

Office of
Recorder of Deeds, Clay County
Phone: St. 1-1868
Liberty, Missouri.

State of Missouri)
) SS
County of Clay)

I, Ralph H. Hooper, Recorder of Deeds within and for said County and State hereby certify that the above and foregoing is a full, true and complete copy of the HOMES ASSOCIATION DECLARATION from Robert J. Sabinske and Anita M. Sabinske, his wife, to HIGHLAND ACRES acknowledgement and note of record thereon as the same appears of record in my office in Book 539 page 179.

In Testimony Whereof, I hereunto set my hand and affix my official seal at my office in Liberty, Missouri, this 26th day of April, 1960.

Ralph H. Hooper,
Recorder of Deeds in
and for Clay County,
Missouri

By: Twyla Popjoy,
Deputy.

A69050

HOMES ASSOCIATION DECLARATION

This Declaration made this 5 day of March, 1956 by Robert J. Sabinske and Anita M. Sabinske, his wife, owners of the property described as follows, to-wit:

All of Highland Acres, a subdivision in Clay County, Missouri, according to the recorded Plat thereof.

WITNESSETH: That

WHEREAS, Robert J. Sabinske and Anita M. Sabinske, his wife, are now developing the above described property for high class residential purposes and it is their desire to continue the development thereof and other lands in the vicinity for such purposes and for the erection and maintenance of a residence neighborhood possessing features of more than ordinary value to a residential community; and

WHEREAS, Robert J. Sabinske will attempt to furnish domestic water on a temporary basis to the property owners in the district above described, but desires to sell and transfer the water system either to the property owners or to whoever may desire to acquire the same, as soon as practicable and

WHEREAS, in order to assist the owners of the above described premises and their grantees in providing necessary means to better enable the said owners and their grantees to bring this about, the said Robert J. Sabinske and Anita M. Sabinske, do hereby subject all the property above described to the following covenants, charges and assessments:

DEFINITION OF TERMS USED:

The term "district" as used in this agreement shall mean, unless and until extended as hereinafter provided, all of the land in the Plat of Highland Acres above mentioned. If or when other land shall be in the manner hereinafter provided for be added to that above described, then the term "district" shall thereafter mean all land that shall from time to time be subject

to the terms of this agreement or any future modification thereof.

The term "Public Places" as used herein, shall be deemed to mean all streets, lakes, streams and all parks at street intersections or elsewhere except those parts maintained by Clay County, Missouri, and all similar places, the use of which is dedicated to or set aside for the use of the general public, or the general use of all of the owners within the district, or which may, with proper consent be used by all of the owners of the district.

The term "owners" as used herein shall mean those persons or corporations who may from time to time own the land within the district.

PUBLIC IMPROVEMENTS UNDER MANAGEMENT

All public improvements upon and to the land in the district or improvements in public places, shall be under the management or control of the Highland Acres Homes Association, as Trustee, an association to be composed of the owners of the real estate in said District, which association may or may not be incorporated as the members thereof may hereafter provide. But whether it is incorporated or not, it is understood and agreed that the members of the association shall be limited to the owners of the land within the boundaries of the district as it exists from time to time. It is provided, however, that such management and control of said improvements shall at all times be subject to that had and exercised by Clay County and by the State of Missouri, or any of them. And in addition thereto, it shall have such further power and duties as are hereinafter set forth, all of which may be exercised or assumed at the discretion of the Association.

The Association shall be the sole judge of the qualifications of its members and of their right to participate in its meetings and proceedings.

POWERS AND DUTIES OF THE ASSOCIATION AS TRUSTEE:

The Association shall have the following powers and duties when in the exercise of its discretion, it may deem them necessary or advisable, provided, that nothing herein contained shall be deemed to prevent any owner having the contractual right to do so, from enforcing any building restrictions in his own name.

FIRST: To enforce, either in its own name or in the name of any owner within the district, any or all building restrictions that may have been heretofore, or may hereafter be imposed upon any of the land in said district, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, release or modifications of restrictions or reservations being made by the parties having the right to make such changes, or modifications, as are permissible in the deeds, contracts, or plats in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties wherever and whenever such right of assignment exists. The expenses and costs of any such proceeding shall however be paid out of the general fund of the Association, as herein provided for.

SECOND: To provide for the plowing or removal of snow from the sidewalks and from the streets.

THIRD: To care for, spray, trim and protect and replant trees on all streets and in other public places where trees have once been planted except where otherwise provided for; to care for, protect and replant shrubbery and resow grass in the parks that are in the streets or in the parks set aside for the general use of the owners of the district or to which such owners have

access and the use thereof, except those maintained by Clay County or any municipal government.

FOURTH: To mow, care for, and maintain parking in front of vacant and other property and remove weeds and grass from such parking or other public places, and to cut and remove weeds and grass from other vacant property; to pick up and remove therefrom loose materials, trash and rubbish of all kinds, and to do any other thing necessary or desirable in the judgment of the officers of said Association, to keep such vacant and unimproved property neat in appearance and in good order.

FIFTH: To provide such lights as the Association may deem advisable on the streets, parks, parkings, gateways, entrances or other features, and in other public or semi-public places.

SIXTH: To provide for the maintenance of tennis courts, playgrounds, gateways, entrances, drinking fountains, lakes, streams, and other ornamental features now existing or that may hereafter be erected or created in said district in any public street or park, or on any land set aside for the general use of the owners in the district, or to which all of such owners have access and the use thereof.

SEVENTH: To exercise such control over easements as it may acquire from time to time.

EIGHTH: To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes as may be assessed against land in public or semi-public places.

LAND ENTITLED TO BENEFITS:

No land shall be entitled to any of the benefits or improvements or services provided for by this Association unless the owner or owners thereof shall have subjected their land to the terms of this agreement and to the assessments herein provided for.

WATER

Robert J. Sabinske agrees that he will make reasonable efforts and go to reasonable expenses, of which he shall be the sole judge, to furnish water for domestic purposes to the several lots sold in the district at the time said lots are built upon. Reasonable effort shall include the drilling of wells and laying of water mains, but no guarantee is made by Robert J. Sabinske as to the sufficiency now or in the future of the water supply. Water shall be furnished only to lots with improvements thereon within the district and pending the time when the Association may acquire title to the water system. Robert J. Sabinske may make such charges for connection to the water line as will enable him to recoup the expenditures he has made or will make for a water system. Payment shall be made prior to the making of any connection. Robert J. Sabinske shall also be entitled to make monthly or quarterly charges for the consumption of water on a uniform per connection basis or on the basis of amount of consumption measured by meter, to cover the operation and maintenance of the water system and to allow a reasonable reserve for emergencies and replacements. He may adopt such reasonable rules or regulations as are by him, deemed proper for the operation of the water system for so long as he is owner thereof, and may require a payment in advance for water service and may discontinue service for non-payment of any charge and the owners do hereby release Robert J. Sabinske from any and all claims and demands arising out of discontinuance of water services for non-payment of water charges or

or for any cause beyond the reasonable control of Robert J. Sabinske.

For a period of five years from the date hereof, Robert J. Sabinske hereby gives to the Association the right of first refusal to purchase the water system as a unit. During this period he shall give the Association at least thirty (30) days notice of any offer he has received from third parties to acquire the water system, setting forth terms and conditions of such offer. Notwithstanding the fact that the third party's offer may be more advantageous to Mr. Sabinske, the Association shall have the right to purchase, as a unit, the water system from him at his actual cost, with interest thereon at six percent (6%) per annum from the time the funds were expended in acquiring and building the water system, less any amount that he has recouped as connection charges or operation and maintenance of the system over and above his actual cost therefor. All right of the Association to a first refusal on the purchase of the water system from Robert J. Sabinske shall cease five years from the date of this declaration or at the end of thirty (30) days from the time Robert J. Sabinske has given notice of the offer to purchase the system by a third party or parties as above provided and the Association fails to purchase the same whichever sooner occurs, and thereafter Robert J. Sabinske shall be free to sell the water system to whomever he chooses and at any price he may elect.

If the Association shall acquire the water system as above provided, it may make such uniform changes as its Board of Directors may deem fit for future connections and shall make uniform monthly or quarterly service charges for consumption of water payable in advance. The Association shall maintain the system in good condition and repair and may establish a reserve fund to provide for continuancy, replacement or changes in the system. If the monthly or quarterly assessments or service charges for water are not paid when due, the charge shall be a Lien on the owner's land within the district subject to the water service charge in the same manner as assessments for the general fund set forth below. The Association may also, if the Board of Directors should so elect, discontinue water service to the delinquent user until paid. The several owners of lots hereby release the Association from all claims and demands for the discontinuance of water for non-payment of water charges or for any cause beyond the reasonable control of the Association.

The Association may employ such agents and servants as it deems necessary for the operation and maintenance of the water system. The system shall, at all times, be operated as a cooperative water system for the mutual benefit of and as the uniform burden to all owners of the Association served by water.

If the Association shall have acquired the water system from Robert J. Sabinske, it may sell the same to any person or corporation on such terms and conditions as it may deem fit, provided, however, that a written consent of the owners of more than two-thirds of land upon which improvements are located and served by said water system agree, in writing, to said sale. The proceeds from said sale shall be paid pro-rata to the owners of improved land being served by said water system.

In the event Robert J. Sabinske becomes the principal stockholder of a water Company, he may transfer title to the entire water system to said Company, which Company shall be considered to have taken the place of and shall thereafter stand in the stead of Robert J. Sabinske with respect to these presents and said Company shall assume all of the duties and obligations of Robert J. Sabinske described herein.

METHOD OF PROVIDING GENERAL FUNDS.

For the purpose of providing a general fund to enable

the said association to perform the duties, and to maintain the improvements herein provided for, all land within the boundaries of the district above described, shall be subject to an annual improvement assessment to be paid to the Association annually in advance by the respective owners of the assessable land subject thereto, which assessable land shall be deemed to be all of the above lands in Highland Acres lying within 150 feet of any paved street, open to vehicle travel, exclusive, however, of all land contained in streets, parks, lakes, playgrounds or other public places open to the public, or for the common use of the owners or residents of the land within the district, or all of the owners or residents of the land within the district, or all of the owners of one or more entire block. The amount of such assessment shall be fixed by the Association from year to year, but shall not be in excess of one mill per annum for each square foot of all of the assessable land within 150 feet of any paved street open to vehicle travel. The rate of the assessment may be increased to two mills per square foot per annum on all of the assessable land within 150 feet of any paved street open to vehicle travel, provided that at a meeting of the members specially called for that purpose, prior to the date on which the assessment is due for the year for which such increase is proposed the owners of more than one-half of the area of assessable land vote for such an increase; and provided further that the assessment may be increased to three mills per square foot per annum on all of the assessable land within 150 feet of any paved street open to vehicle travel, provided, that at a meeting of the members specially called for that purpose, prior to the date on which the assessment is due for the year for which such increase is proposed, the owners of more than two-thirds of the area of assessable land vote for such an increase. Whenever the Association may deem it advisable to submit to the members a proposal for increasing the rate of the assessment for any particular year, then it shall notify members of the Association by mailing to each member at his last known address with United States postage hereon prepaid, a notice of such meeting, giving the time and place at which it is to be held and the fact that an increase in the rate of assessment is to be voted upon at such meeting. No increase in the rate of assessment may be made for more than one year at a time.

ASSESSMENTS DUE MARCH FIRST OF EACH YEAR:

The first assessment shall be for the fiscal year, beginning March 1, 19__, and it shall be fixed and levied prior to March 1, 195__, and shall be payable on that date, and thereafter it shall be due and payable on the first day of March of each year. It will be the duty of the Association to notify all owners whose addresses are listed with the Association on or before that date, giving the amount of the assessment, when due, and the amount on each tract of land owned by them. Failure of the Association to make the assessment prior to March 1st of each year for the next succeeding fiscal year beginning on March 1st, shall not invalidate any such assessment subsequently made for that particular year. Nor shall failure to levy assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to March 1st of any year, then it shall become due and payable not later than thirty days from the date of levying of the assessment.

WHAT CONSTITUTES NOTICE:

A written or printed notice thereof, deposited in the United States Post Office, with postage thereon prepaid and addressed to the respective owners at the last address listed with the Association shall be deemed to be sufficient and proper notice for this purpose, or for any other purpose of this contract, where notices are required.

LIEN ON REAL ESTATE:

The assessment shall become a lien on said real estate as soon as it is due and payable as above set forth. In the event of failure of any of the owners to pay the assessment on or before the first day of April following the making of such assessment, then such assessment, shall bear interest at the rate of 10 per cent per annum from the first day of March, but if the assessment is paid before the first day of April, or within thirty (30) days from the date of assessment, if the assessment is made subsequent to March 1st for the fiscal year beginning March 1st, then no interest shall be charged.

WHEN DELINQUENT:

On or after the first day of April of each year, beginning April 1, 195__ or within thirty (30) days from the date of levying the assessment for the fiscal year during which and for which the assessment is made, the assessment shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate, in proceeding in any court in Clay County, Missouri, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suit to enforce such liens as soon as they become delinquent.

TERMINATION OF LIENS:

Such liens shall continue for a period of one year from the date of delinquency and no longer, unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall continue until the termination of the suit, and until the sale of the property under execution of the judgment establishing the same.

EXPENDITURES LIMITED TO ASSESSMENT FOR CURRENT YEAR:

The Association shall at no time expend more money within any one year than the total amount of the assessment for that particular year, or any surplus that it may have on hand from previous assessments, nor shall said Association enter into any contract whatever, binding the assessment of any future year to pay for any such obligations, and no such contract shall be valid or enforceable against the Association, it being the intention that the assessment for each year shall be applied as far as is practicable, toward the paying of the obligations of that year, and that the Association shall have no power to make a contract affecting the assessment of any future or subsequent year.

OTHER LANDS HOW THEY MAY BE ADDED:

Robert J. Sabinske and Anita M. Sabinske, subject to the approval of the Association, may from time to time add such land to the district as is now owned by the parties hereto, or as any one or more of them hereafter may own, provided that the land to be added to the district shall at that time be bound by all the terms of this agreement or any future modification thereof; with the further provision that any land may be added from time to time as shall be contiguous to the District as theretofore constituted, and an intervening street or parkway shall not have the effect of breaking such contiguity within the meaning of the agreement. The Association may also unite or combine with any other Association similarly organized, operating on a similar basis having jurisdiction of land contiguous to the district then under the control of this Association. Such a combination before becoming effective shall be approved in writing by the owners of more than one half (1/2) of the area of assessable land; provided, that no land may hereafter be added to the district as it is now or then constituted, unless the street improvements and utilities in that part of the territory that is proposed to add to the district shall be in the judgment of the Highland Acres Homes Association of a character and condition

equal to those then existing in the property at that time covered by this agreement, and provided further that each of the owners of the property that is proposed to be added to the district, shall sign an agreement to be bound by all of the terms of this contract or any future modification thereof, except as to building restrictions, and so far as it may apply to the property in said addition to the district. If the street improvements and other utilities in the land proposed to be added to the district be not completed or built at the time it is proposed to add said lands to the district, then the Association may require suitable guaranties from the owners of the said land that such improvements and utilities will be built within a certain prescribed period of time, and that such improvements and utilities when built will be in the judgment of the Association of a character and condition equal to those existing in the District at that time covered by this agreement.

ASSOCIATION TO NOTIFY MEMBERS OF ADDRESS:

The Association shall notify all owners of land in the District as it may exist from time to time insofar as the address of such owners is listed with said Association of the official address of said Association, as to what place and time regular meetings of the Association shall be held, designating the place, where payments shall be made, and any other business in connection with said Association may be transacted, and in case of any change of such address, the Association shall notify all the owners of the land in the District insofar as their addresses are listed with the Association of the change, notifying them of its new address.

NEW POWERS TO BE GIVEN:

By written consent of the owners of more than two thirds (2/3) of the area of all assessable land, evidenced by an agreement duly executed and acknowledged and recorded in the office of the Recorder of Deeds of Clay County, Missouri, the Association may be given such additional powers as may be desired by said owners, or to otherwise amend this instrument, provided, however, that no right to change the proportion of the assessment rate may be given.

TEMPORARY TRUSTEE:

Prior to the actual organization or incorporation of the Association contemplated by the terms of this declaration, Robert J. Sabinske and Anita M. Sabinske shall have the right at their option to perform the duties; assume the obligations, levy and collect the assessments, and otherwise exercise the powers herein given to the Association in the same way and manner as though all of such powers and duties were herein given direct to Robert J. Sabinske and Anita M. Sabinske.

All owners of land covered by this agreement shall have equal rights and privileges of membership in the Association, and shall be entitled to one vote for each Lot or major part of a Lot subject to this agreement and owned by such member. Unless otherwise provided herein or in the Articles of Incorporation if the Association shall subsequently incorporate, each member shall at every meeting of the Association be entitled to one vote as a unit in person for each Lot or major part of a Lot of subject property owned by each member. The member of the Association may enact or adopt such articles, charter or by-laws as they may determine, provided that the same shall not be inconsistent with the terms hereof and may provide therein for the election of directors, officers or trustees who may perform such duties and functions as may be determined by the Association.

TO OBSERVE ALL LAWS:

Said Association shall at all times observe all the State, County and other Laws, and if at any time any of the provisions of this agreement shall be found to be in conflict with such laws, then such parts of this agreement as are in conflict with such laws, shall become null and void, but no other part of

this agreement not in conflict therewith shall be affected thereby. The Association shall have the right to make such reasonable rules and regulations and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of the agreement, subject however, to the limitations of its right to contract as is herein provided for.

HOW TERMINATED:

This agreement may be terminated, and all of the land now or hereafter affected may be released from all of the terms and provisions here of by the owners of two-thirds (2/3) of the area of assessable land at the time it is proposed to terminate this agreement by executing and acknowledging an appropriate agreement or agreements for that purpose and filing the same for record in the office of the Recorder of Deeds of Clay County, Missouri.

COVENANTS RUNNING WITH THE LAND:

All of the provisions of this declaration shall be deemed to be covenants running with the land and shall be binding upon the parties hereto and upon their heirs, successors and assigns.

IN WITNESS WHEREOF, Robert J. Sabinske and Anita M. Sabinske have executed these presents as of the day and year first above written.

Robert J. Sabinske
Anita M. Sabinske

STATE OF MISSOURI)
) SS.
COUNTY OF CLAY)

On this 5th day of March, 1956, before me, the undersigned, a Notary Public, personally appeared Robert J. Sabinske, Husband of Anita M. Sabinske, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Clay County, Missouri, the day and year last above written.

Virginia L. Kern
Notary Public in and for
said County and State.

My commission expires: May 14, 1958.

STATE OF MISSOURI)
) SS.
COUNTY OF CLAY)

On this 5th day of March, 1956 before me, the undersigned, a Notary Public, personally appeared Anita M. Sabinske, wife of Robert J. Sabinske, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Clay County, Missouri the day and year last above written.

Virginia L. Kern
Notary Public in and for
said County and State

My commission expires May 14, 1958.

Filed for record this 5th day of March, A.D. 1956 at 1 o'clock 25 Minutes P.M.

Robert F. Groom, Recorder.

By: Alma Eiker, Deputy.