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BOOK 533 PAGE 371

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR

CASITA VILLA,

an Addition to the City of Omaha, Douglas County, Nebraska, being a replat of Lots Three (3), Four (4), Five (5) and Six (6) in Block Three (3) in Happy Hollow View, an Addition to the City of Omaha, as surveyed, platted and recorded, Douglas County, Nebraska

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This Declaration made this 1st day of March, 1974, by Leo W. Barger and Daisy A. Barger, husband and wife, of Omaha, Nebraska, (hereinafter called "Declarant", whether one or more), WITNESSETH:

Whereas, Declarant owns the following described real property:

Lots One (1) to Eleven (11), inclusive, in Casita Villa, an Addition to the City of Omaha, Douglas County, Nebraska, being a replat of Lots Three (3), Four (4), Five (5) and Six (6) in Block Three (3) in Happy Hollow View, an Addition to the City of Omaha, as surveyed, platted and recorded, Douglas County, Nebraska

and desires to subject the same to covenants, conditions and restrictions appropriate, convenient or necessary to preserve and promote its clustered private residential character pursuant to a general scheme of development and use;

Whereas, the contract purchasers and owners of Lots One (1) to Ten (10), inclusive, in said Casita Villa will be entitled to membership in Casita Villa Association, a Nebraska nonprofit corporation, hereafter called the "Association", all to be more particularly set forth in its Articles of Incorporation; and,

Whereas, for effectuation of such general scheme of development and use, applicable subdivision and zoning regulations permit and require the execution and delivery for filing and recording of an instrument or Declaration of Covenants, Conditions and Restrictions as to the permanent maintenance of open space, common grounds, or recreational areas in connection with such clustered private residences.

Now, therefore, in consideration of the matters herein recited, Declarant does hereby declare as follows, to-wit:

1. Involved Property: All real property involved in this 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 Declaration; and the following does and will constitute the involved property so subjected to this Declaration:

(a) Lots One (1) to Ten (10), inclusive, in said Casita Villa, (hereafter called "townhome lot", individually, or "townhome lots", collectively); and,

(b) Lot Eleven (11) in said Casita Villa, (hereafter called "common ground").

2. Covenants: The involved property is and will be through December 31, 2003, subject to all and each of the following conditions and other terms, hereafter called "covenants":

(a) Except for such other purposes or uses as may from time to time be permitted or required by this Declaration, no part of the common ground will be occupied or used for other than open space or recreational area purposes for the general common benefit of all contract purchasers and owners of all townhome lots and related purposes as determined by Association in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended.

(b) Except for such townhome lot or townhome lots or part thereof as may from time to time be added to or occupied or used as part of or in connection with the common ground, no townhome lot will be occupied or used for other than single-family clustered residential purposes; and no townhome lot will be occupied or used for such residential purposes at a density greater than one single-family clustered residence for each townhome lot.

(c) The structure or associated structures comprising a single-family clustered residence will consist of a detached dwelling which may join one other dwelling at the roof and which will accommodate a single person or one family group together with household servant or servants of not more than two (2) stories in height with an enclosed private garage and with or without attached breezeways, enclosed or walled patios, and other structural elements appropriate, convenient, or necessary for clustered residential purposes.

(d) No single-family clustered residence will be altered, built, constructed, or otherwise maintained on any townhome lot without an express written Approval executed by the Association through its Architectural Control Committee or its permission by implied approval secured in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, as to general appearance, exterior color or colors, harmony of external design and location in relation to surroundings and topography and other relevant architectural factors, location within townhome lot boundary lines, quality of construction, size and suitability for clustered residential purposes of such single-family clustered residence; and no exterior air conditioning equipment, antenna, ditch, fence, flag pole, tennis court, wall, or other structure or associated structures and no trees or other landscaping in any location within public view will be altered, built, constructed, erected, installed, planted, or otherwise maintained or undertaken on any townhome lot without such approval by Association so secured as to general appearance, composition, design, exterior color or colors, and suitability for clustered residential purposes.

(e) After commencement thereof all approved or permitted construction on any townhome lot will be as diligently as practicable prosecuted to completion as soon as practicable, and no approved or permitted construction will be maintained on any townhome lot

in uncompleted or unfinished condition for more than eighteen months.

(f) No driveway or sidewalk and no structural element of any approved or permitted single-family clustered residence or exterior part thereof will be maintained on any townhome lot in damaged, deteriorated, hazardous, or otherwise unfit, unsafe, or unsightly condition.

(g) No exterior burner, incinerator, or other receptacle for garbage, trash, or other refuse will be maintained above ground level on any townhome lot; and no barn, shack, tent, trailer, or other movable or temporary structure will be maintained on any townhome lot other than for temporary use or uses appropriate, convenient, or necessary for clustered residential purposes for not more than seven days within any calendar year or for use or uses connected and coterminous with approved or permitted construction.

(h) No driveway will be constructed or maintained on any townhome lot and connected to or with an adjoining public street through its curb other than by a curb cut effected with a clean-cutting cement saw leaving a smooth and unpatched curb cut and by construction design leaving a smooth and unpatched union along a line or lines outside the path of water flow along said curb and surfaced, from the line of any intersected public sidewalk nearest such townhome lot to such union, only with concrete cement of quality similar to that used for such sidewalk and street and otherwise surfaced with asphalt, brick, concrete, laid stone, or other construction material so as to avoid and prevent erosion of or water damage to such curb, curb cut, sidewalk, or street; and no such driveway will be constructed or maintained and connected across or over an adjoining public sidewalk other than by some method leaving a smooth and unpatched intersection so as to avoid and prevent erosion of, water damage to, cracks in, or similar damage to such sidewalk.

(i) No grass, weeds, or other vegetation will be grown or otherwise permitted to commence or continue and no dangerous, diseased, or otherwise objectionable shrubs or trees will be maintained on any townhome lot so as to constitute an actual or potential public nuisance, create a hazard of undesirable contagion or proliferation, or detract from a neat and trim appearance.

(j) No basketball hoop, slide, swing, or other play or recreational equipment will be installed or maintained on any townhome lot, other than in a location out of public view, without an express written Approval executed by Association through its Architectural Control Committee in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended; and no garden implements, lawn mower, or other maintenance equipment not in actual use will be kept or otherwise maintained on any townhome lot, other than in a location out of public view.

(k) No advertising sign or other poster other than a sign of an area of not more than four square feet advertising such townhome lot for sale or a sign or signs belonging to Declarant as owner of such townhome lot will be maintained on any townhome lot.

(l) No excess or unused building material or materials will be kept, stored, or otherwise maintained on any townhome lot in a location within public view, other than for use or uses connected and coterminous with approved or permitted construction; and no junk, rubbish, waste material, or other refuse will be abandoned, stored, or otherwise maintained on any townhome lot.

(m) No boat, camper, trailer, or similar chattel will be maintained on any townhome lot, other than in an enclosed structure, for more than seven days within any calendar year; and no automobile, motor cycle, truck or other vehicle will be repaired, torn down, or stored on any townhome lot, other than in an enclosed structure.

(n) No birds, livestock, poultry, or animals, other than domesticated noncommercial pets not larger than sixteen (16) inches in height and in no more than reasonable quantity, will be bred, kept, or otherwise maintained on any townhome lot; and, such animals or pets, including dogs and cats, shall not be allowed or permitted on the common ground.

(o) No commercial enterprise or gainful public business, occupation, or profession, no public annoyance or nuisance, and no noxious or offensive activity will be carried on, conducted, or otherwise permitted to commence or continue on any townhome lot.

3. Easements: The involved property is and will be perpetually, unless any thereof is terminated, subject to all and each of the following easements for common use and other structural projections, maintenance, repair, recreational, and other access, hereafter called "easements":

(a) Association and its assigns and successors for itself and for the general common benefit of all contract purchasers and owners of all townhome lots will have a general easement, together with rights of egress, ingress, and other access thereto, for purposes of controlling, developing, landscaping, maintaining, and preserving the common ground for open space or recreational area uses and related uses as determined by it in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, and each contract purchaser or owner of each townhome lot will have a general easement, together with rights of egress, ingress, and other access thereto, for purposes of individually enjoying or otherwise taking advantage of the open space and recreational areas of the common ground in common with all other such contract purchasers and owners and to the extent not inconsistent with such other purposes or uses as may from time to time be permitted or required by this Declaration.

(b) Association and its assigns and successors for itself and for the general common benefit of all contract purchasers and owners of all townhome lots will have a general easement, together with rights of egress, ingress and other access thereto, for purposes of cultivating, cutting, installing, maintaining, mowing, planting, raking, renewing, trimming, or otherwise caring for grass, lawns, plants, sod, shrubs, trees, or other decorative or landscaping vegetation in, over, and upon all parts of each townhome lot not occupied or used for any driveway, sidewalk, or structural element of an approved or permitted single-family clustered residence thereon, for purposes of maintaining, painting, repairing, restoring, or otherwise preserving any such driveway, sidewalk, or structural element or exterior part thereof, and for purposes of cleaning and removing ice, mud, snow, or other debris or matter from any such driveway or sidewalk.

(c) Each contract purchaser or owner of each townhome lot will have a general easement, together with rights of egress, ingress and other access thereto, for purposes of building, constructing, and otherwise maintaining all approved or permitted common roofs or other related structural elements of a single-family residence to be shared jointly as structural elements of any one or more single-family clustered residences on adjoining townhome lots or to encroach or project not more than six inches in, over, or upon any part of any abutting townhome lot.

(d) Each contract purchaser or owner of each townhome lot will have a general easement, together with rights of egress, ingress, and other access thereto, for purposes of passing between any part of the common ground and any public sidewalk or street in, over, or upon such connecting strip or strips of any townhome lot as delineated by lines extended directly from the side or sides of any approved or permitted single-family clustered residence thereon to points of intersection with the front and rear lines of such townhome lot.

4. Association: The involved property shall be, through December 31, 2003, or for such longer or other period as may otherwise be fixed, included in membership in the Association subject to all and each of the following conditions and other terms:

(a) The Association will have the right, in general, without any part of its net earnings inuring to the private benefit of its members, to promote and sustain their social welfare and otherwise provide for their health, pleasure, recreation, safety, and other nonprofitable interests by acquiring, maintaining, operating, contributing to the acquisition, maintenance, or operation of, or otherwise making available for use any one or more open spaces, parks, recreational areas, swimming pools, tennis courts, and any other recreational equipment, facilities, grounds, or structures, by acquiring and maintaining or contributing to the acquisition and maintenance of common or jointly shared fire, extended coverage, and other insurance, by exercising architectural control and securing compliance with or enforcement of applicable covenants, easements, restrictions, and similar limitations, by providing general exterior maintenance, repairs, and services, security service, weed and other actual or potential nuisance abatement or control, and other community services, by fixing and collecting or abating dues or other charges for financing its operations, by delegating by contract or otherwise to any other Nebraska nonprofit corporation or other professional manager general responsibility for administration and executive management of its affairs, and by undertaking any one or more other activities appropriate, convenient, or necessary to promote or sustain any such interest, to acquire by purchase or otherwise, hold for investment or otherwise, or dispose of for profit or otherwise any interest in or species of personal or real property wherever located, and to engage in any other venture for the mutual nonprofitable interests of its members for which a corporation may be organized under the Nebraska Nonprofit Corporation Act, as amended.



(b) Every townhome lot will be automatically included in membership in the Association as a benefit or burden running with and charge upon the ownership of each townhome lot.

(c) Dues or other charges for each townhome lot included in membership as fixed by the Association in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, will each constitute until abated or paid a lien upon and charge against such townhome lot in favor of the Association; but no such lien upon any such townhome lot will at any time be superior to any earlier or later established lien upon such townhome lot for security for a home improvement or purchase money loan or the unpaid balance of a purchase contract for such townhome lot.

(d) The obligations and privileges of membership in the Association will in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, extend to contract purchasers and owners of all townhome lots included in membership and appertain to and be coterminous with the duration of the ownership interest of each such contract purchaser or owner; but each member will be and remain personally liable to the Association, until abatement or payment, for all dues or other charges as fixed by it at any time or from time to time throughout the duration of such ownership interest and membership.

(e) The 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, to divide the membership into classes, to deny or limit voting rights of members or any membership class, and to deny access to or use of facilities or services, suspend the membership or privileges of, or otherwise discipline any member for failure to pay dues or charges or for other conduct detrimental to its affairs or otherwise improper.

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

(a) The Association and every contract purchaser or owner of any townhome lot 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 common ground or as to any townhome lot of any covenant or easement granted to it or to such contract purchaser or owner and to fix a reasonable charge for such action as to any townhome lot as a lien upon and charge against such townhome lot in favor of the 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.

6. Extension, Modification, Termination: The conditions and other terms of this Declaration are and will be subject to the following provisions for extension, modification or termination:

(a) The 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 any townhome lot of any covenant or easement granted to the Association; and the Association will have the right in the manner set out in its Articles of Incorporation or 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 of this Declaration other than easements theretofore 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 hereafter granted to such grantee.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

*Leo W. Barger*  
\_\_\_\_\_  
Leo W. Barger

*Daisy A. Barger*  
\_\_\_\_\_  
Daisy A. Barger

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

Before me, a notary public qualified in said county, personally came Leo W. Barger and Daisy A. Barger, husband and wife, known to me to be the identical persons who signed the foregoing Declaration of Covenants, Conditions and Restrictions, and acknowledged the execution thereof to be their voluntary act and deed.



Witness my hand and notarial seal on March 1, 1974.

*[Signature]*  
Notary Public

My commission expires: My Commission Expires July 15, 1977.

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RECORD CENTER  
REGISTER OF DEEDS  
COUNTY OF MARICOPA

THE STATE OF ARIZONA }  
Douglas County }  
Entered in Historical Index and filed  
for Record in the office of the Registrar of  
Deeds of said County and recorded in  
Book 533 of pages.  
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20189

By C. Harold Ostler  
Register of Deeds  
Deputy

MAIL BANK Palm et al  
1500 W. Camelback Tower  
Phoenix, Arizona  
78-6394-C.P.M. 14  
3675