

2013-21240

07/02/2013 3:18:57 PM

Clay J. Dowling

REGISTER OF DEEDS



COUNTER LM C.E. LM
 VERIFY LM D.E. LM
 PROOF D
 FEES \$ 34.00
 CHECK# _____
 CHG AS CASH _____
 REFUND _____ CREDIT _____
 SHORT _____ NCR _____

AFFIDAVIT

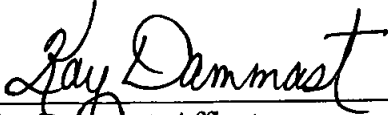
STATE OF NEBRASKA)
)ss.
 COUNTY OF SARPY)

Kay Dammast, being first duly sworn upon oath, and having personal knowledge of the facts stated herein, states as follows:

1. Affiant at all times relevant hereto is the City Clerk for the City of Bellevue, Nebraska. The City of Bellevue at all times relevant hereto is the record owner in fee title of Lot 153, Avery North, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska ("Lot 153").
2. On May 21, 2013, written notice of the proposal to remove or modify the prohibitions reserved on Lot 153, Avery North, pursuant to the Declaration of Restrictions ("DOR") recorded March 15, 2011 with the Sarpy County Register of Deeds as Instrument No. 2011-07298 was sent by Affiant, by certified mail, return receipt requested, to all resident record owners of Avery North Residential Lots as that term is defined in said DOR located south of Thurston Street. A copy of such Notice is attached hereto as Exhibit "1". There are a total of 65 said lots.
3. That the actions taken by Affiant as stated herein were done pursuant to the approval and authorization of the Bellevue City Council.
4. That Affiant did receive written objections from those resident property owners listed on Exhibit "2", attached hereto and incorporated by reference, however such objections failed to meet the criteria set forth in said DOR in that said objections were less than 51% of owners of Avery North Residential Lots located south of Thurston Street and therefore, pursuant to DOR, the modification is made pursuant to the Notice attached hereto as Exhibit "1".
5. On June 28, 2013, a copy of this Affidavit has been sent via certified mail, return receipt requested, to those property owners listed on Exhibit "A" who have filed an objection.
6. All returned receipts are maintained in the records of the City Clerk.
7. Affiant has complied with all the provisions in said DOR for the modification of the DOR as contained in Exhibit "1".

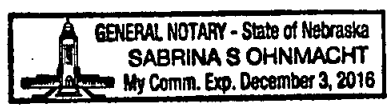
KJR Record & Return to: Adams & Sullivan, P.C., L.L.O. 1246 Golden Gate Drive, Suite 1, Papillion, NE 68046

8. At the time of this affidavit, Affiant has not received any additional written protest other than those listed on Exhibit "2" attached hereto.



Kay Dammast, Affiant

SUBSCRIBED AND SWORN to before me on the 28th day of June 2013.





Notary Public

EXHIBIT "1"

**NOTICE OF PROPOSED MODIFICATION
OF
DECLARATION OF RESTRICTIONS**

Notice is hereby given by the City of Bellevue, Nebraska ("Bellevue"), a municipal corporation, the owner of Lot 153, in Avery North, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, that Bellevue proposes to modify those certain restrictions contained in a Declaration of Restrictions dated March 14, 2011 and recorded in the Sarpy County Register of Deeds at Instrument No. 2011-07298 on March 15, 2011, by eliminating the restrictions on pavement and motorized vehicular traffic across the buffer zone established by said Declaration but only to the extent of that area of the buffer zone lying south of Sycamore Street, west of Lot 26 Avery North Replat I, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, and west of a line extending south from the west line of said Lot 26 to the southern boundary line of the buffer zone and north of the south line of the buffer zone and east of Lot 139, Avery North as surveyed, platted and recorded in Sarpy County, Nebraska, and east of a line extending south from the east line of said Lot 139 to the southern boundary line and as depicted on the attached Exhibit A.

Such restrictions shall be modified as provided herein unless the owners of 51% or more of Lots in the Avery North and Avery North Replat I subdivisions located south of Thurston Street shall, within thirty (30) days of the date of Bellevue's mailing of this Notice, submit to Bellevue written objections to such proposal. Written objections may be filed by hand delivery to the address provided herein or by sending by United States mail, postage prepaid, to the address specified herein. Any objections filed by mail service shall be considered filed with Bellevue on the date of mailing as evidenced by the postmark appearing thereon.

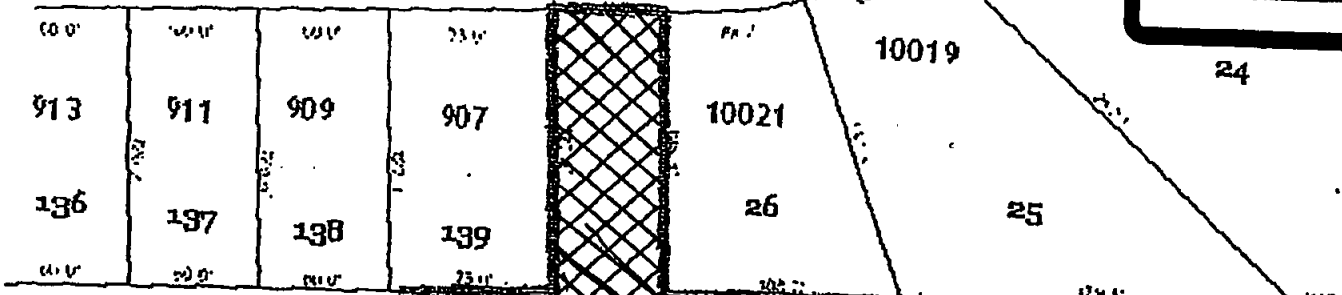
Any objection should note your address and be signed by all owners of the property.


Dated this 21st day of May 2013


Kay Dammast, City Clerk
City of Bellevue
210 W. Mission Avenue
Bellevue, NE 68005

EXHIBIT
A

Sycamore St



BUFFER AREA 

AREA OF MODIFICATION 

153

TL5A2

TL6B2

Exhibit "A"

EXHIBIT "2"

Patricia W. Perry ¹	9910 S. 10 th Street, Bellevue, NE 68123
Richard & Amanda Orenelas	9907 S. 10 th Street, Bellevue, NE 68123
Jerry & Sally Lewellen	9909 S. 10 th Street, Bellevue, NE 68123
Andrew & Brooke Gregory	10003 S. 10 th Street, Bellevue, NE 68123
Landon & Mrytle Herrell	10005 S. 10 th Street, Bellevue, NE 68123
Gary L. Griffith ²	10008 S. 10 th Street, Bellevue, NE 68123
Thomas Laufer ³	10012 S. 10 th Street, Bellevue, NE 68123
Robert & Jackie Perkins	10006 S. 9 th Street, Bellevue, NE 68123
Richard & Laura Hertzig ⁴	10011 S. 9 th Court, Bellevue, NE 68123
Julian & Peggy Caldwell	10013 S. 9 th Court, Bellevue, NE 68123
Donald Welch	10015 S. 9 th Court, Bellevue, NE 68123
Wesley & April Culver	909 Sycamore Street, Bellevue, NE 68123
Dean McCreedy II	907 Sycamore Street, Bellevue, NE 68123
Floyd & Lynn Paul	10012 S. 9 th Circle, Bellevue, NE 68123
Jerry & Donna Puyear	9903 S. 9 th Circle, Bellevue, NE 68123
Travis & Achalee Sjoberg	10015 S. 9 th Circle, Bellevue, NE 68123

¹ Written protest received on June 25, 2013, post marked June 24, 2013, both dates after the deadline

² Written protest received on June 25, 2013, post marked June 24, 2013, both dates after the deadline

³ Hand delivered on June 25, 2013

⁴ Hand delivered on June 24, 2013

The four protests that did not meet the deadline were not counted as official protests. Nevertheless, if they were included they would not add up to enough protests to successfully prohibit the modification.