

MISC 2005019508

FEB 22 2005 10:48 P 3

Received - DIANE L. BATTIATO
Registrar of Deeds, Douglas County, NE
2/22/2005 10:48:16.93



RE: Lots 1 to 7 inclusive and Lot 10
West Village Pointe Subdivision

DECLARATION

This Declaration, dated as of February 21, 2005, is made by Village West LLC, a Nebraska Limited Liability Company ("Village West").

PRELIMINARY STATEMENT

Village West is the record owner of Lots 1 to 7 inclusive and Lot 10, all in West Village Pointe, a subdivision in Douglas County, Nebraska as surveyed, platted and recorded (the "Restricted Parcels").

Village West desires to establish certain restrictions upon the Restricted Parcels. For the purpose of establishing such restrictions, Village West has executed and recorded this Declaration.

TERMS AND CONDITIONS

In consideration of the foregoing Preliminary Statement, which by this reference is repeated and incorporated in this portion of this Declaration in its entirety, and other consideration, the receipt and sufficiency of which are hereby acknowledged, Village West hereby establishes the following restrictions upon the Restricted Lots.

1. **Restrictions.** So long as Lot 11 West Village Pointe, a subdivision in Douglas County, Nebraska ("Lot 11") is being used as a medical campus (as that term is generally accepted and defined), without the prior written consent of the record owner of Lot 11, or in the event Lot 11 is subdivided into two or more lots, the owner of the largest lot by land area size, the Restricted Parcels may not be used for (a) any office building in which more than fifty (50%) percent of the gross building area of any such building is used to provide medical services; (b) any industrial building of a type which is described as an "industrial use" in the industrial zoning classifications or districts of the Omaha Zoning Code; (c) any of the following uses: (i) any chiropractic office, or (ii) dental office, or (iii) any specialty clinic providing physician originated or approved medical treatment, or (iv) for any medical office which provides medical services which are customarily

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associated and identified with medical services provided by or in hospitals in Omaha, Nebraska, if more than five thousand (5,000) square feet of floor area is devoted to such use by any such office or clinic.

2. Notices. All notices, statements, demands, approvals and other communications given pursuant to this Declaration will be in writing and will be delivered in person, by certified or registered mail, postage prepaid or by recognized courier service. All such notices which are mailed shall be deemed delivered on the third day after postmark unless delivered sooner. All such notices which are delivered by recognized courier service shall be deemed delivered the business day next following the date of deposit with such courier service.

3. No Partnership. Nothing contained in this Declaration and no action by the owner of any of the Restricted Parcels will be deemed or construed by anyone to create the relationship of principal and agent, or a partnership, or a joint venture, or any association between or among any of the owners of the Restricted Parcels or the owner of Lot 11.

4. Severability. If any provision of this Declaration is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration (or the application of such provisions to persons or circumstances other than those in respect of which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Declaration will be valid and enforceable to the fullest extent permitted by law.

5. Governing Law. This Declaration will be construed in accordance with the laws of the State of Nebraska.

6. Binding Effect. The provisions of this Declaration will be binding on the owner of the Restricted Parcels and their respective successors, assigns, heirs, personal representatives, mortgagees, and beneficiaries under deeds of trust to the extent herein provided and shall inure to the benefit of the owners of Lot 11 to the extent herein provided.

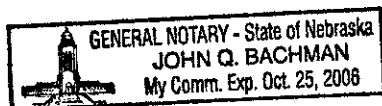
VILLAGE WEST LLC, a Nebraska
Limited Liability Company

By: 
Jay R. Lerner, Manager

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 21st day of February, 2005, by Jay R. Lerner, Manager of Village West LLC, a Nebraska Limited Liability Company, on behalf of such Limited Liability Company.



John Q. Bachman
Notary Public