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Document Number

Declaration of Zero Lot Line and Restrictive Covenants
Title of Document

RE: Lots 1 and 2 of Certified Survey Map No. 5792, being a division of Lot 64 of Oak Springs Subdivision V, Village of Lomira, County of Dodge, as recorded in the office of the Register of Deeds for said County as Document No. 1053560.

1054749
Document Number
Office of Register of Deeds
Dodge County, Wisconsin
RECEIVED FOR RECORD
Sep 19, 2005
at 11:45 o'clock A M.
Chris Planasch
CHRIS PLANASCH - Registrar

Recording Area

Name and Return Address
Atty Thomas A. Schuessler
44 North Main Street
Mayville, WI 53050

000243

146-1317-2321-019
Parcel Identification Number (PIN)

000274

DECLARATION OF ZERO LOT LINE AND RESTRICTIVE COVENANTS

THIS DECLARATION, made this 15th day of September, 2005, by Oak Springs Development, Inc. (hereafter "declarant").

WHEREAS, declarant owns and has title to the real estate located in the Village of Lomira, Dodge County, Wisconsin and described as follows, to-wit:

Lot 1 of Certified Survey Map No. 5792, being a division of Lot 64 of Oak Springs Subdivision V, Village of Lomira, County of Dodge, as recorded in the office of the Register of Deeds for said County as Document No. 1053560.

AND WHEREAS, declarant owns and has title to the real estate located in the Village of Lomira, Dodge County, Wisconsin and described as follows, to-wit:

Lot 2 of Certified Survey Map No. 5792, being a division of Lot 64 of Oak Springs Subdivision V, Village of Lomira, County of Dodge, as recorded in the office of the Register of Deeds for said County as Document No. 1053560.

AND, WHEREAS, both of said properties must share one common wall and lot line which divides their above respective properties into two equal dwellings. Any reference herein to the "property" or "properties" is a reference to the above described property owned by declarant.

NOW, THEREFORE, declarant does hereby make this Declaration, for him and his heirs and assigns, and to be binding on them and on future owners, as follows:

The declarant makes this Declaration (hereinafter "Declaration") that all of the property described in this instrument shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to benefit each owner.

1. Purpose.

a. The purpose of these restrictions is to provide for the use of the property for attractive residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the property, and to maintain the desired tone of the community.

b. These restrictions provide to the owners of the properties the full benefit and

enjoyment of their homes, with no greater restriction on the free and undisturbed use of the site than is necessary to insure the same advantages to the other site owner.

2. Land Use and Buildings.

a. This side-by-side single family attached structure is not to exceed two family living units with one common wall and lot line.

b. Each property may not be further subdivided; each property must maintain its current width and lot area.

c. All building, fire prevention, area and yard requirements of this residential district apply excepting one common wall lot line.

d. The lots have a shared water line and sewer lateral, although sewer and water shall be separately metered.

3. Nuisances.

No noxious or offensive activity shall be carried on upon either lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other lot.

4. Zero Lot Line.

Each lot shall have a common wall and zero lot line.

5. Definitions.

For the purpose of brevity and clarity, certain words and terms used in the Declaration are defined as follows:

a. "Living Unit" shall mean and refer to any portion of a residence building situated on the above described properties, which is designed and intended for use and occupancy as a single family residence, including, by way of enumeration and not by way of limitation, the basement, attic, exterior, foundation, garage and all other portions of the structure thereof.

b. "Lot" shall mean and refer to that separate parcel of land upon which a Living Unit is situated.

c. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to a Lot, or the holder of an equitable interest as a land contract

vendee, but excluding those having such interest merely as security for the performance of an obligation.

6. Declaration of Party Walls.

Each wall which is built as part of the general construction of any Living Unit as a dividing wall between two Living Units shall constitute a party wall, whether or not actually located on the common Lot line between the Lots. All party walls shall be constructed and maintained so that they run from a location no higher than the lowest floor level of a Living Unit, including the basement, and no lower than the underside of the roof sheathing. The term "party wall" expressly includes any supporting foundation for same located below the basement floor level, and any parapet type wall extending above the roofline, and built as an extension of a party wall. All portions of any party wall located beneath the underside of any roof sheathing shall be constructed and maintained as a firewall. All party walls shall comply with applicable building codes.

7. Application of General Rules of Law.

To the extent not inconsistent with the provisions of this Declaration, all general rules of law regarding party walls shall apply to all party walls on the properties subject to this Declaration.

8. Maintenance and Repair Costs.

All costs of repairing, maintaining and/or reconstructing any party wall and zero lot line shall be shared equally by the Owners of the Lots, with each Owner bearing one-half (1/2) of the cost thereof. The costs to be shared pursuant to the provision include all costs reasonably incurred for the purpose of maintaining the structural integrity of any party wall, for the purpose of maintaining the fire rating of any party wall, and/or for the purpose of complying with all applicable building codes relative to any party wall. Costs to be shared pursuant to this provision do not include the cost of any decorating, including but not limited to paint, wallpaper, paneling, millwork or any other items attached or affixed to a party wall from the interior of a Living Unit, whether or not occasioned by the maintenance, repair and/or reconstruction of a party wall or any portion thereof. Notwithstanding any other provision of the Declaration to the contrary, all costs of repairing, maintaining and/or replacing any party wall, or any portion thereof, which are occasioned by the negligent or intentional actions or omissions of any Owner, or of any tenant, guest or invitee of any Owner, shall be borne solely by such Owner, and the other Owner shall not be required to share any of such costs. In addition, each party shall share equally the cost of repairing, maintaining and/or reconstructing the shared sewer lateral and shared waterline; otherwise, each party shall be responsible for costs associated with the repair, maintenance and/or reconstruction of each party's plumbing and mechanical equipment.

9. Damage to or Destruction of Party Walls.

If a party wall, or any portion thereof, is damaged or destroyed by fire or other casualty, or by physical deterioration, or if it fails to comply with applicable building codes, the party wall shall be repaired, restored and/or reconstructed as expeditiously as is reasonably possible.

10. Maintenance Decisions.

All decisions regarding the non-emergency maintenance, repair and/or reconstruction of any party wall shall be made by mutual agreement of the Owners, or, if the Owners are unable to agree, by the Circuit Court for Dodge County. In an emergency situation, any Owner shall be entitled to proceed with appropriate maintenance, repair and/or reconstruction of any party wall, without the prior consent of the other Owner and without the decision of a court. An emergency situation is defined as any condition which presents an unreasonable risk of injury or damage to persons or property if prompt action is not taken. By way of enumeration, and not by way of limitation, any condition which results in any portion of a party wall having a fire rating of less than one hour, or the fire rating required by any applicable building code, whichever is greater, constitutes an emergency situation.

11. Right of Contribution.

In the event any Owner incurs any costs for the maintenance, repair, restoration and/or reconstruction of any party wall, or any portion thereof, which are the responsibility of the other Owner, the Owner incurring the same shall be entitled to reimbursement for that portion of any such costs which are the responsibility of the other Owner, upon written demand. Any such sum not paid when due shall bear interest from the date of demand until paid at an interest rate equal to the statutory interest rate applicable to interest on judgments in the State of Wisconsin. In addition, in the event of commencement of legal action to collect any such sums, the prevailing party shall be entitled to collect all costs and expenses of collection, including but not limited to reasonable actual attorney's fees. The right of any Owner to reimbursement from any other Owner pursuant to this provision shall be appurtenant to the Lot, and the Owner of such Lot at the time the cost is incurred and all successors and assigns of such Owner shall be jointly and severally liable for the payment of all sums due pursuant to this provision, including, where applicable, interest and costs of collection.

12. Encroachments and Easements.

a. Encroachments Arising from Original Construction and/or Shifting or Settling. If any portion of a Living Unit actually encroaches upon the adjoining Lot as a result of the original construction thereof, or as a result of the reconstruction thereof in substantially the same location as the original construction, or as a result of the settling or shifting of the building, there shall be

deemed to be an easement in favor of the encroaching Living Unit to the extent of such encroachment so long as the same shall exist.

b. An easement is hereby created in favor of each Owner for the reasonable installation of usual and customary mechanical services within any party wall, for reasonable decorating of that portion of the party wall facing the interior of their respective Living Unit, and for the purpose of reasonably affixing to said party wall shelving, pictures and similar type items. The easement rights granted by this provision are expressly limited such that no such use by any Owner shall unreasonably interfere with the use, occupancy or enjoyment of the adjoining Living Unit, no such use shall impair the structural integrity of any party wall, and further, no such use shall impair the fire rating of any party wall below the minimum required by the Declaration, or the minimum required by applicable building codes, whichever is greater.

13. Insurance, Replacement and Reconstruction.

Each Owner shall maintain fire and extended coverage insurance on the Owner's Living Unit with limits of not less than full replacement cost thereof. In the event of damage to or destruction of a Living Unit, or any portion thereof, the Owner thereof shall promptly restore the same to its condition prior to any such damage or destruction.

14. Maintenance - Each Lot and Living Unit.

Each Owner shall maintain his or her Lot and the exterior of his or her Living Unit in a neat and clean condition, and in good condition and repair.

15. Architectural Control.

The Owner of a Living Unit may replace exterior components of his or her Living Unit with similar components of the same design and color and may paint the exterior of his or her Living Unit with paint of the existing color of the exterior, but shall not, either in the course of ordinary replacement or remodeling, or in the event of restoration after damage or destruction, make any substantial change to the exterior appearance of the unit, including but not limited to a change in color or a change in siding and/or roofing material, prior to either obtaining the written consent of the adjoining Owner or a written decision from an arbitrator in accordance with the arbitration provisions of Chapter 788 of the Wisconsin Statutes.

16. Enforcement.

Any Owner shall have the right to enforce, by any proceeding at law or in equity, against any other Owner or occupant of a Lot, all provisions of this Declaration and all provisions of the Conditional Use Permit applicable to this property issued by the Village of Lomira. Further, the Village of Lomira shall have the right, but not the responsibility, to enforce the provisions of this

Declaration.

17. Severability.

In the event any provision, or any part thereof, of this Declaration is determined to be illegal, invalid or unenforceable, that portion shall be deemed stricken, and the balance of this Declaration shall remain in full force and effect.

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18. Number and Gender.

Whenever used herein, unless this Declaration shall otherwise clearly provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

19. Amendments.

The provisions of this Declaration may not be amended without the written consent of all Owners of both of the Lots constituting the Property subject to this Declaration, and the written consent of the Village of Lomira.

20. Village of Lomira.

Notwithstanding the fact that this Declaration is being executed as required by the Village of Lomira, and has been reviewed and approved by the Village of Lomira, the Village of Lomira shall have no liability to any present or future Owner with respect to any provision of this Declaration. Notwithstanding the fact that the Village of Lomira has been granted the right, by this Declaration, to enforce the terms and provisions hereof, the Village of Lomira shall not be required, under any circumstances, to undertake any action to enforce any term or provision of this Declaration.

21. Covenant Running with the Land.

The terms and provisions of this Declaration shall be deemed covenants running with the land, and shall be binding upon, and shall inure to the benefit of all present and future Owners of any portion of the property covered by this Declaration.

22. Other.

The terms of this Declaration shall supplement any other applicable recorded restrictions.

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In addition, owners are advised to obtain a copy of all applicable village ordinances.

Dated this 15th day of September 2005.

Kathleen Luedtke, President

State of Wisconsin)
) ss.
County of Dodge)

Personally came before me this 15th day of September, 2005, the above named Kathleen Luedtke, President, Oak Springs Development, Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same.

Thomas A. Schuessler
Notary Public, Dodge County, WI
My commission is permanent.

This document drafted by:
Attorney Thomas A. Schuessler