions.

6. Legal Effect. Each of the restrictions, easements, and rights created by this Agreement are appurtenant to the real estate to which they relate and may not be transferred, assigned or encumbered except as an appurtenance to such real estate. Each of the restrictions, easements, and rights evidenced by this Agreement are made for the direct, mutual and reciprocal benefit of each of the Parties, constitute covenants running with the land, bind every person or entity now having or hereafter acquiring any interest in such real estate, and will inure to the benefit of the successors, assigns, and mortgagees of the Parties.

7. No Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Capitol Property or the BEGI Property to the general public, or for any public use, or public purpose whatsoever. Except as herein specifically provided, no rights, privileges, or immunities of the Parties shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the provisions contained in this Agreement.

8. Breach. In the event of a breach or threatened breach of any term of this Agreement, the Parties shall have the right to exercise any and all remedies afforded under law and at equity, including, without limitation, the right to obtain injunctive relief.

9. Choice of Law. This Agreement is made in and shall be construed pursuant to the laws of the State of Nebraska.

10. Counterparts. This Agreement may be executed in two or more counterparts.

[Remainder of Page Left Intentionally Blank; Execution Pages Follow]

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the day and year above set forth.

CAPITOL PLACE, LLC
a Nebraska limited liability company

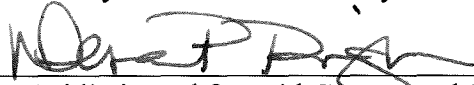
BY: AMERISPHERE PROPERTIES, LLC,
a Nebraska limited liability company,
Managing Member

By: 
Name: Rodrigo López, Chairman

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

On this 21st day of February, 2017, before me, appeared Rodrigo López, Chairman of AmeriSphere Properties, LLC, the Managing Member of Capitol Place, LLC, a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said limited liability company.

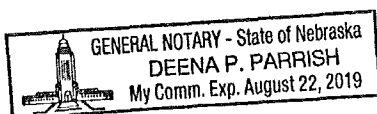
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.


Notary Public in and for said County and State

Print Notary's Name: Deena P. Parrish

My Commission Expires:

August 22, 2019



IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the day and year above set forth.

BROWN EYED GIRL INVESTMENTS, LLC
a Nebraska limited liability company

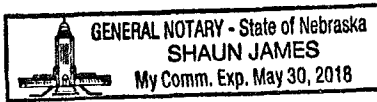
BY: _____

Name: Eric Maas, Manager

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

On this 27 day of February, 2017, before me, appeared Eric Maas, the Manager of Brown Eyed Girl Investments, LLC, a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.



Notary Public in and for said County and State

Print Notary's Name: SHAUN JAMES

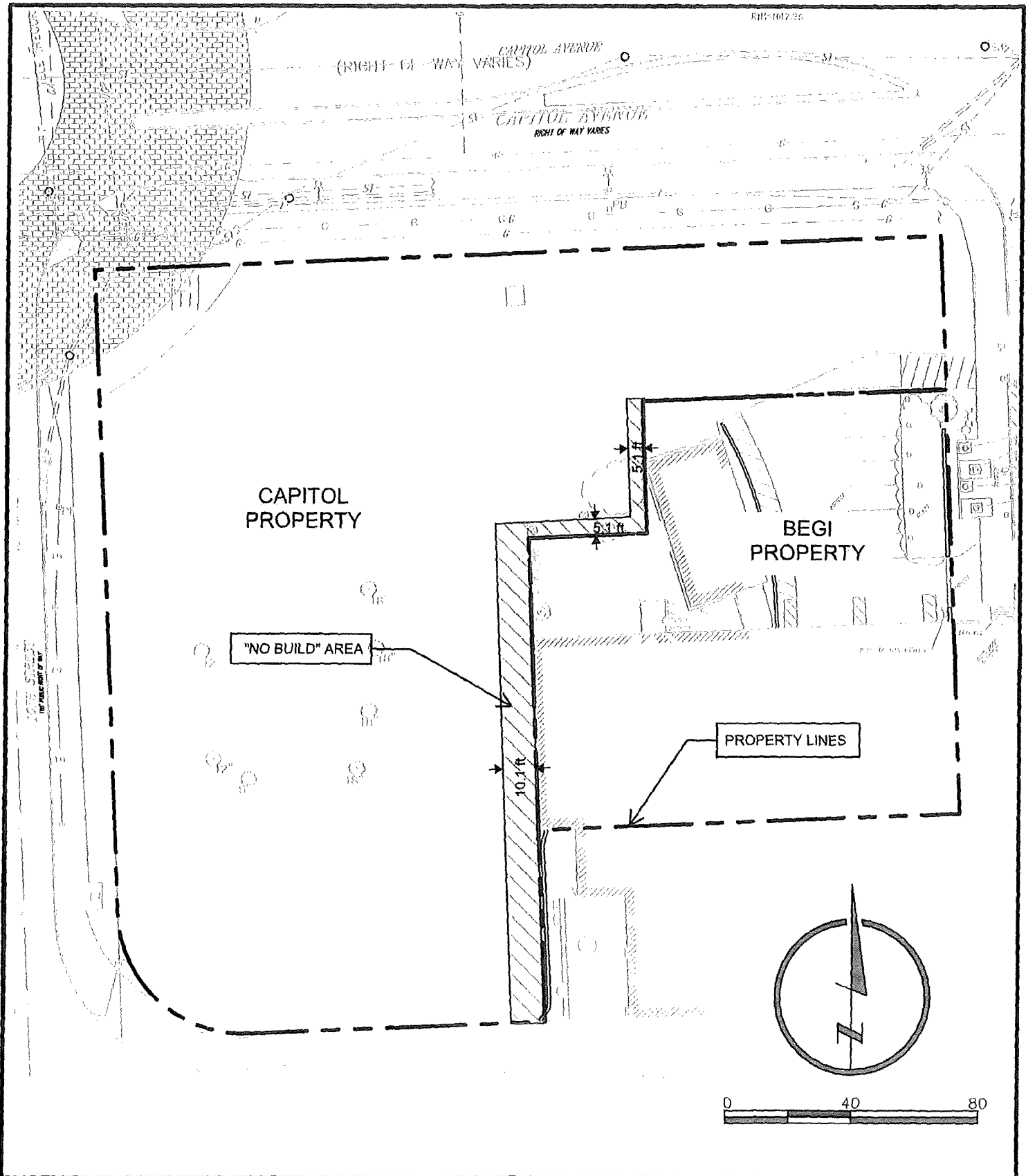
My Commission Expires:

May 30, 2018

Exhibit A

Depiction of Property, Easements, and Restrictions

[Attached]



**LAMP RYNEARSON
& ASSOCIATES**

14710 West Dodge Road, Suite 100 402.496.2498 | P
Omaha, Nebraska 68154-2027 402.496.2730 | F
www.LRA-Inc.com

DRAWN BY	DESIGNED BY	REVIEWED BY	PROJECT - TASK NUMBER	DATE	BOOK AND PAGE	REVISIONS

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