



BK 0875 PG 040



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BOOK 875 PAGE 40

PROTECTIVE COVENANT AGREEMENT

WHEREAS, Industrial Five, a Partnership, organized and existing under the laws of the State of Nebraska is the owner of the property known as Lots 12, 13, 15, 16, 17, 18 and 19, Southwest Park, and John and Trudy Galaska, husband and wife, are owners of Lot 14, Southwest Park, which property shall hereinafter collectively be referred to as the "subject property" and such owners are hereinafter referred to as "Developers"; and

WHEREAS, Developers have applied for rezoning of the subject property from its present General Office Classification (R-9 under zoning code in effect prior to 1987 amendment) to Limited Industrial as described in the Omaha City Code, Chapter 55, Section 484 et seq.; and

WHEREAS, the owners of certain property contiguous to the subject property to the north have expressed a desire to have certain restrictions placed on the use and development of the subject property. For purposes of this Agreement, those properties are identified as Lots 17 through 29, inclusive, 57 through 62, inclusive, and 135 through 139, inclusive, Montclair West Replat, a subdivision hereinafter described as "Montclair West Replat"; and

WHEREAS, on May 16, 1978, Industrial Five, as the owner of certain property within Southwest Park, including the subject property, established and filed a set of Revised Protective Covenants at Book 597, Page 379, of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska, which covenants the parties agree expired as they relate to Montclair West or Montclair West Replat after ten (10) years from their inception; and

WHEREAS, the Developers and Montclair West Replat have agreed that in return for Montclair West Replat supporting Developer's application to rezone the subject property from General Office (old R-9) to Limited Industrial, that the Developer shall reinstate the Revised Protective Covenants (Book 597, Page 379) with certain modifications and additions and that this document shall serve to accomplish that purpose.

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

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NOW, THEREFORE, it is agreed by and between the parties that the "Revised Protective Covenants" (Book 597, Page 379) are reinstated for the benefit of the subject property and the Montclair West Replat property for its original term with the following amendments and additions:

1) That Paragraph 2 thereof restricting the use of the subject property to Residential Ninth District uses (now General Office under the zoning code in effect at the date of this filing) is eliminated in its entirety along with any other similar restriction found elsewhere in the covenants.

2) That Paragraph 20 be eliminated and the following paragraph be inserted:

"These Covenants may be enforced by and are for the benefit of the owners of Lots 12 through 19, inclusive, Southwest Park and Lots 17 through 29, inclusive, Lots 57 through 62, inclusive, and Lots 135 through 139, inclusive, Montclair West Replat, a subdivision in Omaha, Douglas County, Nebraska."

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3) That in addition to the applicable provisions of the Revised Protective Covenants, the following restrictions apply:

a) That no overhead doors, driveways, parking areas or other outdoor storage will be allowed on the north side of any of the buildings to be built on the subject property.

b) That prior to the granting of any certificate of occupancy for any building permit on the subject property, that a landscape screen be installed according to the present provisions of the Omaha City Code, Chapter 55, Section 717. That any such landscape screen shall contain a significant number of Austrian pine trees and that no cedar trees will be installed within the landscape screen.

c) That any building built on the subject property shall not exceed twenty-five (25') feet in height.

d) That the existing landscaping located within the landscape screen of the subject property as shown on the plat of Southwest Park will remain so long as they are not diseased or conflict with any reasonable uses of the subject property.

e) That reasonable steps be taken to provide that any party constructing a building on the subject property will provide that the lighting of the building and the site be directed away from the Montclair West.

f) Any provision of the Revised Protective Covenants inconsistent with the provisions of this Paragraph 3 shall be superseded hereby.

IN WITNESS WHEREOF, the parties have signed this Agreement
 this 12 day of ~~September, 1988~~
 January, 1989.

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INDUSTRIAL FIVE, A Partnership

By [Signature]
 Partner

By [Signature]
 Partner

[Signature]
 JOHN GALASKA

[Signature]
 TRUDY GALASKA

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared Franklin P. Rogers and Roger D. Haney to me known to be the Partners of Industrial Five, a Partnership, and acknowledged their execution to be their voluntary act and deed and the voluntary act and deed of said Partnership.

WITNESS my hand and Notarial Seal this 12 day of January,
~~1988~~x 1989.

 GENERAL NOTARY-State of Nebraska
 MORTHELENE M. ANDERSEN
 My Comm. Exp. May 17, 1990

[Signature]
 Notary Public

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, Notary Public in and for said County and State appeared John Galaska, to me known to be the identical person who executed the above instrument and acknowledged his execution to be his voluntary act and deed.

WITNESS my hand and Notarial Seal this 12 day of January,
~~1988~~x 1989.

 GENERAL NOTARY-State of Nebraska
 MORTHELENE M. ANDERSEN
 My Comm. Exp. May 17, 1990

[Signature]
 Notary Public

STATE OF NEBRASKA))
COUNTY OF DOUGLAS)) ss.

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Before me, the undersigned, Notary Public in and for said County and State appeared Trudy Galaska, to me known to be the identical person who executed the above instrument and acknowledged her execution to be her voluntary act and deed.

WITNESS my hand and Notarial Seal this 12 day of January,
~~1988~~ 1989.

Merthine M. Andersen
Notary Public

