

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HOMEOWNERS ASSOCIATION OF POST OAK FOREST INC.

THIS DECLARATION made on the date hereinafter set forth by THE HOMEOWNERS ASSOCIATION OF POST OAK FOREST, INC., is in conformity with Federal Housing Administration requirements for such a Declaration;

WITNESSETH:

WHEREAS, Homeowners Association of Post Oak Forest, Inc. is the owner of certain real property situated in College Station, Texas, which the metes and bounds more particularly describe as follows:

Field notes of an 8.493 acre tract or parcel of land lying and being situated in the Richard Carter League, College Station, Brazos County, Texas and being part of the 9.155 acre tract No. 2 and Lot 10 Block B shown on the plat of Carter's Grove, Second Installment, plat of said subdivision being recorded in Volume 288, page 161 of the Deed Records of Brazos county, Texas and being more particularly described as follows:

BEGINNING at an iron rod set for corner, said iron rod being located at or near the northeast corner of the abovementioned Lot 10, Block B, said iron rod being a common corner of the said Lot 10 and Lot 9, Block B of the abovementioned subdivision;

THENCE S 41° 48' 00" W along the common line of the abovementioned Lot 9 and Lot 10 for a distance of 337.28 feet to an iron rod found for corner;

THENCE N 48° 12' 47" W for a distance of 188.15 feet to an iron rod set for corner, said iron rod being located S 48° 12' 47" E a distance of 5.0 feet from a found concrete monument, said concrete monument being located in the southeast line of the before mentioned 9.155 acre tract No. 2, said line being the common line between the said tract No. 2 and the abovementioned Lot 10;

THENCE S 41° 48' 00" W parallel to and 5.0 feet from the above-mentioned common line for a distance of 323.52 feet to an iron rod set for corner, said iron rod being located in the northeast right-of-way line of Shady Drive;

THENCE along the abovementioned right-of-way, same being a curve to the left with a radius of 40.06 feet, at an arc distance of 5.08 feet pass a found concrete monument, said concrete monument being the southwest corner of the before mentioned 9.155 acre tract No. 2, continue along the said right-of-way line and curve for a total arc distance of 79.24 feet, the chord bears S 89° 00' 22" W a distance of 66.94 feet, to an iron rod set for corner, said iron rod being the southeast corner of the said tract No. 2, said iron rod also being located in the southeast line of the 12.264 acre tract No. 1, shown on the before mentioned plat;

THENCE N 28° 55' 30" W along the common line of the abovementioned tract No. 1 and tract No. 2 for a distance of 591.68 feet to an iron rod set for corner, said iron rod being a common corner of this tract and a 1.715 acre tract out of the said tract No. 2.

THENCE along the common line of this tract and the abovementioned 1.715 acre tract for the following calls:

N 70° 55' 52" E for a distance of 266.69 feet to an iron rod for angle point;

N 63° 00' 27" E for a distance of 298.49 feet to an iron rod for corner, said iron rod being located in the common line of the abovementioned 9.155 acre tract No. 2 and 171.028 acre tract conveyed to Bert Wheeler, Trustee by the deed recorded in Volume 271, page 128 of the Deed Records of Brazos County, Texas, said iron rod also being a common corner of this tract and the said 1.715 acre tract;

THENCE S 48° 10' 31" E along the common line of the abovementioned tract No. 2 and the abovementioned 171.028 acre tract at a distance of 364.83 feet pass an iron rod, said iron rod being located at or near the common corner of the said tract No. 2 and the before mentioned Lot 10, continue along the said line for a total distance of 557.98 feet to the PLACE OF BEGINNING containing 8.493 acres of land more or less as surveyed June, 1972 by B. J. Kling.

WHEREAS, Homeowners Association of Post Oak Forest, Inc. is declared a residential Community with permanent facilities, recreational areas, open spaces and other common areas for the benefit of said community; and,

WHEREAS, the Association provides for the preservation of the values and amenities in said community and, for the maintenance of said facilities, recreational areas, open spaces and other common areas; and, to this end, desires to subject the property herein described to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each other there-of; and,

WHEREAS, the Association is delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; for the efficient preservation of the values and amenities in said community;

NOW, THEREFORE, the Association hereby declares that all of the properties herein described shall 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 the 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 insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to HOME OWNERS ASSOCIATION OF POST OAK FOREST, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such annexations and additions thereto as may be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area, owned by the Association is described as; all land described in the first whereas paragraph of this instrument SAVE AND EXCEPT all residential lots.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area. "Lot" shall also mean and refer to said plot of land containing a residence within the properties.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant and shall pass with the title of every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to limit the number of guests of a member;
- (b) the right of the Association to suspend the voting rights and rights to use the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid.
- (c) the right of the Association to suspend voting rights, suspend use of recreational facilities of an owner or tenant for a violation of the specified rules and regulations as noted in Article VIII and Article IX of this document and in the Association By-Laws and lawfully adopted Published Rules and Regulations. .
- (d) the right of the Association to dedicate, or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the members agreeing to such dedication or transfer has been recorded; .

Section 2. Any Owner may delegate in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to tenant and the members of his family who reside on the property.

Section 3. Ownership of each lot shall entitle the Owner or Owners thereof to the use of the driveway into his lot as automobile parking spaces.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. Members of the Association shall be entitled to one vote for each Lot owned. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each owner of a Lot within the Properties by acceptance of, a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) monthly assessments or charges, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorney's fees, shall, to the full extent permitted by law, be a charge on the land and a continuing lien upon the property against which such assessment is made. Each 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 successor in title unless expressly assumed.

Section 2. 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 improvements and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Monthly Assessment. The maximum monthly assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership. The maximum monthly assessment may be increased above five percent (5%) by an affirmative vote of two-thirds (2/3) of the members who are entitled to vote and properly notified, of a meeting duly called for this purpose. The Board of Directors may fix the monthly assessments at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; PROVIDED that any such assessment shall have the affirmative vote of two-thirds (2/3) of all the membership.

Section 5. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all lots.

Section 6. Notice and Quorum for Any Action Authorized under Sections 3 and

4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 15 days or more than 50 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of members shall constitute a quorum. If the required quorum is not present then the meeting may not be continued or another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessments and Due Dates. The

monthly assessments provided for herein shall commence against all lots on the first day of the month and shall continue for each of the months remaining in the calendar year. The Board of Directors shall fix the amount of the monthly assessment against each lot at least thirty days before each January 1st. Written notice of the monthly assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect on Nonpayment of Assessments; Remedies of the Association.

Any assessment not paid on the date when due shall be immediately delinquent and shall, together with such cost of collection as is hereinafter provided, immediately become a continuing lien on the Lot which shall, to the full extent permitted herein and by law, bind such property in the hands of the then owner, his heirs, personal representatives, successors and assigns. If the assessment is not paid within ten (10) days after the due date, a late payment fee will be assessed by the Board per month for every month that the assessment is in arrears, and the Association may either (1) bring an action at law against the owner personally obligated to pay the same, or (2) foreclose the lien against the Lot, or (3) both, and, in either event, there shall be added to the amount of such assessment, all late fees as provided and all cost of collection, including reasonable attorney's fees. No owner may waive or otherwise escape liability for the assessments provided for herein for non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien securing of the assessments

provided for herein shall be subordinate to the lien of any first mortgage for purchase money. 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 proceedings 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. No extinguishment of the lien shall relieve the delinquent Lot owner from his personal obligation and liability therefore.

Section 10. Transfer of Ownership Fee. An administrative fee of \$100.00 will be paid to

the Association whenever the ownership of any Lot changes. The buyer of the Lot shall pay this fee to the Association. The new owner shall be furnished a copy of the Declaration of Covenants, Conditions and Restrictions and a copy of the By-Laws and Rules complete with all Amendments in booklet form. A copy of Pool Regulations and Architectural Control Specifications shall be included in each booklet.

ARTICLE V

PARTY WALL

Section 1. General Rules of Law to Apply. Each wall which is built as a party of the original construction of the homes upon the properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion of such use.

Section 3. Destruction by Fire of Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter made use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use of the wall without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Party Wall owner to contributions from another Party Wall owner under this article shall be a covenant running with the land and shall pass to such owners, heirs and/or successors in title.

Section 6. Arbitration. In the event of a dispute concerning a Party Wall, under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and shall be binding on all parties to the dispute.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Purpose. The purpose of the architectural control committee is to maintain a consistency of architecture elements and colors throughout the existing surroundings and structures. The Architectural Control Committee will review plans and make recommendations to the Board of Directors who will make the final decision.

Section 2. Review by Committee. No structure, whether residence, accessory building, tennis court, swimming pool, antennae, grill work, fences (on a structure or on a lot), flag poles, walls, house numbers, exterior lighting, or other improvements, shall be constructed and maintained upon any lot and no alteration or repainting to the exterior of a structure shall be made unless complete plans, specifications, and lot plans

therefore, showing the exterior design, height, building material, and color scheme thereof, the location of the structure plotted horizontally and vertically, the location of driveways, fencing, and the grading plan shall have been submitted to and approved in writing by the Architectural Control Committee, and a copy of such plans, specifications, and lot plans as finally approved deposited with the Architectural Committee.

Section 3. The Architectural Committee shall exercise its best judgment using guidelines from published Architectural Control Committee Rules and Regulations to see that all improvements, construction, landscaping and alterations on lands within the Properties conform to and harmonize with the existing surroundings and structures.

Section 4. Procedures. All submissions shall be approved or disapproved within 30 days after submission. Approval or disapproval of requests will be answered in writing and should be available for examination by any member of the Association. The homeowners must have proof of a written response of approval before any actions can commence. If owner proceeds without approval, the board reserves the right to restore to conforming conditions at the homeowners expense.

Section 5. The secretary shall maintain written records of all applications submitted to the committee and of all actions taken.

Section 6. A majority vote of the board is required to pass any recommendation of the Architectural Control Committee.

Section 7. The Architectural Control Committee and the Board shall not be liable in damages to any person submitting requests for approval or to any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any such requests.

Section 8. The Architectural Control Committee shall consist of three (3) owners appointed by such board for a term of one year.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. In addition to maintenance upon the Common Area and its utilities, the Association shall approve or initiate, after notification, if necessary, exterior maintenance upon each Lot as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces and other exterior improvements. The owner shall pay for the cost of the maintenance upon his/her home. Failure to pay shall result in a lien being placed on the home for all costs incurred.

Also, the Owner shall maintain all utilities not situated in the utility easements, including but not limited to, underground wiring, sewer laterals and short water piping.

In the event that an owners maintenance or repair is caused through the willful or negligent act of another owner, his family, renters, guests, or invitees, the cost of such maintenance or repairs shall be billed to the negligent owner.

In the event that new utility lines are installed, all new routes must be approved by the Architectural Committee.

Section 2. Arbitration. In the event of any dispute arising concerning exterior maintenance or the need for repair, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and shall be binding on all parties to the dispute.

ARTICLE VIII

COMMON SCHEME RESTRICTIONS

Section 1. The following restrictions are imposed to maintain a common scheme upon all lots and all common areas for the benefit of each lot and the Common Areas, and shall be enforced by the Board of Directors.

Section 2. No garbage, refuse, or rubbish shall be deposited on any Street, Road, or Common Area, nor on any lot unless placed in a suitable container in the common location designated by the Association and in accordance with the City of College Station Refuse Disposal Ordinances and Guidelines.

Section 3. No building material of any kind or character shall be placed upon any lot or common area unless construction plans are provided, approved and on file with the Architectural Committee. As soon as building materials are placed on any lot or common area in such connection, construction shall be promptly commenced and diligently proceed to conclusion.

Section 4. No items of any kind shall be placed on common property by an owner. All areas on an owners Lot visible from the street shall be kept clean and clear with the exception of firewood and garbage cans. Any request for exceptions must be presented to the Architectural Control Committee for approval.

Section 5. No animals shall be kept within the Properties except for ordinary household pets belonging to the Owner or Owners; PROVIDED HOWEVER, that such pets shall be kept within the confines of the Owner's lot or on a leash when outside, and shall not be kept or used for commercial purposes. All owners must also adhere to the rules governing pets under the city ordinances of the City of College Station.

Section 6. No used or previously erected or temporary house, structure, house trailer, structure designed as a mobile home, or any other non-permanent out building shall ever be placed, erected or allowed to remain on the Properties or Common Area except during the construction period. In the event a temporary structure is approved for service, such location for said structure shall be designated by the Architectural Control Committee.

Section 7. No boats, campers, recreational vehicles, or buses shall be parked in the Properties or on Common Area for longer than 48 hours.

Section 8. Large trucks and commercial vehicles shall not be allowed to remain on the properties; however, this restriction shall not restrict trucks or commercial vehicles making pickups or deliveries to or in the

Properties, nor shall this restriction restrict trucks or commercial vehicles which are necessary for construction or maintenance of the Properties.

ARTICLE IX

RESIDENCY RESTRICTIONS

Section 1. Owners, upon purchase of a Lot become members of the Association and must submit all contact information to the Board of Directors in addition to their filing fee of \$100.

Section 2. Should the dwelling become non-owner occupied the owner is responsible for notifying and furnishing the board with contact information of all tenants and occupants of the dwelling, duration of the lease or stay, management company name and contact information and number of vehicles.

Section 3. No more than two unrelated parties may occupy a home. Related parties can be described as: blood relation, adoption, guardianship, and marriage. The board can approve special needs for medical purposed or domestic servants.

Section 4. It is the sole responsibility of the owner to notify tenants of these restrictions and Covenants, By-laws and Rules for the Homeowners Association of Post Oak Forest, Inc.

Section 5. Owners are fully responsible for any infractions incurred of any violation of the Covenants and By-laws by the tenants.

Section 6. Parking Pads located on Common Area are limited to guests of owners.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. These covenants, conditions and restrictions shall run with and bind the land and shall insure to the benefit of the Association, Architectural Control Committee or the owners of any Lot, their legal representatives, heirs, successors, and assigns. Provided however, any enforcement shall be subject to the provisions of chapter 209 of the Texas Residential Property Owners Act of the Texas Property Code and any amendments thereto.

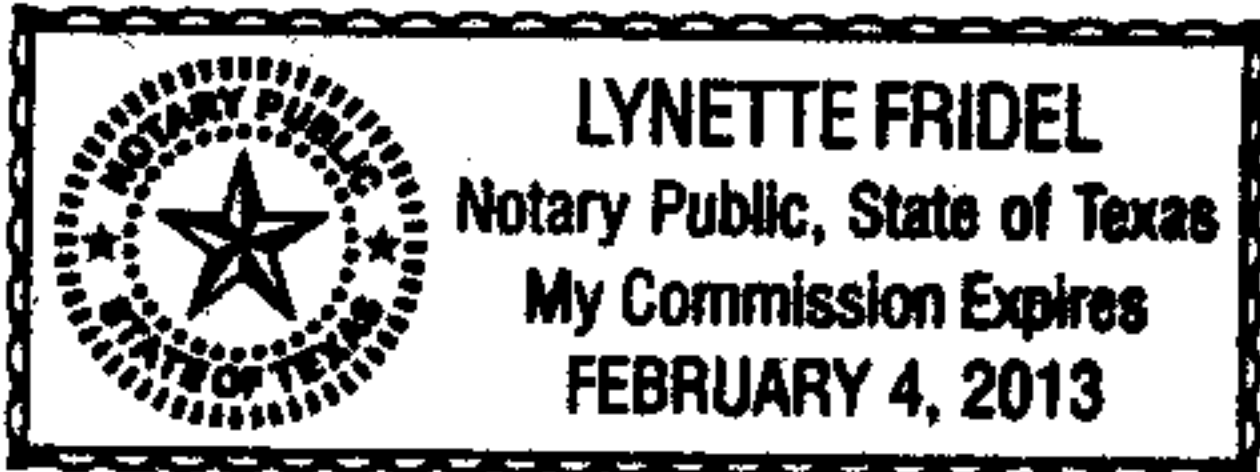
Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall

be automatically extended for successive periods of ten (10) years. During the first thirty (30) years following recordation hereof, this Declaration may be amended by an instrument signed by eighty percent (80%) of the then owners of the lots, agreeing to such amendment, and thereafter, by an instrument signed by not less than two-thirds (2/3) of the Lot Owners. To be valid, any such amendment must be recorded.

IN WITNESS HEREOF, I, the President of the Homeowners Association of Post Oak Forest Inc., have hereunto set my hand this 24th day of April, 2009.

HOMEOWNERS ASSOCIATION OF POST OAK FOREST, INC.



Russell A. Tolman
President
Russell A. Tolman
Lynette Fridel
Notary

Filed for Record in:
BRAZOS COUNTY

On: Apr 24, 2009 at 11:11A

As a
NO LABEL RECORDING

Document Number: 01026709

Amount 51.00

Receipt Number - 364245

By:
Seth Gallion

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Apr 24, 2009

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY