



MISC 2017040136



MAY 25 2017 14:56 P 5

Fee amount: 34.00
FB: 15-34468
COMP: PN

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
05/25/2017 14:56:42.00



2017040136

After recording, return to:
Larry A. Jobeun
Fullenkamp, Doyle & Jobeun
11440 West Center Road
Omaha, NE 68144

(Space above line for recording information)

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS (the "Declaration") is made this 25 day of May, 2017, by 44 Douglas Housing LLC, a Nebraska limited liability company (referred to herein as "Declarant").

RECITALS

WHEREAS, the Declarant and DSL Hospitality, LLC, a Nebraska limited liability company ("DSL"), entered into a Purchase Agreement dated May 5, 2017 (the "Purchase Agreement"), whereunder DSL agreed to sell and the Declarant agreed to purchase the following legally described real estate, to-wit:

See attached Exhibit "A" (the "Restricted Property"); and

WHEREAS, DSL is the lawful owner of the following legally described real property, to-wit:

Lot 1, Saddle Creek Midtown, an Addition to the City of Omaha, Douglas County, Nebraska (the "Benefitted Property");

WHEREAS, DSL agreed to sell and convey the Restricted Property to the Declarant upon the condition that the Restricted Property would not be used and/or operated as a motel, hotel or similar lodging facility as covenants running with the land.

NOW THEREFORE, for and in consideration of the recitals set forth above and the mutual representations, warranties and covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, Declarant agrees as follows:

1. Restricted Property. No portion of the Restricted Property shall be used or operated as a motel, hotel or similar transient lodging facility.

2. Covenants to Run with Land. It is intended that each of the restrictions set forth herein shall run with the land and create equitable servitudes in favor of the real property benefitted thereby, shall bind every person having any fee, leasehold or other interest therein, and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

3. Governing Law. This Declaration is declared to have been made under the laws of the State of Nebraska.

4. Amendment. The provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of the then current owners of the Benefitted Property and Restricted Property, evidenced by a document that has been fully executed and acknowledged by such parties, and recorded in the office of the Register of Deeds of Douglas County, Nebraska.

5. Remedies and Enforcement.

5.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by the owner of the Restricted Property, or any portion thereof, or such owner's tenants or their employees, agents, invitees, or licensees, of any of the terms, covenants, restrictions or conditions hereof, the owner of the Benefitted Property shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

5.2 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any party to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any portion of the Restricted Property made in good faith for value. The covenants, conditions and restrictions hereof shall be binding upon and effective against any owner of any portion of the Restricted Property whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

6. Termination. If the owner of the Benefitted Property ceases to operate the Benefitted Property as a hotel for 18 months or more (excluding time during substantial renovations or reconstruction or restoration in the event of a casualty), then this Declaration shall be deemed terminated and of no further force or effect, and the owner of the Benefitted Property shall duly execute and deliver a recordable termination of its rights under this declaration upon request of the owner of the Restricted Property.

7. No Waiver. No waiver of any default of any obligation by any party shall be implied from any omission by the other party to take any action with respect to such default.


8. Severability. Each provision of this Declaration and the application thereof are hereby declared to be independent of and severable from the remainder of this Declaration. If

any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration.

IN WITNESS WHEREOF, the undersigned have executed this Declaration on the day and year first above written.

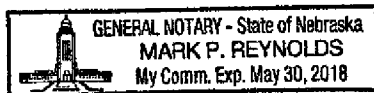
DECLARANT:

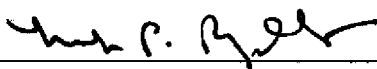
44 DOUGLAS HOUSING LLC, a
Nebraska limited liability company,

By: 
Name: Matt Dwyer
Its: Manager

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 25th day of May, 2017, by MATT DWYER, known to me to be the Manager of 44 Douglas Housing LLC, a Nebraska limited liability company, on behalf of said limited liability company.





Notary Public

ACKNOWLEDGMENT AND ACCEPTANCE

IN WITNESS WHEREOF, DSL Hospitality, LLC hereby acknowledges and accepts that it is obligated to release this Declaration upon its cessation of the operation of a hotel on the Benefitted Property.

DSL HOSPITALITY, LLC, a
Nebraska limited liability company,

By: 
Its: Dan Marak, President,
Marak Consulting, Inc., as Manager,
Board of Managers of DSL Hospitality,
LLC

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 24th day of May, 2017,
by Dan Marak, known to me to be the * President of
DSL Hospitality, LLC, a Nebraska limited liability company, on behalf of said limited liability
company.

* President of Marak Consulting, Inc., as Mnager, Board of Managers





Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION OF
THE RESTRICTED PROPERTY

Parcel 1: Lot 34, Block 6, Briggs Place, An Addition to the City of Omaha, As Surveyed, Platted and Recorded in Douglas County, Nebraska.

Parcel 2: Lot 35, Block 6, Briggs Place, An Addition to the City of Omaha, As Surveyed, Platted and Recorded in Douglas County, Nebraska.

Parcel 3: Lot 36, Block 6, Briggs Place, An Addition to the City of Omaha, As Surveyed, Platted and Recorded in Douglas County, Nebraska.

Parcel 4: The North 42 feet of Lots 37 and 38, Block 6, Briggs Place, An Addition to the City of Omaha, As Surveyed, Platted and Recorded in Douglas County, Nebraska, together with the South half of vacated alley adjoining on the North.

Parcel 5: The South 44.5 feet of the North 86.5 feet of Lots 37 and 38, Block 6, Briggs Place, An Addition to the City of Omaha, As Surveyed, Platted and Recorded in Douglas County, Nebraska.

Parcel 6: The South 42 feet of Lots 37 and 38, Block 6, Briggs Place, An Addition to the City of Omaha, As Surveyed, Platted and Recorded in Douglas County, Nebraska.