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MISC 1987 13539

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RATIFICATION
OF
SUPPLEMENTARY DECLARATION

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Southwesterly 4 Acres of Lot 154,
REGENCY 1st ADDITION
an addition in City of Omaha, Douglas County, Nebraska
as surveyed, platted and recorded

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

This SUPPLEMENTARY DECLARATION, made July 8, 1987, by KAREN S. THEISEN and WILLIAM M. THEISEN, Wife and Husband of Omaha, Douglas County, Nebraska, hereafter called "Declarants".

WITNESSETH: THAT

Whereas, Declarants have heretofore provided, pursuant to a certain Supplementary Declaration executed May 3, 1982, and recorded at Pages 282 through 286 of Book 670 of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska, for the extension to the Southwesterly 4 acres of Lot 154, Regency 1st Addition, an addition in City of Omaha, Douglas County, Nebraska, as surveyed, platted, and recorded, of the conditions and other terms set out in that certain Declaration executed March 19, 1968, and recorded at Pages 103 through 115 of Book 461 of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska; and

Whereas, a dispute arose concerning the said May 3, 1982, Supplementary Declaration in the matter of "Regency Homes Association, Plaintiff, vs. William M. Theisen, Defendant" at Docket 849, Page 332 in the District Court of Douglas County, Nebraska, and thereafter appealed by the Plaintiff at Docket 87-251 in the Supreme Court of the State of Nebraska; and

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Whereas, by an Agreement for Disposition of Litigation dated June 26, 1987, Declarant has consented to adopt those certain Regency Covenants incorporated in the Declaration of March 19, 1968, and recorded at Pages 103 through 115 of Book 461 of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska; and

Whereas, Regency Homes Association by the same Agreement for Disposition of Litigation, dated June 26, 1987, has acknowledged that the involved property hereafter described in particular, and Theisen and Theisen's use of the involved property are in full compliance with the Declaration of March 19, 1968, and any other applicable covenants, ordinances, or restrictions which may affect the Premises and that based on facts known to Regency Homes Association, there are no breaches or violations of such declarations, covenants, ordinances, or other applicable restrictions by Theisen or his use of the Premises;

BK 822 N 78-174 MA C/O 50 FEE 30
PG 330-335 N 78-135 DEL JK MC 51-32680
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NOW THEREFORE, in consideration of the matters herein recited and in effectuation of said Agreement for Disposition of Litigation dated June 26, 1987, Declarants do

DECLARE as follows, to wit:

1. INVOLVED PROPERTY: All real property involved in this Supplementary Declaration, hereafter called "involved property", is and will be acquired, conveyed, devised, inherited, sold, or otherwise transferred and is and will be occupied and used subject to all and each of the conditions and other terms set out in this Supplementary Declaration; such part of Lot 154 of Regency 1, hereafter called "lot", will be subjected to this Supplementary Declaration and, pursuant to Paragraph 1b thereof, to said Declaration with the express additions and modifications set out in this Supplementary Declaration; and such part of Lot 154 of Regency 1 is and will be that part thereof containing about 4 acres described, assuming the east line of the Northeast Quarter of Section 21, Township 15 North, Range 12 East of the Sixth Principal Meridian, in Douglas County, Nebraska, bears due North and South, more particularly by metes and bounds as follows:

Beginning at a point on the southeasterly line of said Lot 154 83.57 feet southwesterly along the southeasterly line of said Lot 154 from a point thereon 80,000 feet northwesterly along an extension of the northerly line of Lot 89 of Regency 1 from the northwest corner of said Lot 89;

Thence Southwesterly on a right curve with radius of 225.00 feet along the southerly line of said Lot 154 an arc distance of 210.67 feet;

Thence South $72^{\circ} 16'44''$ West along the southerly line of said Lot 154 a distance of 62.18 feet to a point of curve;

Thence Westerly on a right curve with radius of 132.98 feet along the southerly line of said Lot 154 an arc distance of 119.07 feet to a point of curve;

Thence Northwesterly on a right curve with radius of 240.00 feet along the southwesterly line of said Lot 154 an arc distance of 112.70 feet;

Thence North $29^{\circ}30'41''$ West along the southwesterly line of said Lot 154 a distance of 127.76 feet to a point of curve;

Thence Northeasterly on a right curve with radius of 192.66 feet along the northwesterly line of said Lot 154 an arc distance of 301.73 feet to a point of curve;

Thence Northeasterly on a left curve with radius of 682.75 feet along the northwesterly line of said Lot 154 an arc distance of 175.24 feet; and

Thence South 30°37'39" East a distance of 482.31 feet to the point of beginning.

2. COVENANTS: The involved property is and will be through December 31, 1998, subject to all and each of the conditions and other terms of Paragraphs 2a through 2m of said Declaration, hereafter called "covenants".

3. EASEMENTS: The involved property is and will be perpetually, unless any thereof is terminated, subject to all and each of easements for utility conduits, connections, maintenance, and services, hereafter called "easements", such that each of Northwestern Bell Telephone Company, Omaha Public Power District, and their respective assigns and successors will have an easements, together with rights of egress, ingress, and other access thereto, for purposes of constructing, installing, maintaining, operating, renewing, or repairing their respective telephone and electric conduits, lines, or other facilities in, over, under and upon a strip or strips abutting the entire length of the northeasterly rear boundary line of the lot and a reasonably necessary length but not all of the remaining encircling boundary line of the lot ten feet in width and, further, after installation of any such facility, for additional purposes of confining each such strip to its then present grade elevation and prohibiting use thereof for any building, tree, wall, or other structure or any other use inconsistent with the function of such facility; but the easement for any such strip in the lot will terminate if no such facility is installed therein on or before December 31, 1984, or will terminate any time thereafter if all such facilities installed therein are completed removed without replacement of any thereof within sixty days after such removal and will be adjusted or terminated if such easement is revised or superseded by a separate and specific written instrument executed and recorded with the Register of Deeds of Douglas County, Nebraska.

4. ASSOCIATION: The involved property is and will be through December 31, 1998, or for such longer or other period as may otherwise be fixed included in membership in Association as a benefit or burden running with and charge upon the ownership of the lot, pursuant to Paragraph 4b of said Declaration, subject to all and each of the conditions and other terms of Paragraph 4e of said Declaration.

5. ENFORCEMENT: The covenants, easements, conditions, and other terms set out in this Supplementary Declaration and in said Declaration are and will be subject to the following enforcement:

- a. Association and every contract purchaser or owner of the lot or of any lot of Regency 1, of Regency 3, of Regency 4, of Regency 5, or of Regency 6 will be entitled at any time or from time to time to institute any equitable or legal proceeding appropriate, convenient, or necessary for enforcement as to the lot or as to any lot of Regency 1, of Regency 3, of Regency 4, of Regency 5, or of Regency 6 of any covenant and to fix a reasonable charge for such action as a lien upon and charge against such lot in favor of Association.
- b. Every grantee, assign thereof, or successor thereto will be entitled at any time or from time to time to institute any equitable or legal proceeding appropriate, convenient, or necessary for enforcement of any easement granted to such grantee.
- c. Nothing herein shall allow or permit any enforcement or action inconsistent with the Order entered on December 30, 1986, in the matter of Regency Homes Association, Plaintiff, vs. William M. Theisen, Defendant, at Docket 849, No. 332, in the District Court of Douglas County, Nebraska.

6. EXTENSION, MODIFICATION, TERMINATION: The conditions and other terms of this Supplementary Declaration are and will be subject to the following provisions for extension, modification, or termination:

- a. Association will have the right by an express written permit for the purpose of avoiding undue hardship to waive partly or wholly the application to the lot of any covenant; and Association will have the right, in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, at any time or from time to time to extend, modify, or terminate all or any part or parts of this Supplementary Declaration other than easements granted to other grantees.
- b. Any grantee, assign thereof, or successor thereto will have the right by an express written Termination to terminate any easement granted to such grantee.

