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Cleveland County, OK

AMENDED

DECLARATION OF COVENANTS,
CONDmoNS, AND RESTRICTIONS

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KENSINGTON PLACE SEC. 1

(These Declarations of Covenants, Conditlons,
and Restrictions Supercede those filed on
October 14, 2004, Bk 3904, Pg 1006-1018)

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

KENSINGTON PLACE SEC. 1

THIS DECLARATION, made on the date hereinafter set forth by THA DEVELOPMENT, INC., hereinafter referred to as "Declarant",

- WITNESSETH: -

WHEREAS, Declarant is the Owner of certain property in City of Moore, County of Cleveland, State of Oklahoma, which is more particularly described as:

KENSINGTON PLACE SEC. 1, being a part of the Northeast Quarter of section 35, Township 10 North, Range 3 West of the Indian Meridian, located South of SW 34th Street and west of Easter Avenue, as shown on the recorded plat thereof, and additional sections as may be annexed from time to time

NOW THEREFORE, Declarant hereby declares that all of the properties describe above be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run With, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1 "Owner" shall mean and refer to the recorded Owner, whether one or more person or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

section 2 "Prop-erties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of these Covenants

Section 3 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 4 "Declarant" shall mean and refer to THA DEVELOPMENT, INC., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the declarant for the purpose of development.

section 5 "Association" shall mean and refer to Kensington Place Homeowners Association, Inc., its successors and assigns.

ARTICLE II

ARCHITECTURAL CONTROL

Section 1 Review No building, fence, walk, driveway, wall or other structure or improvement shall be commenced, erected or maintained upon the properties nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the "Architectural Committee", which shall, as used herein, mean either (a) the Declarant, or (b) the Association when designated by the Declarant, or (c) a committee composed of three (3) or more representatives appointed by the Declarant. With respect to all such submissions, the judgement of the Architectural Committee shall be conclusive. All approvals shall be in writing, and may be qualified upon the satisfaction of specified conditions, prOvided, however, that in the event the Architectural Committee fails to approve or disapprove any such design or location within thirty (30) days after the reqUired plans and specifications have been submitted to it, approval will not be reqUired and this condition will be deemed to have been full satisfied.

Section 2 Fees No fee shall ever be charged by the Architectural Committee for the review specified in Section 1 or for any waiver or consent provided for herein.

Section 3 Proceeding With Work Upon receipt of approval as provided in Section 1, the Owner shall, as soon as is practicable, satisfy all conditions thereof and proceed with the approved work. Unless such work commences within one (1) year from the date of approval, such approval shall be deemed revoked, and the Owner must again seek approval pursuant to all of the provisions of section 1 of this Article.

ARTICLE III

LAND CLASSIFICATION, PERMITTED USES, AND RESTRICTIONS

section 1 Land Classification All Lots within the existing property are hereby classified as single-family Lots, i.e., each such Lot shall be used exclusively for single-family residential purposes and for the exclusive use and benefit of the Owner thereof; provided, however, that with the written approval of the Developer, one (1) or more Lots or one (1) Lot and a part of a second Lot may be combined into a Plot.

In no case, however, shall a residence ever be built upon a tract consisting of less than an entire Lot, nor more than one (1) residence on any Lot or Plot. No gainful occupation, profession, business, trade or other non-residential activity shall be conducted on any Lot or in any residence or detached structure located thereon. Nothing herein shall be deemed to prevent the leasing of any Lot from time to time by the Owner thereof subject to all the terms and provisions hereof, and to the rules.

Section 2 Building Restrictions

(a) Minimum Residence Size No residence which contains less than 1300 square feet, exclusive of basements, open porches, attached carports, attached garages, and detached structures shall be built on any Lot.

~~(b) Maximum Residence Height No residence which contains more than two (2) stories shall be built on any lot, provided, however, that the ground floor of the main structure of any two-story residence shall contain not less than 800 square feet.~~

(c) Materials The principal exterior material of the first floor of any residence shall be at least seventy percent (70%) brick, stone or stucco and each detached structure, with the exception of a greenhouse, shall be constructed of the same materials as the residence to which it is appurtenant. Wood of durable variety may be used on the second floor exterior of any residence. Roofs may be of wood shingles or shakes; slate, clay or concrete tile; built-up with stone covering; or "approved" laminated type composition shingles with weather wood color. "Approved" laminated type composition shingles shall be limited to those which carry a UL CTass "A" fire rating, UL wind resistance rating against winds up to 60 MPH, and manufacturer's limited warranty for not less than twenty (20) years.

(d) Foundations Structures shall have pier and grade beam footings.

(e) Garages Garages or carports must be at least two (2) cars wide and may be attached to, detached from or built within a residence.

~~(f) Building Limit Lines No building structure or part thereof, except as hereinafter provided, shall be erected or maintained on any Lot beyond the front building limit line. Further, no building structure or part thereof shall be erected nearer than five (5) feet to a side Lot line except that cornices, spoutings, chimneys and ornamental projections may extend two (2) feet nearer such side Lot line; such limitations being herein called the "Side Building Limit Lines".~~

(g) Single StOry Homes All single story homes shall have a minimum of six (6) pitch principal roof line unless Architectural Committee waives this requirement.

(h) Signs, Billboards, and Detached Structures No signs or billboards will be permitted upon any Lot except signs advertising the sale or rental of a Lot or Lots which do not exceed five (5) square feet in area; provided, however, that this restriction shall not apply to the Declarant. No Detached Structures shall be allowed on any Lot which (a) except for greenhouses, does not correspond in style and architecture to the residence to which it is appurtenant, or (b) is more than one (1) story in height.

For the purpose of this restriction, small tool or storage sheds of less than 121 square foot floor area and 6 foot 6 inch eave height may be maintained within rear yard areas provide such rear yard is enclosed with an approved 6-foot high sight-proof fence.

(i) Grading and Excavation No building or other structure shall be constructed or maintained upon any Lot whic" would in any way Impede natural drainage. No grading, scraping, excavation or other rearranging or puncturing of the surface of any Lot shall be commenced which will or may tend to interfere with, encroach upon or alter, disturb or damage any surface or subsurface utility line, pipe, wire or easement, or which will or may tend to disturb the minimum or maximum subsurface depth requirement of any utility line, pipe, wire or easement. Any such interference, encroachment, alteration, disturbance or damage due to the negligence of an Owner or his agents, contractors, or representatives will be the responsibility of such Owner, and the owner of the line, pipe, wire or easement may effect all necessary repairs and charge the cost of the same to such Owner.

(j) Moving Existing Building Onto a Lot Prohibited No existing, erected house or Detached Structure may be moved onto any Lot from another location.

(k) Construction Period Upon commencement of excavation for the construction of a residence, the work must thereafter be continuous, unless delay is approved by the Architectural Committee in writing. If a delay of more than ninety (90) days occurs without the Architectural Committee's consent which will not be unreasonably withheld, the Developer may, but shall not be obligated to, complete such construction, at the Owner's sole cost and expense. No construction shall occur on any Sunday or on New Year's-Day, Memorial Day, Fourth-of July, Labor Day, ThanksgivIng or Christmas Day.

(l) Utilities The Owner of each Lot shall provide the required facilities to receive electric service and telephone service leading from the sources of supply to any Improvements erected on such Lot by means of underground service conductors Installed, owned and maintained by the Owner in accordance with plans and specifications furnished by the suppliers of such services. No Owner shall demand or require the furnishing of such services through or from overhead wiring facilities so long as underground distribution systems are available.

(m) Sidewalks Sidewalks shall be constructed on each lot, concurrent With the construction of the residence thereon, within the street right-of-ways adjacent to all property lines paralleling streets, and in accordance with the applicable Sidewalk construction specifications of the City of Moore, Oklahoma.

(n) Brick Mail Box No house shall be constructed Without a bricked in mail box unless waived by the Architectural Committee.

Section 3 General Restrictions

(a) Animals No animals, fish, reptiles, or fowl, other than a reasonable number generally recognized as house or yard pets, shall be maintained on any lot; and then only if kept solely as household pets and not kept, bred or raised for commercial purposes. No pet or pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. Upon the request of any Owner, the Declarant or his designee, in its' sole discretion, may determine that a particular animal, fish, reptile, or fowl to be a house or yard pet, or a nuisance, or whether the number of pets on any lot is unreasonable. Horses, mules, donkeys, cattle, pigs, goats and sheep shall not be considered as house or yard pets hereunder.

(b) Storage of Building Materials No building material of any kind or character shall be placed or stored upon the property line of the Lot upon which the Improvements are to be erected and shall not be placed in the Streets or between the curb and the property line.

(c) Vacant Lots No trash, ashes or other refuse may be thrown or dumped on any vacant Lot. Each Owner of a Vacant Lot is required to keep such lot in presentable condition or the Declarant may, at its discretion, mow such Lot, trim trees, remove trash or refuse and, if necessary, and levy an assessment upon such Lot for the cost involved, which shall constitute a lien upon such Lot to the same extent as if provided elsewhere herein.

(d) Nuisances No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become a nuisance or annoyance to the neighborhood.

(e) Storage Tanks No tank for the storage of oil, water, or other fluids, or any other substance regardless of nature, may be maintained above the ground and outside an authorized structure on any of the lots without the consent in writing of the Architectural Committee.

(f) ~~Boats, Trailers and Vehicles; Temporary Residences~~ Boats, trailers, motorhomes, or other recreational vehicles may be kept on the premises provided they are concealed within the residence garage or located behind an approved 6-foot high sight-proof fence, and, no overnight street parking shall be permitted. Automobiles and pickup trucks may be parked in driveway. Commercial vehicles, except for pickup trucks and vans, are prohibited.

Under no conditions may a trailer of any type be occupied, temporarily or permanently, as a residence except during the construction period and then only by a workman or watchman. No garage or outbuilding on any lot shall be used as a residence or living quarters except by servants engaged on the premises.

(g) Maintenance of Lawns and Plantings on Lots Each Owner shall keep all shrubs, trees, grass and plantings of every kind on his lot, to the curb lines, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. No tree, shrub or planting of any kind shall be allowed to overhang or otherwise encroach upon any street from ground level to a height of fourteen (14) feet without the prior approval of the Architectural Committee.

(h) Repair of Buildings and Improvements No building or improvement upon any lot shall be permitted to fall into disrepair, but shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

(i) Garbage, Trash Containers and Collections All garbage so disposable shall be disposed of in a kitchen sink appliance installed for the purpose by each Owner in his residence. All other refuse, including lawn and garden clippings and trash, shall be kept in containers. In no event shall such containers be maintained so as to be visible from streets or neighboring property except to make them available for collection, and then only for the shortest time reasonably necessary to effect such collection.

(j) Clothes Drying Facilities No outside clothes drying or airing facility shall be visible from streets or neighboring property.

(k) Treehouses, Platforms, and Antennae No treehouses, platforms in trees, play towers, or other similar structures or equipment, or radio or television antennae shall be visible from neighboring property or streets. Antennae locations shall be approved by the Architectural Committee prior to installation.

(I) Fences Fences may be erected along rear property lines, side Lot lines on interior Lots and on or behind Front Building Limit Line or Side Building Limit Line abutting the side street or a Corner Lot as shown on the recorded plat. Fences shall be constructed of woodplallk, stockade or similar wood materials and ~~shall have finished picket or decorative side facing front and/or~~ side streets. ~~Masonry, stone, or brick fences may be approved subject to Architectural~~ Committee approval.

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section 4 Variances As to any Lot, the limitations and restrictions of sections 1 through 3 of this Article may be waived or modified by the Architectural committee, to the extent permitted by law, upon written application made in advance by the Owner seeking a variance, as to which the judgment of the Architectural Committee shall be conclusive; provided, however, ~~that if the Arcl1itectoral Committee fails to approve or disapprove such application within thirty (30) days after its receipt, the application shall be deemed approved.~~

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ARTICLE IV GENERAL PROVISIONS

section 1 Membership and Home Owners Association

(a) Homeowners Membership ~~Upon the sale of a completed home on each lot, separately and independently, by a builder and occupancy by the first purchaser of the home, then that property shall become a permanent member of the Kensington Place Homeowners' Association and be subject to the Articles of Incorporation and By-laws thenIn effect and have the same rights and privileges as all other members of the Association.~~

(b1) Membership Every Owner of a Lot which is subject to assessment shall be a Member of the Association and shall be entitled to one (1) vote for each lot owned. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

~~(b2) Every Developer owned lot is not subject to assessment until sold and occupied, however, the Developer shall be entitled to two hundred fifty (250) votes for each lot owned-by the Developer.~~

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(c) Creation of the lien and Personal Obligation of Assessments The Declarant hereby covenants, that each residence Owner of any Lot by acceptance of a deed therefor, whether or not It shall be so expressed in such deed, IS deemed to covenant and agree to pay to the Association annual assessments or charges, and such assessments to be established and collected as hereinafter provided. ~~The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment IS made Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.~~

(d) Purpose of Assessments ~~The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the landscaped areas of public rights-of-way located within the platted boundaries of the properties.~~

(e) Maximum Annual Assessment ~~Unbl January 1, 2005, annual assessment shall be Sixty Dollars (\$60.00) per lot. From and after January 1, 2005, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year Without a vote of two-thirds (2/3) of the Membership of the Association.~~

(f) Uniform Rate of Assessment ~~Annual assessments must be fixed at a uniform rate for all lots and may be collected on an annual basis, or more frequently as determined by the Board of Directors.~~

(g) Effect of Nonpayment of Assessments: Remedies of the Association Any assessment not paid Within thirty (30) days after the due date shall bear interest from the due date at a rate up to eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. ~~No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.~~

(h) Subordination of the Lien to Mortgages The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu

thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 2 Enforcement Should the Owner or Tenant of any block or lots or building sites ~~In this addition violate any of the restrictive covenants or conditions~~ contained herein, ~~and thereafter refuse to correct same and to abide by said~~ restrictions and conditions contained herein after reasonable notice, then in such event, the Association or any owner of any block, lot or building site in this addition may institute legal proceedings to enjoin, abate or correct such violation or violations. The Owner of the block, lot or lots, or building site permitting the violation of such restriction or conditions shall pay all attorneys' fees, court costs and other necessary expenses incurred by the person instituting such legal proceedings to maintain and enforce the aforesaid restrictions and conditions. ~~Said attorneys' fees, court costs, and other expenses allowed and assessed~~ by the Court, for the ~~aforesaid violation or violations, shall become a lien upon the land~~ as of the date legal ~~proceedings were originally instituted, and said lien shall be subject~~ to foreclosure in such ~~action so brought to enforce such~~ restrictions in the manner provided by law. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3 Severability Invalidation of anyone of these covenants or restrictions by judgment of court order shall in no way affect any other provision which shall remain in full force and effect.

Section 4 -Amendment The covenants and restrictions of this declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

