

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

BOOK 928 PAGE 808

THIS DECLARATION, made on the date hereinafter set forth by GREATER MISSOURI BUILDERS, INC., hereinafter referred to as

"Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in THE CITY OF ST. PETERS, County of ST. CHARLES,

State of MISSOURI, which is more particularly described as: PARCEL NO. 1:  
A tract of land in U.S. Survey 1738, Township 47 North, Range 3 East, being more particularly described as follows: Commencing at a PK nail over an old stone at the most Northern corner of U.S. Survey 1738, Township 47 North, Range 3 East, being on the centerline of Salt Lick County Road, 50 feet wide; thence South 27° 56' 40" West, along said centerline, 351.59 feet to the point of beginning of the tract herein described; thence South 62° 03' 20" East, 234.74 feet to a point; thence 249.69 feet along a curve to the right having a radius of 1170.49 feet and a delta of 12° 13' 22" to a point; thence South 49° 49' 58" East, 50.00 feet to a point; thence 262.39 feet along a curve to the left having a radius of 1216.07 feet and a delta of 12° 21' 46" to a point; thence South 62° 11' 44" East, 124.00 feet to a point; thence South 17° 11' 44" East, 28.28 feet to a point; thence 104.19 feet along a curve to the left having a radius of 585.00 feet and a delta of 10° 12' 16" to a point, being the Northern line of property conveyed to Cinco Land Developers, Inc., by deed recorded in Book 849, Page 187; thence along said Northern line, North 62° 09' 36" West, 336.82 feet, North 51° 35' 43" West, 380.11 feet, and North 62° 01' 07" West, 234.69 feet to a point in the centerline of said Salt Lick County Road; thence North 27° 57' 29" East, along said centerline, 120.00 feet to the point of beginning. ALSO the Western one-half of Runnybrook Drive (as shown on the plat of Summerhill Plat One), as vacated by Ordinance No. 564 of the City of St. Peters, a copy of which is recorded in Book 868, Page 1112 of the St. Charles County Records. ALSO known as Summerhill Addition.

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.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to SUMMERHILL 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 excluding those having such interest merely as security for the performance of an obligation.

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STATE OF MISSOURI  
COUNTY OF ST. CHARLES  
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*Walter A. Tegels*  
RECORDER OF DEEDS

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. Included in the common area of the project are:

- (a) The property, excepting the units, and including without limitation all easements appurtenant, open parking areas, streets, driveways, access ways, walkways, sidewalks, play areas, gardens, lawns, landscaped and planting areas; patio, patio fences, boundary fences, and yard;
- (b) All electrical wiring throughout the property, except that within units; all pipes, wires, cables, and conduits throughout the property, except that within units;
- (c) All sanitary and storm sewer facilities, and all utility installations, lines and connections for gas, electricity, light, telephone, water and plumbing, except those within units;
- (d) The foundations, exterior walls, roofs, gutters, downspouts, structural and bearing parts, and all other common portions of the building not included within units;
- (e) All apparatus and installation now or hereafter erected and intended for common use;
- (f) Any auxiliary buildings, parks, swimming pools, recreation buildings and any other structures which may, at any time, be erected on the property and all other appurtenances not herein specifically designated;
- (g) All other appurtenances not herein specifically designated;
- (h) Notwithstanding anything heretofore set forth in Section 4, common elements shall not include any item that solely serves a particular unit including, but not limited to hot water heaters, furnaces, air conditioning equipment and exhaust fans, and the responsibility of maintaining, repairing and replacing any such item shall be the sole responsibility of the particular unit owner receiving the sole service of such item.

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 GREATER MISSOURI BUILDERS, INC., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## 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 the 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 facilities 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 purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(d) the right of the individual owners to the exclusive use of the parking spaces as provided in Article VI.

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.

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. 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 among themselves 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 the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, , 19 84.

ARTICLE IV

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, the insuring of and provision of utilities to the Common Area as required.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Six Hundred dollars (\$600.00) 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 3% 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 3% 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 Managers 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 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 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 requirement, and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

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 Managers. 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 of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 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. 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 proceeding 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.

ARTICLE V

EXTERIOR MAINTENANCE

Maintenance to the Common Area by the Association shall include exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces and doors.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, this family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE VI

PARKING

Each owner shall be assigned one of the two parking spaces located on the easement area of his lot for his exclusive use. The other parking space shall be open for the use of any owner or his guest.

ARTICLE VII

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 Managers of the Association, or by an architectural committee composed of three (3) 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.

ARTICLE VIII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part 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 to such use.

Section 3. Destruction by Fire or 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 make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use 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 Owner to contribution from any other Owner under this Article shall be Appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, 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.

#### ARTICLE IX

##### STAGED DEVELOPMENTS

Additional land within the area described in Deed Book 886, Page 1962 of the land records of St. Charles County may be annexed by the Declarant without the consent of members within five years of the date of this instrument.

#### 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 pro-



visions 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.

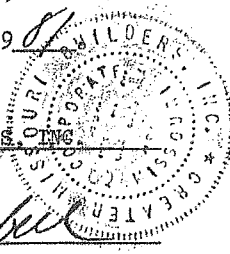
Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20 year period by an instrument signed by not less than eighty percent (80%) 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 the eligible voters.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 11<sup>th</sup> day of August, 1981

GREATER MISSOURI BUILDERS, INC.  
Declarant

By: Paul B Campbell  
President

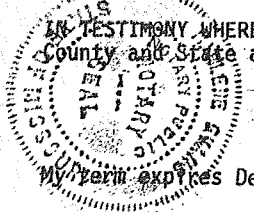


(Add appropriate acknowledgement)

State of Missouri  
County of St. Louis On this 11th day of August, 1981 before me appeared

Paul B. Campbell to me personally known, who, being duly sworn, did say that he is the President of Greater Missouri Builders, Inc., a Corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and said President acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



Marlene Evans  
Notary Public

My term expires December 17, 1983

STATE OF MISSOURI )  
County of St. Charles ) ss.

I, the undersigned Recorder of Deeds for said County and State, do hereby certify that the foregoing and annexed instrument of writing was filed for record in my office on the 22nd day of June A.D. 1982 at 9:44 o'clock A M. and is truly recorded in Book 928 . Page 808 . Witness my hand and official seal on the day and year aforesaid.

Kim Medley Deputy Recorder of Deeds Arthur W. Leggett

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COMPARED

STATE OF MISSOURI  
COUNTY OF ST. CHARLES  
RECORDER OF DEEDS  
FILED FOR RECORD

JUN 22 1982

Arthur W. Leggett  
By \_\_\_\_\_  
Recorder