

FILED SARPY CO. NE.

INSTRUMENT NUMBER

200406834

2004 FEB 27 P 3:02 8

*Slowly J. Downing*  
REGISTER OF DEEDS

COUNTER	<i>Ja</i>	C.E.	<i>✓</i>
VERIFY	<i>Ja</i>	D.E.	<i>sm</i>
PROOF			
FEEES \$	<i>63.00</i>		
CHECK#	<i>30931</i>		
CHG.		CASH	
REFUND		CREDIT	
SHORT		NCR	

**AMENDMENT TO AND RESTATEMENT OF COVENANTS**

THIS AMENDMENT TO AND RESTATEMENT OF COVENANTS is made the date hereinafter set forth by Van Lea, L.L.C., a Nebraska limited liability company.

**RECITALS**

A. On October 21, 1996, a document entitled Declaration of Covenants, Conditions, Restrictions and Easements for Forest Run in Sarpy County, Nebraska (hereinafter the "Forest Run Declaration") for Lots One (1) through Eleven (11), inclusive, in FOREST RUN, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, was recorded by Van Lea, L.L.C., as Declarant, in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument No. 96-022304. On August 11, 1997, a document entitled Declaration of Covenants, Conditions, Restrictions and Easements for Forest Run II in Sarpy County, Nebraska (hereinafter the "Forest Run II Declaration") for Lots Twelve (12) through Forty-one (41), inclusive, in FOREST RUN II, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, was recorded by Van Lea, L.L.C., as Declarant, in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument No. 97-17132. On December 15, 1997, a document entitled Declaration of Covenants, Conditions, Restrictions and Easements for Forest Run and Forest Run II in Sarpy County, Nebraska (hereinafter the "Joint Declaration") for Lots One (1) through Forty-one (41), inclusive, in FOREST RUN and FOREST RUN II, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, was recorded by Van Lea, L.L.C., as Declarant, in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument No. 97-028368. All declarations referenced above are collectively referred to as the "Declarations."

B. Article IV, Section 2 of the Forest Run Declaration, the Forest Run II Declaration and the Joint Declaration provides that for a period of ten years, the Declarant shall have the right to amend the Declarations.

NOW, THEREFORE, Declarant hereby declare that the Forest Run Declaration, the Forest Run II Declaration and the Joint Declaration all recorded of record in the office of the Register of Deeds of Sarpy County, Nebraska should be and hereby are amended in the following manner:

I. ~~the following declarations in which they are acting as declarant and shall be the following:~~

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR FOREST RUN, FOREST RUN II AND FOREST RUN III IN SARPY COUNTY, NEBRASKA**

This Declaration made on the date hereinafter set forth by Van Lea, L.L.C., a Nebraska limited liability company (hereinafter the "Declarant").

**PRELIMINARY STATEMENT**

The Declarant is, or at the relevant time, was the owner and is and was the developer of certain real property located within Sarpy County, Nebraska and described as follows:

Lots One (1) through Eleven (11), inclusive, all in Forest Run, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; Lots Twelve (12) through Forty-one (41), inclusive, all in Forest Run II, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, and Lots Forty-two (42) through Fifty-six (56), inclusive, all in Forest Run III, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska,

Such Lots are herein referred to collectively as the "Lots" and individually as each "Lot."

*RJR*  
**FULLENKAMP, DOYLE & JOBEUN**  
11440 WEST CENTER ROAD  
OMAHA, NEBRASKA 68144-4482

A

The Declarant desires to provide for the preservation, protection and enhancement of the values and amenities of such community and for the maintenance of the character, value, desirability, attractiveness and residential integrity of the Lots.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots. These restrictions, covenants, conditions and easements shall run with such real estate and shall be binding upon all parties having or acquiring any right, title or interest in any Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot is and shall be subject to all and each of the following conditions and other terms:

**ARTICLE I - RESTRICTIONS AND COVENANTS**

1. Each lot shall be used exclusively for residential purposes.
2. No more than one (1) detached single-family dwelling, not to exceed two and one half (2 ½) stories in height excluding basement is permitted per Lot. All houses must face the street unless approved otherwise by the Declarant.
3. Minimum dwelling size shall be as follows:
  - a. For ranch style (one-level) or split-entry home, the ground floor (or main level) shall contain not less than 1,800 square feet of finished living area.
  - b. A split-level, tri-level, or multi-level home shall contain not less than 2,100 square feet of finished living area.
  - c. For a one and a half (1 ½) story home the total finished living area for the 1<sup>st</sup> and 2<sup>nd</sup> floor shall contain not less than 2,100 square feet.
  - d. For a two story home and two and one half story home the total finished living area for the 1<sup>st</sup> and 2<sup>nd</sup> floor shall contain not less than 2,150 square feet.

The computation of living area shall be exclusive of porches, breezeways and garages.

4. For each dwelling there must be erected a private garage for not less than two (2) cars, nor more than three (3) cars.
5. For a period of ten (10) years after the filing of this Declaration, no residence, building, fence, wall, driveway, patio enclosure, rock garden, swimming pool, tennis court, dog house, tree house, antenna, satellite receiving station ("dish"), flag pole, solar heating or cooling device, tool shed, wind mill, wind generating equipment, or other external improvement, above or below the ground (herein all refers to as any "improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any improvement be commenced, except for improvements which have been approved by Declarant as follows:

(i) An owner desiring to erect an improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "Plans"). Such Plans shall reflect the type of structure, quality, and use of exterior materials, exterior design, exterior color or colors, and location and structure proposed for such Improvement. Concurrent with submission of the Plans, owner shall notify the Declarant of owner's mailing address.

(ii) Declarant shall review such Plans in relation to the type and exterior of improvements and construction, or approved for construction, on neighboring Lots and in the surrounding area and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a developed residential community with homes constructed of high quality materials. If Declarant determines that the proposed Improvement will not protect and enhance

B

the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(iii) Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by owner with submission of the Plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the Plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Declarant.

(iv) The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the values, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligations shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

Following the ten (10) year period set forth above or when the Declarant no longer owns lots, whichever occurs first, then the architectural control rights set forth in this paragraph shall automatically transfer to the Homeowners Association and continue for the duration of said Declaration.

6. The exposed front foundation walls as well as any foundation wall facing a street of all main residential structures must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed side and rear concrete or concrete block foundations walls not facing a street must be painted. All driveways must be constructed of concrete, brick paving stone, asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone, or stucco. Roofs shall be tile, wood asphalt, fiberglass, wood fiber, or such other materials as may be approved by the Declarant.

7. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no retail business activities of any kind whatsoever shall be conducted on any Lot. Provided however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale of the Lots.

8. No dome type or modular dwelling may be constructed on any Lot in this subdivision.

9. No exposed exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot unless approved by the Declarant pursuant to paragraph 5, above.

10. No repair of any boats, automobiles, motorcycles, trucks, campers, or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as inconspicuous a manner as possible.

11. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) except that during the months of April through October vehicles may be parked in the driveway only. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this

C

restriction shall not apply to trucks, tractors, or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.

12. No outside trash or garbage pile, burner, receptacle, or incinerator shall be erected, placed or permitted on any Lot. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. No clothes line shall be permitted outside of any dwelling at any time except one umbrella-type clothes line per residence.

13. Exterior lighting installed on any Lot shall either be indirect or such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted to extend beyond the front line of a main residential structure unless written approval is first obtained from Declarant. All produce or vegetable gardens shall be maintained only in rear yards.

14. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.

15. Any and all animals or livestock maintained on the premises shall be kept in accordance with the requirements of the city of Gretna, Nebraska. All structures used for the housing and maintenance of animals or livestock, and any areas where animals or livestock are maintained or kept shall be maintained at all times in a neat, clean and orderly manner. Birds, cats or dogs may be kept, provided they are not raised, bred or maintained for any commercial purposes. Hoofed animals may be kept on premise, but not to exceed two (2) animals per Lot. No swine shall be permitted. Any animal causing disturbances, biting or a general nuisance may be required to be removed.

16. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on Vacant Lots shall be allowed to reach a height in excess of eight (8) inches. The Homeowners Association shall have the authority, but not the responsibility, to mow and clean lots in disrepair. Prior to any work, the Homeowners Association shall give ten (10) days prior written notice to the owner(s) of record of its intent to mow and/or clean and to the extent that said owner(s) refuse, neglect or refrain from mowing and/or cleaning said Lot with ten (10) days of said notice, then the Homeowners Association may perform such work and charge the owner(s) thereof with the reasonable cost of such work.

17. No structure of a temporary character, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings or modular housing improvements shall be moved from outside Forest Run, Forest Run II or Forest Run III to any Lot.

18. All Lots must plant a minimum of six (6) trees with a minimum height of four (4) feet in the front of the rear building line within one year of substantial completion of the home.

## ARTICLE II - EASEMENTS

A perpetual license and easement is hereby granted to the Omaha Public Power District, Qwest Communications and any company which has been granted a franchise to provide a cable television system in the area to be subdivided, their successors and assigns, to erect, operate, maintain, repair and renew poles, wires, cables, conduits and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat, and power and for transmission of signals and sounds of all kinds, including signals provided by a cable television system, and the reception, on, over, through, under and across a five (5') foot wide strip of land abutting all front and side boundary lot lines, an eight (8') foot wide strip of land abutting the rear boundary lines of all lots, and a sixteen (16') foot wide strip of land abutting the rear boundary lines of all

D

exterior lots. The term "exterior lots" is herein defined as those lots forming the outer perimeter of the above-described subdivisions. Said sixteen-foot (16') foot wide easement will be reduced to an eight-foot (8') wide strip when the adjacent land is surveyed, platted and recorded, and we do further grant a perpetual easement to the City of Gretna and Peoples Natural Gas, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five (5') foot wide strip of land abutting all streets. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted. All such utility service lines from the property line to dwelling shall be underground.

### ARTICLE III – HOMEOWNERS ASSOCIATION

1. The following definitions shall apply for the purposes of this Article:
  - a. "Association" shall mean and refer to the Forest Run Homeowners Association, Inc., its successors and assigns, a Nebraska non-profit corporation;
  - b. "Improved Lot" shall mean and refer to any Lot on which a dwelling has been erected and the construction thereof is substantially complete. All other definitions contained in Article I will likewise be applicable to this Article.
  
2. Every owner of a Lot shall be a member of the Forest Run Homeowners Association, Inc. to be established for the purpose of maintaining the concrete/asphalt streets, including, but not limited to snow removal, and other improvements generally deemed "publically" dedicated as easement area sand the un-maintained lots to the extent as set forth in Article I, Paragraph 16, and for such other purposes as may generally benefit the health and welfare of the residents of the area covered by the Forest Run Homeowner's Association. The Homeowners Association shall include all Lots in Forest Run, Forest Run II, and Forest Run III and membership therein shall be appurtenant to and may not be separated from ownership on any Lot.
  
3. The Declarant, for each Lot owned within Forest Run, Forest Run II and Forest Run III, hereby covenants and each owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association regular annual assessments for the charges for the purposes herein set forth, which assessments, together with interest, costs, and reasonable attorney's fees shall be and constitute, until paid, a continuing charge against and a lien upon such Lot or property against which each such assessment is made.
  
4. The assessments levied by the Association shall be used exclusively without any part of the net earnings inuring to the private benefit of its members, to maintain, repair, and replace when necessary, the improvements described and for the general health and welfare of the area.
  
5. Before each fiscal year, the Board of Directors of the Association shall adopt and fix in reasonably itemized detail an annual budget for the then anticipated fiscal affairs and general operations of the Association for that year, and shall levy and collect annual assessments from each Lot, and which shall be sufficient to fund the budget for the fiscal year. The regular assessment for each unimproved Lot shall be no more than fifty (50%) of the regular assessment for Improved Lots.
  
6. The regular annual assessment provided for herein shall commence as to all Lots on the first day of the month following the filing of this Declaration. The regular annual assessments provided herein as to all Improved Lots shall commence the first day of the month following the month during which the dwelling was substantially completed. The first regular annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment. Written notice of the annual shall be sent to every owner subject thereto. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certification signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid.

E

7. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of nine (9%) percent per annum. The Association may foreclose the lien against the Lot in the same manner as provided by law for foreclosure of mortgages.

8. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the liability for any assessments thereafter becoming due or from the lien thereof.

9. All Lots dedicated to, and accepted by, a local public authority and all Lots owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Nebraska shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

10. The Association is a non-profit corporation formed pursuant to this Declaration, and its Articles of Incorporation and By-Laws, to the extent not inconsistent with this Declaration, are hereby incorporated herein by this reference. In the event of any conflict between the Articles and/or By-Laws of the corporation and this Declaration, then this Declaration shall control. The initial Board of Directors of the Association and its officers of the Association shall be appointed or consented to by the Declarant. At the first annual meeting the Board of Directors shall be elected by the owners of the Lots.

#### ARTICLE IV – GENERAL PROVISIONS

1. The Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now, or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant 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.

2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of ten (10) years from the date this Declaration is recorded. Thereafter the covenants, restrictions and other provisions of this Declaration shall automatically renew for successive ten (10) year periods, unless terminated or amended by the owners of not less than seventy-five (75%) percent of said lots, which termination or amendment shall thereupon become binding upon all the lots. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years from the date hereof.

3. It is intended that subsequent phases of Forest Run shall be incorporated into and become a part of this Declaration upon final plat approval and the completion of streets and other "public" infrastructure.

4. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

2004-06834F

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 27 day of February 2004.

VAN LEA PROPERTIES, L.L.C., Declarant,

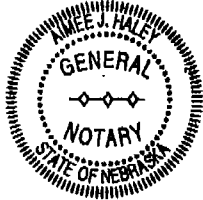
By: John C. Vandembroucke  
John C. Vandembroucke  
Managing Member

By: Linda M. Vandembroucke  
Linda M. Vandembroucke  
Managing Member

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF DOUGLAS     )

On this 27 day of February 2004, the foregoing instrument was acknowledged before me, a Notary Public, by John C. Vandembroucke and Linda M. Vandembroucke, as Managing Members of Van Lea Properties, L.L.C., a Nebraska limited liability company, who acknowledged the execution of said instrument to be his voluntary act and deed on behalf of said entity.

Denise Joly  
Notary Public



MY COMMISSION EXPIRES:  
May 26, 2006