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Lancaster County, NE Assessor/Register of Deeds Office RESCOV

Pages: 10

Record and Return to:

Ann K. Post, Esq.
Baylor Evnen LLP
1248 O Street
Lincoln NE 68508

RESTRICTIVE COVENANTS

(Hartland Homes Southwest 10th Addition)

The undersigned ("Owners") is titleholder of record of the following-described real estate:

Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 Block 1, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lot 1 Block 2, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block 3, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 4, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, Block 5, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Block 6, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block 7, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

Lots 1, 2, and 3, Block 8, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska;

and

Lots 1 and 2, Block 9, Hartland Homes Southwest 10th Addition, Lincoln, Lancaster County, Nebraska.

Collectively referred to as the "10th Addition Properties."

HAHOS10

Existing Covenants

Restrictive Covenants have been established and were recorded on May 2, 2005, as Instrument No. 2005023608 covering Hartland Homes Southwest 4th Addition and have subsequently been amended and added to by those Restrictive Covenants filed with the Lancaster County Nebraska Register of Deeds August 24, 2006, as Instrument No. 2006042557 covering Hartland Homes Southwest 5th Addition; Restrictive Covenants filed with the Lancaster County, Nebraska, Register of Deeds January 19, 2016, as Instrument No. 2016002124 covering Hartland Homes Southwest 6th Addition; Restrictive Covenants filed with the Lancaster County, Nebraska, Register of Deeds January 4, 2017, as Instrument No. 2017000305 covering Hartland Homes Southwest 7th Addition; Restrictive Covenants filed with the Lancaster County, Nebraska, Register of Deeds March 28, 2018, as Instrument No. 2018011342 covering Hartland Homes Southwest 8th Addition; and Restrictive Covenants filed with the Lancaster County, Nebraska, Register of Deeds December 31, 2019, as Instrument No. 2019053255 covering Hartland Homes Southwest 9th Addition, together referred to as the "Covenants".

Addition of Properties

Pursuant to paragraph 24 of the Covenants, Owner is exercising its right to add additional real estate to the Properties and Commons. The 10th Addition properties are hereby added to the Properties and made subject to the Covenants.

Purpose of Restatement

The following Restrictive Covenants are intended by the Owner to restate the existing Covenants which have been recorded against the Properties and make the 10th Addition Properties subject to the terms, conditions and requirements of the Covenants.

In addition, the following Restrictive Covenants incorporate language necessary to ensure continued care and maintenance of the Commons in the event that the Association fails in its duties.

These Restrictive Covenants and the Covenants shall hereafter be referred to as the Covenants.

Association

The West A Homeowners Association ("Corporation") has been incorporated in Nebraska for the purposes of enforcing the Covenants established upon the Properties and administering and maintaining the Commons.

RESTRICTIVE COVENANTS **(Hartland Homes Southwest 10th Addition)**

1. **USE:** No lot within the Properties shall be used other than for residential purposes.
2. **COMPLETION OF CONSTRUCTION:** Any building placed or constructed upon any lot within the Properties shall be completed within six (6) months after the commencement of construction.
3. **ANTENNAS:** No wiring or antenna for electrical power, telephone, television, radio, or any other use shall be permitted above ground, except within a building. One small satellite dish shall be permitted subject to the requirements of paragraph 6.d.

4. GRADING PLAN: Owner or its assignees shall have the exclusive right to establish grades and slopes for all lots within the Properties and to fix the grade at which any building or other improvement shall be placed or constructed upon any lot, in conformity with the general plan for the development of the Properties.

5. GENERAL STANDARDS FOR DWELLING STRUCTURES: The following general standards of development shall be followed for all dwelling structures constructed within the Properties. The Owner shall have the right to reduce, increase or otherwise explicitly modify these standards within other additions to the Properties.

- a. Minimum Floor Area. The minimum floor area for any dwelling exclusive of basements, garages, porches, patios, decks or enclosed decks shall be 750 sq.
- b. Garage. Any dwelling placed or constructed upon any lot within the Properties shall include at least a one car attached garage.
- c. Setbacks. Setbacks of dwellings from the lot lines shall be as required by the Lincoln Zoning Ordinance.

6. GENERAL STANDARDS FOR IMPROVEMENTS AND STRUCTURES OTHER THAN DWELLINGS: The following general standards shall be satisfied in the construction and installation of improvements and structures other than the dwelling:

- a. Fencing. Fencing (other than decorative garden fencing not exceeding 24 inches in height) shall not be constructed closer to the street than the front elevation of the dwelling and shall be constructed with the finished side facing the lot line. No livestock fencing material of any type shall be permitted on any lot.
- b. Accessory Structures. Accessory structures such as storage sheds and playhouses shall be constructed of compatible and similar materials and design with the dwelling. All other accessory improvements such as swing sets and sand boxes shall be compatible with the quality of the overall development and shall be maintained in good order and an attractive condition.
- c. Dog Kennels. Any dog run or kennel shall be adequately screened from view and shall not be located in the front yard or within 5.0 feet of any lot line. Dog runs and kennels shall not be located in the front yard or side yard setback.
- d. Satellite Dish. Any satellite dish shall not be larger than 18 inches in diameter and shall be located and screened so as to be as unobtrusive as is reasonably possible.

7. CITY REQUIREMENTS: All buildings within the Properties shall be constructed in conformity with the requirements of the applicable building codes of the City of Lincoln, Nebraska. Public sidewalks and street trees shall be installed by the builder or lot owner during the construction of the dwelling as required by the City of Lincoln, Nebraska.

8. TEMPORARY STRUCTURES: No partially completed dwelling or temporary building and no trailer, tent, shack, or garage on any lot within the Properties shall be used as either a temporary or permanent residence.

9. NUISANCE: No noxious or offensive activity shall be conducted or permitted upon any lot within the Properties, nor anything which is or may become an annoyance or nuisance to the neighborhood or which endangers the health or unreasonably disturbs the quiet of the occupants of adjoining lots.

10. SIGNS: No advertising signs, billboards, or other advertising devices shall be permitted on any lot within the Properties larger than 24 inches by 36 inches. However, Owner may erect signs of any size advertising lots for sale within the Properties, and a sign advertising a single lot for sale may be erected upon any lot.

11. ANIMALS: No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot within the Properties for any commercial purpose.

12. RECREATIONAL VEHICLES: No recreational vehicle, as defined by the Lincoln Municipal Code, shall be parked or stored within the front yard of any lot within the Properties. Recreational vehicles that are in operating condition may be parked or stored upon the back or side yards of a lot in conformance with the Lincoln Zoning Ordinance.

13. CONSTRUCTION VEHICLES AND REFUSE SERVICE: Owner may designate and enforce locations through and over which all construction vehicles shall enter and exit the Properties during development. Owner shall also have the exclusive right to designate a single provider of refuse service within the Properties. The cost of the service shall be paid for by each member directly to the designated refuse service provider. The purpose of designating a single provider is to limit and control the number of service trucks operating within the Properties. The rights of the Owner under this paragraph to designate a refuse service provider may be assigned to the Corporation when residences shall have been placed or constructed upon all of the lots within the Properties and Owner no longer has any interest in any of the Properties.

14. HOMEOWNERS ASSOCIATION: Every person or entity who owns a lot within the Properties shall be a member of the Corporation. However, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

15. MANAGING AGENT: The Owner or the Corporation may contract for the performance of any of the Corporation's rights, obligations or responsibilities with any entity or individual ("Managing Agent"). The Managing Agent shall exercise such authority which may be granted by the Owner or Corporation. The fee charged by the Managing Agent shall be a common expense of the members.

16. MEMBERSHIP: The Corporation shall have two classes of membership:

Class A membership shall include all members of the Corporation except the Owner and any successor in interest. Each Class A member of the Corporation shall be entitled to all the rights of membership and to one vote for each lot.

Class B membership shall include only the Owner and any successor in interest. The Class B member shall be entitled to five votes for each lot. However, the Class B membership shall be converted to Class A membership when the total number of votes entitled to be cast by Class A members equals the total number of votes entitled to be cast by the Class B member.

17. CONVEYANCE OF COMMONS: Owner shall convey any Commons to the Corporation, free from encumbrance, but subject to easements and restrictions then of record and any requirements of the City of Lincoln within one year after the conversion of Class B membership to Class A membership.

18. USE OF COMMONS: Each member of the Corporation shall have the right to use and enjoy the Commons as established by the rules, regulations and requirements of the Corporation and shall have an easement upon the Commons for the use thereof, which shall be appurtenant to the interest requisite for membership.

In addition, the City of Lincoln shall have the permanent right and easement to enter upon the Commons to maintain the Commons in the same manner as required of the Corporation in the event the Corporation fails to perform said maintenance or the Corporation dissolves and the owners of the lots within the Properties fail to perform such maintenance.

19. RIGHTS IN COMMONS: The rights and easements of the members of the Corporation shall be subject to:

- a. The right of the Corporation to borrow money for the purpose of improving the Commons and to mortgage the Commons. In the event of default, the mortgagee shall have the right, after taking possession of the Commons, to charge admission and other fees as a condition of the continued use of any recreational facilities within the Commons by the members, and to open the facilities to a wider public until the mortgage debt is satisfied. Any mortgage of the Commons shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed mortgage is contained in the notice of the special meeting.
- b. The right of the Corporation to take any steps reasonably necessary to protect the Commons against foreclosure.
- c. The right of the Corporation to suspend the enjoyment of the facilities by any member for any period during which an assessment remains unpaid, and for a period not to exceed 30 days for any infraction of the published rules and regulations governing the use of the facilities.
- d. The right of an abutting member of the Corporation to landscape and establish a garden space upon the Commons consistent with the rules, regulations and requirements of the Corporation.
- e. The right of the Corporation to charge reasonable admission and other fees for the use of the facilities.
- f. The right of the Corporation to dedicate or convey all or any part of the Commons to any public entity.

- g. The right of the City of Lincoln to enter upon the Commons to maintain the Commons as provided in paragraph 21 below.

20. MAINTENANCE OF LANDSCAPE SCREENS: Each member of the Corporation who is the titleholder of a lot or living unit on which any landscape screen, whether composed of structural or live plant material, which is installed as required by the City of Lincoln, Nebraska, shall be deemed to covenant to maintain the screen.

21. CORPORATION RESPONSIBILITIES: The Corporation shall provide such services to its members as they may determine. These services and responsibilities of the Corporation shall include, but are not limited to, the following:

- a. Maintenance of Commons. The Corporation covenants and each member of the Corporation, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Commons to the extent not otherwise provided for by these Covenants, which Covenants by the members shall be satisfied by the payment of annual and special assessments for the administration, maintenance or improvement of the Commons.
- b. City's Right to Maintain the Commons. The City of Lincoln has approved the final plat of Hartland Homes Southwest 10th Addition upon the condition that the Commons be maintained by the Owner on a continuous basis. The Corporation covenants and each member of the Corporation by the acceptance of a deed to a lot within the Properties shall be deemed to covenant to assume the obligations of the Owner to comply with the requirements of the final plats regarding continuous and permanent maintenance of the Commons. Each owner of a lot within the Properties by acceptance of a deed to the lot shall further be deemed to covenant that in the event the Corporation dissolves, such owner of the lot shall remain jointly and severally liable with all other owners of a lot for the cost of administering and maintaining the Commons in the same manner as required of the Corporation under this paragraph. In the event the owners of such lots within the Properties fail or refuse to perform any required maintenance and upkeep of the Commons, City of Lincoln after seven (7) days' notice to such owners may perform the required maintenance and assess each lot owner thereof for the cost of the performance of such maintenance. Each assessment of the City of Lincoln's actual cost of performing the maintenance shall be allocated to each owner of a lot as provided above and shall be the personal obligation of the owner who is the owner of the lot at the time of assessment and shall be a lien upon the lot assessed. To evidence such lien for unpaid assessments, the City of Lincoln shall prepare a written notice setting forth the amount, the name of the owner of the lot, and a legal description thereof. Such notice shall be signed on behalf of the City of Lincoln by the Mayor and shall be recorded with the Register of Deeds of Lancaster County, Nebraska. Each owner shall pay the owner's share of the City of Lincoln's actual cost of maintaining the Commons within thirty (30) days following the receipt of an assessment therefore. Delinquent payments shall be subject to a late charge of 10% of the delinquent payment or twenty dollars (\$20.00), whichever is greater.
- c. Refuse Services. Upon assignment of this right from Owner to the Corporation, the Corporation shall contract on behalf of each member for refuse collection services through a single designated provider. The cost of this service shall be paid for by the members directly to the designated provider as billed.

22. **LIEN DUES AND ASSESSMENTS:** The lien of any dues, refuse service charges, or special assessment shall, until shown of record, be subordinate to the lien of any mortgage placed upon the lot against which the assessment is levied.

23. **ANNUAL ASSESSMENTS AND LIENS:** Annual dues and special assessments, other than for capital improvements, may be levied by the Board of Directors of the Corporation. Any special assessment for capital improvements may be rejected at any time within 30 days of the notice of the levy by the vote of a majority of each class of members affected and entitled to vote, at a regular meeting of the members or at a special meeting of the members, if notice of a special assessment is contained in the notice of the special meeting.

The members shall pay annual dues and special assessments to the Corporation or Managing Agent as billed. Each member's dues shall be determined on an annual basis for each fiscal year, prorating a fractional year which may occur by issuance of a building permit for any dwelling. The amount of annual dues shall be based upon an estimate of the Corporation's costs for administration, maintenance and improvement of the Commons and each member shall pay the annual dues so established in advance. At the end of each fiscal year, a statement of the total year's Common's operating costs may be presented to the members of the Corporation and the members shall pay any excess charge to the Corporation within thirty (30) days of the statement.

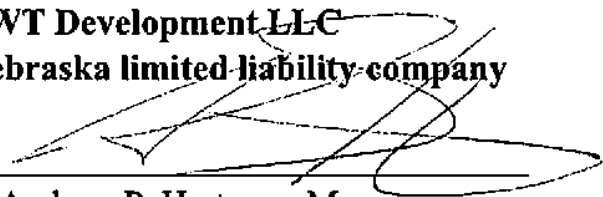
- a. **Budgets.** The Corporation or Managing Agent may prepare, and make available to each member a pro forma operating statement (budget) containing: (1) estimated revenue and expenses on an accrual basis; (2) the amount of any cash reserves of the Corporation currently available for replacement or major repair of the Commons and for contingencies; (3) an itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Commons; and (4) a general statement setting forth the procedures used by the Corporation in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Commons.
- b. **Additional Charges:** In addition to any amounts due or any other relief or remedy obtained against a member who is delinquent in the payment of any dues, refuse service charges or assessments, each member agrees to pay such additional costs, fees, charges and expenditures ("Additional Charges") as the Corporation, refuse service provider or Managing Agent may incur or levy in the process of collecting from each member monies due and delinquent. All Additional Charges shall be included in any judgment in any action brought to enforce collection of delinquent dues or assessments. Additional Charges shall include, but not be limited to, the following:
 - i. **Attorney's Fees:** Reasonable attorney's fees and costs incurred in the event an attorney(s) is employed to collect any dues, assessment or sum due, whether by suit or otherwise;
 - ii. **Late Charges:** A late charge in an amount to be fixed by the Corporation to compensate the Corporation for additional collection costs incurred in the event any dues, assessment or other sum is not paid when due or within any "grace" period. The late charge shall not exceed ten percent (10%) of the delinquent assessment or twenty dollars (\$20), whichever is greater;
 - iii. **Costs of Suit:** Costs of suit and court costs incurred as allowed by the court;

- iv. Filing Fees: Costs of filing notice of lien in the Office of the Register of Deeds;
 - v. Interest: Interest on all dues and assessments at the rate of 14% per annum, commencing thirty (30) days after the assessment becomes due; and
 - vi. Other: Any other costs that the Corporation may incur in the process of collecting delinquent dues and assessments.
- c. Lien. The dues, refuse service charges, and assessments shall be the personal obligation of the member who is the owner of the lot assessed at the time of the assessment and when shown of record shall be a lien upon the lot assessed.
- d. Fines. The Corporation may create a schedule of fines for violation of Corporation rules and regulations which fine shall be treated and billed as a special assessment to the offending member's lot.
24. ADDITIONS: The Owner may add additional contiguous or adjacent real estate to the Properties or the Commons, at any time, without the consent of the members of the Corporation. Additions shall be made by the execution and recordation of Restrictive Covenants upon the additional real estate, making the addition subject to these Restrictive Covenants; provided the general standards set forth in paragraphs 5 and 6 may be reduced, increased or otherwise modified within any such addition.
25. AMENDMENTS: These Covenants shall run with the land and shall be binding upon and enforceable by the Owner and all persons claiming under the Owner. These Restrictive Covenants may be terminated or modified, in writing, by the owner of two-thirds of the lots within the Properties, at any time. However, the provisions of these Covenants governing membership in the Corporation and the maintenance of the Commons shall not be terminated or modified without the consent of the City of Lincoln, Nebraska.
26. ENFORCEMENT: The enforcement of these Covenants may be by proceedings at law or in equity against any person violating or attempting to violate any provision hereof. The proceedings may be to restrain the violation, or to recover damages and, by the Corporation, designated refuse service provider, or Owner, may be to enforce any lien or obligation created hereby.
- In the event the Corporation dissolves, the City proceedings may be to restrain violation of the duty to maintain the Commons, to recover monetary judgement upon the personal obligation and debt of the owner of any lot within the Properties, to pay such owner's share of the City of Lincoln's cost to maintain the Commons, or to foreclose upon the defaulting owners lot in a like manner as mortgages on real property. Suit to recover monetary judgement for unpaid assessments for the cost to maintain the Commons shall be maintained without foreclosure of the owner's lot or waiving the lien securing the assessment.
27. SEVERABILITY: The invalidation of any provision of these Covenants shall not affect the validity of the remaining provisions hereof.

[Signature Page Follows]

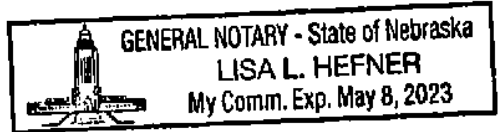
Dated this 16 day of December 2020.

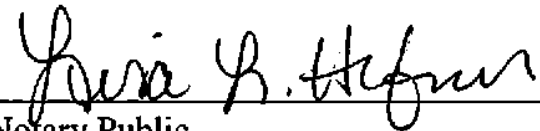
NEWT Development LLC
a Nebraska limited liability company

By: 
Andrew P. Hartman, Manager

State of Nebraska)
)
County of Lancaster)

The foregoing instrument was acknowledged before me this 16th day of December 2020 by Andrew P. Hartman as manager of and on behalf of NEWT Development LLC, a Nebraska limited liability company.




Notary Public

APPROVAL BY CITY ATTORNEY

Approved on this 6th day of November 2020.

Approved By:

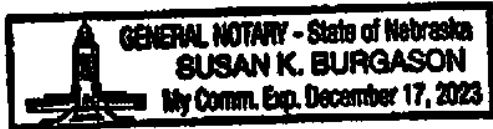
By: Abigail F. Littrell

Name: Abigail Littrell

Title: Asst. City Atty

State of Nebraska)
)
County of Lancaster)

The foregoing instrument was acknowledged before me this 6th day of November 2020 by Abigail F. Littrell as Asst. City Attorney of and on behalf of the City of Lincoln, a Nebraska municipal corporation.



Susan K Burgason
Notary Public