

RECEIVED

1990 SEP 25 AM 9 16

BOOK 790 PAGE 11

GEORGE J. ROSENBERG
RECORDING T. 00003

NOTICE AND DECLARATION OF ADDITIONAL COVENANT OF BROOKHAVEN, NEBR.
REPLAT II, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA

This notice and declaration, made on the date hereinafter set forth, is made by Construction Sciences, Inc. (CSI), hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Duplex lots 1-13, inclusive, all in Brookhaven Replat II, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, the Declarant will convey said lots subject to the additional covenant and possible charge set forth in Article I herein.

NOW, THEREFORE, the Declarant hereby declares that all lots described above shall be held, sold, and conveyed subject to this additional covenant and/or contingent charge. This additional covenant and contingent charge shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above-described lots, or any part thereof.

DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot in Brookhaven Replat II subdivision, including contract sellers, and excluding those having such an interest merely as security for the performance of an obligation.

B. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map or plat of Brookhaven Replat II, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

790 11-13-90 21.50
11-13-90 B.C.
790 11-13-90

184773-1290-1

C. "Declarant" shall mean and refer to Construction Sciences, Inc. (CSI), a Nebraska corporation, its successors and assigns.

ARTICLE I

NOTICE OF POTENTIAL TELEPHONE FACILITIES CHARGE

In the event that ninety (90%) percent of all lots within Brookhaven Replat II subdivision are not improved within five years from the date that Northwestern Bell Telephone Company shall have completed the installation of its distribution system within said subdivision and filed notice of such completion, then every lot that is unimproved at the end of the five-year term shall be subject to a charge of Four Hundred Fifty and no/100 (\$450.00) Dollars by Northwestern Bell Telephone Company or its successors. A lot shall be considered as unimproved if construction of a permanent structure has not commenced on that lot. Construction shall be considered as having commenced if a footing inspection has been made on the lot in question by officials of the city or other appropriate governmental authority.

Each development in Brookhaven Replat II subdivision shall be considered in determining whether ninety (90%) percent of the lots within that phase have been improved within the five-year term. In determining the date Northwestern Bell Telephone Company shall have completed the installation of its distribution system, each development phase shall also be considered separately.

Such charge shall be due and owing immediately upon the expiration of the five-year term, and if such charge is not paid within sixty (60) days after the sending of written notice by Northwestern Bell Telephone Company or its successors to the owner of an unimproved lot that such charge is due, then such charge will begin drawing interest commencing upon the expiration of the sixty (60) day period at the rate of twelve (12%) percent per annum, or the maximum rate allowed by law if said maximum rate is less than twelve (12%) percent per annum at that time.

In witness whereof, the undersigned, being the Declarants herein, has hereunto set its hand and seal this 22nd day of September, 1986.

DECLARANT:

CONSTRUCTION SCIENCES, INC.

By: Charles G. Smith, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me, this 22 day of September, 1986 by Charles G. Smith, President of CSI, a Nebraska Corporation.

GENERAL NOTARY - State of Nebraska
LYNN W. WHISTON
My Comm. Exp. 3/18/87

Lynn W. Whiston
Notary Public