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GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
MAPLE LANE TOWNHOMES SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by Hotz-Beran Partnership, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Omaha, County of Douglas, State of Nebraska, which is more particularly described as:

CB Lots 1,2,3,4,5,6, and out lot A of Maple Lane ~~Homeowners~~, a replat of lots 114 and 115, Benson Gardens Addition, an addition as surveyed, platted, and recorded in Douglas County, Nebraska.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Maple Lane Homeowners Association, Inc., a Nebraska nonprofit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The common area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

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Out lot A of Maple Lane ~~Homeowners~~, a replat of lots 114 and 115, Benson Gardens Addition, an addition as surveyed, platted, and recorded in

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Douglas County, Nebraska.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 6. "Declarant" shall mean and refer to Hotz-Beran Partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area and to limit the number of guests of an owner;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the common area to any public agency, nonprofit corporation (to use for purposes for which the Association was formed) authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer or other conveyance of the common area shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to it has been recorded. If ingress or egress to any residence is through the common area, any conveyance or encumbrance of such area is subject to the lot owner's easement;

(d) the right of the Association to borrow money for the purpose of improving the common area and facilities and in aid thereof to mortgage the common area and facilities. No mortgage of the common area shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to it has been recorded; and

(e) the right of the Association to enforce reasonable rules and regulations governing the use of the common area.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the common area and facilities to the members of his family, his

tenants, guests or contract purchasers who reside on the property.

Section 3. Ownership of Common Area. The ownership of the common area shall be by the Association for the exclusive use and delegated use of its members and not for public use.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1997.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his

successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement, maintenance and repair of the common area, including but not limited to, maintenance and repair of common properties, parking areas, driveways, private sanitary and storm sewer systems (excluding sewer lines to individual townhomes), insurance and other expenses furthering the purposes of the Association. Absolute liability is not imposed on lot owners for damage to the common area or lots, including improvements, whether caused by themselves, their families, guests or invitees. Their liability should only be that for which they would be legally responsible under Nebraska Law.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be Nine Hundred Dollars (\$900) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such

subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first 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 period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fourteen (14) percent per annum or the maximum legal rate allowable in the State of Nebraska, whichever is less. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The mortgagees are not required to collect assessments and the failure to pay assessments does not constitute a default under an insured mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments 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 lien thereof.

Section 10. Exterior Maintenance. In order to facilitate exterior uniformity of the townhomes of the lot owners, the Association shall be responsible for all exterior painting, lawn care and snow removal and the cost shall be added to and become part of the assessment of the lots. If an lot owner fails to maintain his premises in a manner satisfactory to the Board of Directors of the Association, after two thirds (2/3) vote by the Board, the Association

shall have the right, through its agents and employees, to enter upon the premises and perform the necessary repair, maintenance and restoration of the townhome, lot or other improvement erected thereon and add the cost thereof to the assessment of the respective lot.

ARTICLE V

ARCHITECTURAL CONTROL AND PARTY WALLS

Section 1. Approval of Architectural Plans. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. Party Walls. Each wall which is built as part of the original construction of the properties and placed on the dividing line between townhomes shall constitute a party wall and the general rules of law regarding party walls and liability for property damage shall apply. The cost of reasonable maintenance and repair shall be shared by the owners who use the wall. However, where an owner's negligent or willful act causes a wall to deteriorate, then such owner shall bear the whole cost of maintenance and repair under such circumstances. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from others under any rule of law regarding liability for negligent or willful acts. The right of contribution from an owner for a party wall shall be appurtenant to the land and shall pass with the lot to the owner's successor in title. In the event of any dispute arising concerning a party wall, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association 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.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than three-fourths (3/4) of the lot owners, and thereafter by an instrument signed by not less than two-thirds (2/3) of the lot owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of common area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Protective Restrictions. Every owner shall have full rights of enjoyment in regard to his lot and the common area subject to the following restrictions:

(a) no lot shall be used except for residential purposes and no obnoxious or offensive activity shall be carried on which may become an annoyance or nuisance to the neighborhood;

(b) no outside trash or garbage piles, burners, or incinerators shall be permitted and all outside trash or garbage cans shall be kept screened from view except on the day of pickup;

(c) no fences shall be erected in front of the townhomes and the lots shall be kept free of trash and debris;

(d) no house trailers or mobile homes shall be allowed, and recreational trailers and vehicles, boats, campers or similar chattel shall not be continuously parked on the properties, other than in an enclosed structure, for more than ten days within a calendar year;

(e) no sign, billboard or other structure for advertising or political endorsement shall be permitted except temporary real estate signs;

(f) no tent, shack, garage, barn, outbuilding or any structure of a temporary character shall be used as a

temporary or permanent residence;

(g) no animals, livestock or poultry of any kind shall be kept on any lot except dogs, cats and other household pets, provided they are not kept for commercial purposes;

(h) no outside toilet shall be permitted; and

(i) no outside radio, television, ham broadcasting or other electronic antenna shall be erected or placed on any structure.

Section 7. Insurance. No person other than the owner of lot, or the mortgagee where permitted by the mortgage, shall have the right to place hazard or liability insurance on that lot. There may not be a requirement to insure through a particular company or agent or to require the policies to be approved by the Association or Declarant. Proceeds of insurance claims shall not be required to be paid to anyone other than the owner of the lot and/or the mortgagee.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 4 day of April, 1988.

Hotz-Beran Partnership, Declarant

By: Chris Hotz

Chris Hotz, Partner

Cheron Beran
Cheron Beran, Partner

The foregoing instrument was acknowledged before me on this 4 day of April, 1988, by Chris Hotz and Cheron Beran on behalf of the Hotz-Beran Partnership.

Virginia Rose Kline
Notary Public

