This Instrument Prepared by: A. Wayne Marshall
114 Islandia East
Nashville, Tenn. 37217

BOOK 7669 PAGE 207

DECLARATION

OF COVENEANTS, CONDITIONS AND RESTRICTIONS

(SOUTH CREEK)

RUSH

OCT 4 12 37 PM '88
FILED & WILSON H. ROGERS
DAVIDSON COUNTY, TN.

IDENTIFICATION REFERENCE

7.3320

THIS DECLARATION, made on the date hereinafter set forth by Mrs. A. T. Simpson, Owner, hereinafter referred to as "Declarant". 3726 10/04 0101 03CHECK 36.00

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Nashville, County of Davidson, State of Tennessee, which is more particularly described as:

All that real estate described on Map 161, Parcel 23

NOW THEREFORE, Declarant hereby declares that all of the properties described above 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 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. These Properties include lots 1 Thru 6, and 9 Thru 23. Lots 7 and 8 are to remain exempt from this Declaration.

ARTICLE 1

DEFINITIONS

Section 1. "Association" shall mean and refer to South Creek Property Owners Association, 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 a part of the Properties, including contract sellers, but

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

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot.

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.

Section 6. "Declarant" shall mean and refer to Mrs A. T. Simpson, Owner, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development (undeveloped lot shall mean a lot without a single family residence constructed thereon).

ARTICLE II

PROPERTY RIGHTS

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

(a) the right of Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area:

(b) the right of the Association to suspend the voting rights and right to use of the recreational fecilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) 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 members.

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transferred signed by 2/3 of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Certain Prohibitions. Anything herein to the contrary notwithstanding, the Association shall not be dissolved nor shall it dispose of all or any portion of the Common Area, by sale or otherwise (except to an organization conceived and established to own and maintain the Common Area), without first offering to dedicate the same to the Metropolitan Government of Nashville and Davidson County, Tennessee, and said dedication be approved by the Metropolitan Planning Commission. Provided, however, the conditions of any transfer shall conform to the final master development plan of the Properties as adopted by the Metropolitan Planning Commission.

In the event the Association or its successor shall at any time fail to maintain the Common Area in reasonable order and condition in accordance with the adopted master development plan, the Zoning Administrator of the Metropolitan Government of Nashville and Davidson County, Tennessee may serve written notice upon the Association and/or the members and hold a public hearing. After thirty (30) days when deficiencies of maintenance are not corrected, the Zoning Administrator shall call upon any public or private agency to maintain the Common Area for a period of one year. When the Zoning Administrator determines that the organization is not prepared for the maintenance for the Common Area, such agency shall continue maintenance for yearly periods.

The cost of such maintenance by such agency shall be assessed against the owners proportionately and shall become a lien on the Properties. Provided, however, said lien shall be subordinate to the lien of any first mortgage or deed of trust. However, the sale or transfer of any lot pursurant to any mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer.

ARTICLE III

USE RESTRICTIONS

Section 1. Single Family Residential Construction. No building shall be erected, altered, or permitted to remain on any lot other than one detached single family residential dwelling. All residences must be Brick or Stucco to grade and contain at least seventy percent (70%) Brick or Stucco. All residences must have two (2) car garage.

Section 2. Minimum Square Footage within Improvements. The total living area of the main structure upon any Lot, exclusive of open porches, patios, garages and breezeways, shall not be less than one thousand four hundred (1400) square feet.

Section 3. Location of the Improvements Upon the Lot. All lots are and shall remain subject to the minimum building setback lines, maximum lot coverages, and side yard requirements prescribed by the appropriate zoning ordinances for the R-10 Residential Planned-Unit-Development District as per the Recorded Plat.

Section 4. Prohibition of Offensive Activities. No activity for profit or not, shall be carried on, on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the neighborhood. Provided however, Declarant and any residential builder to whom Declarant sells any undeveloped Lots may conduct sales activities within the Properties and may in connection therewith erect for sale and other advertising signs and may install certain lighting effects for the purpose of displaying model homes. All such activities, signs and lighting shall be subject only to the reasonable discretion of Declarant.

Section 5. Use of Temporary Structures. No structure of a temporary character, (trailer, basement, tent, shack, garage, barn or other outbuildings) shall be used on any Lot at any time as a residence. Temporary structures used as building offices and for other related purposes during the construction period must be sightly and maintained in such a manner so as not to be detrimental to the appearance of the development.

Section 6. Storage of Automobiles, Boats Trailers, and Other Vehicles. No boat trailers, boats, travel trailers, inoperative automobiles, campers or vehicles of any kind are to be stored in the public street right-of-way. Permanent and semi-permanent storage of such items and vehicles must be screened from public view, either within the garage or behind a fence which encloses the rest of the Lot. Semi-permanent is determined as exceeding a seventy-two (72) hour period of time.

Section 7. Removal of Trees. No tree with a trunk diameter larger than six (6) inches shall be removed from any lot without permission of the Declarant or such or successors as it may designate. Permission for the removal of said trees for the construction of residential structures or other related improvements will be readily granted, provided all due concern and care is used in the layout of said improvements to minimize losses of trees.

Section 8. Mineral Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 9. Animal Husbandry. No animals of any kind shall be raised, bred or kept on any Lot except dogs, cats, or other common household pets, provided they are not kept, bred or maintained for commercial purposes and no more than two of each type of pet is kept.

Section 10. Lot Maintenance. The Owners or occupants of all improved Lots shall at all times keep all weeds and grass thereof cut in a sanitary, healthful and attractive manner and shall in no event use any lot for storage of materials and equipment, exept for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn anything (except by use of an incinerator as permitted by Law). The drying of clothes in full public view is prohibited and the Owners or occupants of any Lots at the intersection of streets or adjacent to designated open space or other facilities where the

rear yard or portion of the Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment, wood piles or storage piles, which are incident to the normal residential requirements of a typical family.

Section 11. Sign, Advertisements, Billboards. Except for signs owned by Declarant or builders advertising their homes during the period of original home construction and home sales, no sign, advertisement or billboards or advertising structure of any kind other than normal "For Sale", "Pending Contract", or "Sold" signs of a temporary nature, not to exceed five (5) square feet in total size, may be erected or maintained on any Lot in said subdivision. Declarant, or its assigns, will have the right to remove any sign, advertisement or billboard structure that does not comply with the above, and in doing shall not be subject to any liability for trespass or other sort in the connection therewith or arising with such removal.

Section 12. Maximum Height of Antennae. No radio or television aerial wires or antennae shall be maintained on any portion of any Lot forward of the front building line of said Lot; nor shall any free standing antennae of any style be permitted to extend more than ten (10) feet above the roof of the main residential structure on said Lot.

Section 13. Walls, Fences, and Hedges. No hedge in excess of three (3) feet in height, walls, or fence shall be erected or maintained nearer to the front Lot line than the walls of the dwelling exiting on such Lot. No side or rear fence, wall or hedge over six (6) feet high, shall be constructed on any Lot.

Section 14. Roofing Material. The determination of materials to be used for the roof of any building to be located on any Lot shall rest exclusively with the Architectural Control Committee and the type and coloring of roofing material shall be permitted only at its sole discretion upon written notice.

Section 15. Fence Construction. The determination of materials to be used for the construction of any fence to be located on any Lot shall rest exclusively with the Architectural Control Committee and type and coloring of fence materials shall be permitted only at its sole discretion upon written request. No chain link fence shall be located on any Lot.

ARTICLE IV

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.

BOOK 7669 PAGE 213

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership,

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each 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: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special 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.

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 improvement and maintenance of the Common Area. BOOK 7669 PAGE 214

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Seven and 50/100 Dollars ($7.50) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments 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 assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 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 30 days nor more than 60 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 each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

BOOK 7669 PAGE 215

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual 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. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of th Association. Any assessment not paid within thirty (30) days after the du date shall bear interest from the due date at the rate of 6 percent 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 of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment 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.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure 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 Board of Directors of the Association, or by an architectural committee composed of five (5) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The architectural committee shall also be referred to herein as the "Architectural Control Committee."

ARTICLE VII

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 contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by Judgment or court order shall in no wise affect any other provisions 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 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.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members; provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is Class B membership, the following actions will require prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 3 rd day of October, 1988

MRS A. T. SIMPSON

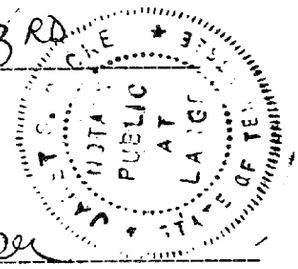
BY: Mrs A. T Simpson
Owner

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared befor me Mrs A. T. Simpson, Owner the within named bargainor, with whom I am personall acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

Witness my hand and official seal at office on this the 3RD day of October, 1988.



Janet S Locker

My Commission Expires: March 11, 1990