



Wydown Forest

Indenture of Restrictions
November 10, 1981

This Indenture Made this Second day of October A.D. Nineteen hundred and Twenty two, by and between The Home Sites Corporation, a corporation of the State of Missouri, party of the first part hereinafter called the "Company" and John H. Meyer, Edward W. Klorer and W. C. Sheridan hereinafter called the "Trustees," parties of the Second Part;

Witnesseth, That Whereas, The Company is the owner of a Tract of land situated in the City of Clayton, in the County of St. Louis, State of Missouri, to wit:

A tract of land situated partly in Section 10, Township 45 North, Range 6 east, and partly in U.S. Survey 2888, in the County of St. Louis, Missouri, and more particularly described as,

Beginning at the Southwest corner of Robert Forsyth Tract in the East boundary of aforesaid Section 10, running thence Northwardly along the West line of U.S. Survey 378, 239 feet, 11 $\frac{1}{2}$ inches to the Southeast line of right of way of Rock Island Railroad, thence southwardly along Southeast line of said right of way of Rock Island Railroad, 1245 feet more or less, to the East line of Hanley Road 40 feet wide, thence southwardly along said East line of Hanley Road 1254 feet, 11 $\frac{1}{2}$ inches to North line of Wydown Boulevard, a private road 100 feet wide, thence Eastwardly along the North line of Wydown Boulevard 751 feet 10 $\frac{1}{2}$ inches, to a point distant 1271 feet 1 $\frac{1}{2}$ inches from the Southwest corner of Brentmoor, measured along the North line of Wydown Boulevard, thence Northeastwardly 1117 feet 8 inches to a point in the West line of U.S. Survey 378, distant 500 feet, Southwardly from said Southwest corner of Robert Forsyth Tract, thence Northwardly with the West line of U.S. Survey 378, 500 feet to the point of beginning, containing 34.127 acres.

And Whereas, the Company has caused said tract of land to be laid out as a residence subdivision under the name of Wydown Forest, and a plat thereof to be made and recorded in the office of the Recorder of Deeds, for said County of St. Louis, Plat Book 16, Pages 50 & 51 and has also submitted a copy of same to the City of Clayton, which plat has been approved by said City. (Ord. No. 243, Aug. 22, 1922.)

And Whereas, there has been designated and recited on said plat the various streets and park spaces which have been dedicated to the City of Clayton, for public use forever and also certain easements which have been made and given for the purpose of installing sewers, light poles and wires, and other utilities, under the rules and direction of the City of Clayton.

Whereas, it is the purpose of the Company and of the Trustees, that said subdivision shall be and remain a first class residence district.

Now Therefore, In consideration of these premises and of the sum of One Dollar, to it in hand paid by the parties of the second part, the receipt of which is

hereby acknowledged and the agreements and the consent of the parties of the second part to act as Trustees hereunder, the Company has covenanted and agreed and does hereby covenant and agree with the said Trustees to the affects following and has created and granted and does hereby create and grant unto the said Trustees and their successors the right, easements, powers, duties and authorities hereinafter set forth, that is to say:

First: The Company has agreed and does hereby agree that all the Avenues, Boulevards, Streets, Drives, Walks, Alleys and Parks shown on the Plat (in so far as any, or all of same are not already public streets) are to be and shall be dedicated to public use forever. But the Company retains and reserves the right to receive any money consideration to be paid or allowed or that may be paid or allowed, for any sewers, sewer pipe or water pipe, or other pipes or conduits which now exist in the said subdivision, or may be constructed or laid by the Company; said money consideration to be received and retained by the Company for its own use and benefit.

Second: The Trustees and their successors shall have and are hereby granted full power and authority in their own names, as Trustees of an express trust or otherwise, to prevent any infringement and compel the performance of any covenant or covenants in this Indenture contained. This provision is intended to be cumulative and not to restrict the right of any lot holder to proceed in his own behalf; but the power and authority herein granted to the Trustees is intended to be discretionary and not mandatory.

Third: To enable the said Trustees, without cost to them, to exercise the duties and powers devolved upon them they are granted the right and power to make uniform assessments upon and against the several lots or parcels of land in said subdivision, in accordance with the rule of apportionment hereinafter stated not to exceed however, forty cents per front foot in any one year. The frontage of the various lots for the purpose of assessment shall be determined by the indexed figure set down immediately below the lot number upon the plat, or where not shown on lots, the side of which are parallel, the actual frontage or lot widths shown at the front line shall be used.*

Fourth: The assessments so levied shall include such amount as may be deemed necessary by the Trustees for the proper maintenance of all of the Parks, parking spaces, and trees in the public streets, cross walks and parks within the property

*As amended by Indenture recorded in Book 6330, Page 1746, St. Louis County Recorder of Deeds Office June 13, 1968.

And in the event of failure on the part of the Municipal authorities to maintain, oil, or sprinkle the streets, or flush the sewers, the Trustees may at their discretion make assessments or employ funds at their disposal for such maintenance. Every assessment hereby authorized shall constitute, from and after the passage of a resolution levying the same and the Recording thereof in the minutes of the proceedings of the Trustees, the personal debt and obligation of the holder (at the time) of the legal title of the said lot, to which such assessment refers or is made applicable, shall bear interest as herein provided, and in addition, every such assessment shall, from and after the time just aforesaid, be and constitute a lien or charge against any lot to which it relates and be enforceable by the Trustees against such lot in like manner as is or may be provided by the law for the enforcement of equitable liens generally. Notice of such assessment may be given by mail addressed to the last known or usual post office address of the holder of the legal title, or may be given by posting a brief notice of the assessment upon the lot itself. If any assessment be not paid within 30 days after notice given as provided, it shall bear interest at the rate of 8% per annum until paid and such interest shall also constitute a lien together with the principal against the lot in question. At any time after the passage of the resolution levying an assessment, and its entry in their minutes, the Trustees may, in addition, execute and acknowledge an instrument reciting the levy of the assessment with respect to any one or more lots, and cause same to be recorded in the Recorder's Office in the County of St. Louis, and the Trustees may (upon payment) cancel or release any one or more lots from the liability for assessment (as shown by recorded instrument) by executing, acknowledging and recording (at the expense of the owner of the property affected) a release of such assessment with respect to any lot or lots affected; And the Trustees shall cause to be noted from time to time in the minutes of their proceedings, the payments made on account of assessments.

Fifth: Whenever any one or more of said Trustees or their successors, appointed as herein provided shall die, or resign, or become non residents of the City and County of St. Louis, or shall become incapacitated by reason of illness or otherwise, or shall cease to have any interest in the said subdivision, either as lot owner or owner of stock in the Company, then the remaining Trustee or Trustees shall by written instrument appoint a successor or successors who shall reside in the City or County of St. Louis, and shall be interested in the said subdivision either as lot owner or stockholder as above provided; said instrument of appointment to be executed, acknowledged and recorded as may be required by law for an instrument affecting real estate. It shall set forth the name of the person or persons who have ceased to be Trustees, and the

name of the appointee, or appointees, together with the cause of the vacancy, and upon the recording of such instrument of appointment, the appointee shall be immediately substituted as Trustees and have all the rights, title, powers, duties and privileges herein conferred upon any of the persons named herein as original Trustees.

Sixth: The Trustees provided for herein shall keep written minutes of their proceedings which shall be open to inspection at all reasonable times by any person interested, any two of them may exercise the powers of the Board, and they shall serve without pay, except for expenses reasonably incurred.

Seventh: Said Trustees shall have the power to grant to any person or corporation undertaking to furnish Electricity, Heat, Light, Water, Power or Gas or any convenience desirable for a residence district, the right to place the necessary poles, wires, pipes, conduits or other implements upon, in or under any of said streets and alleys, and to make contracts for supplying the occupants of the land abutting upon said streets with such utilities, and all such poles, wires, pipes, conduits, or other implements shall at all times be subject to the reasonable control and regulation of said Trustees, and all sewer connections shall be under permits, to be issued by said Trustees. However, all of the foregoing paragraph shall apply only in so far as the City of Clayton may fail to exercise their rights in the installation of and control of such facilities in accordance with the granting of said easements set forth in the above Plat of Record.

Eighth: All lots in this subdivision are sold subject to the following restrictions: No more than one building shall be erected on any lot, and no building or other structure shall be erected closer to any street than the building line shown on the above plat except open porches or steps may extend not more than eight feet beyond said building line. Fences of wire or living materials may be erected on side and rear lot lines. No fences except deciduous or evergreen shrubs shall be erected so as to project in front of the buildings. Fences of wrought iron, brick, wood or combinations of these materials may also be erected where privacy is desired on side and rear lot lines, provided that such fences shall not enclose any rear yard in its entirety, and provided that suitable drawings are submitted to the Trustees and written approval of the design and construction is obtained from the Trustees prior to erection. Any poles, electric light and service, which may now or subsequently be erected within said subdivision, shall be erected in the easements at the rear or along certain side lot lines of said lots.*

*As amended by Indenture recorded in Book 6248, Page 37, St. Louis County Recorder of Deeds Office July 5, 1967.

Ninth: All lots in this subdivision except only those particularly enumerated hereinafter, shall be restricted to single family residences only, and said residences shall be of not less than one and one half stories above any basement, and having not less than two living rooms on the second floor. On lots designated as permissible for Apartments, namely lots 6, 7 and 8, Block "A," and all lots fronting Hanley Road, no flat or apartment or business building shall be more than two stories in height above the basement to the cornice line, and all buildings so erected shall have sloping roofs of either hip or gable construction throughout the main portion of such buildings, and in which roof space apartments or living rooms may be placed if so desired by the builder.*

Tenth: No business structure shall ever be erected upon any of the land in said subdivision, excepting on lots 9, 10, 11, 12 and 13, in Block "A", upon which business structures are permitted, and no land within the subdivision shall be used for manufacture of any description, or as a hospital or charitable institution or place of public resort, and no building hereafter erected in said subdivision shall be used for any purpose prohibited by law or ordinance, and nothing else shall be done which may be or hereafter become a nuisance to the holders of Lots in the said subdivision.*

Eleventh: All buildings to be erected within the subdivision shall be constructed in compliance with the current building and zoning codes of the City of Clayton, Missouri, as shall external structural modifications to existing buildings. No building shall be erected on any lot within the subdivision, nor shall the exterior of any existing building be structurally modified, without prior written approval of the Trustees regarding architectural compatibility with the neighborhood. No one will be permitted to live on any lot in the subdivision in a mobile home, recreational vehicle, temporary building or tent erected or placed thereon.*

Twelfth: All the foregoing restrictions numbered 8, 9, 10 and 11 shall be and remain in force until the First day of January, 2012, but any one or more of them may be extended beyond that time provided that before that date the consent shall be obtained of the owners of three fourths (¾) of the total number of front feet in said tract, such consent shall be evidenced by written instrument, executed, acknowledged and recorded as required by law for instruments affecting real estate.*

Thirteenth: All of the lots and parcels of ground in said tract are hereby subjected to all the restrictions herein set out directing and limiting the use and occupation of said lots and every part

*As amended by Indenture recorded in Book 7370, Page 1352, St. Louis County Recorder of Deeds Office Nov. 10, 1981.

thereof, and said restrictions shall operate as covenants running with the land into whosoever hands it or any part of it shall come, and shall be enforceable at the suit of any and every owner of any lot or parcel of ground in said tract, or of the Trustees by a proper proceeding either in equity or at law.

Fourteenth: All or any of the foregoing provisions or restrictions may be modified, amended, released or extinguished at any time by written instrument executed, acknowledged and recorded as required by law for instruments affecting real estate, by the owners of three fourths (¾) of the total number of front feet embraced in this indenture and for this purpose the frontage shall be determined as set out in paragraph Third of this instrument.

Fifteenth: It is hereby declared to be the intention of the parties hereto, that each of the covenants, conditions and restrictions hereinbefore set forth in this deed, shall be independent of the other, and that a failure to enforce one or more of said conditions or restrictions, shall not be construed as a waiver of the right to enforce the same conditions, restrictions or any of the others.

Sixteenth: Amend the restrictions set forth in said indenture dated October 2, 1922 and recorded at Book 567, page 35 of the records of the Recorder of Deeds of St. Louis County, Missouri, by adding to said indenture a new paragraph to be known and numbered "NINTH (A)" of said indenture, which shall be and read in words and figures as follows:

"NINTH (A), Lot 32 of Block G of Wydown Forest may be acquired by the City of Clayton, Missouri, and improved and used in whole or in part as a public walk."

This amendment shall not be taken or construed to modify, amend, release, or extinguish any of the restrictions contained in said indenture, except as to said Lot 32 of Block G, and as to said lot only as to its acquisition, improvement and use by the public for walk or parkway purposes, as provided in the amendment above set forth.*

*As amended by Indenture recorded in Book 1869, Page 519, St. Louis County Recorder of Deeds Office September 22, 1942.

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