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BOOK 142 PAGE 409

DECLARATION OF CARMELTOWN, INC.

PROPERTY OWNERSHIP

This Instrument Recorded May 23 19 77
JUNE M. HEDGES, RECORDER, HAMILTON COUNTY, IND.

DECLARATION OF CARMELTOWN, INC.

142

410

PROPERTY OWNERSHIP

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DECLARATION OF CARMELTOWN, INC.
PROPERTY OWNERSHIPBOOK 142 PAGE 411

Carmel, Indiana

THIS AMENDED DECLARATION of Carmeltown, Inc., made this 22nd day of May, 1974, by Joseph S. Dawson, for him-
self, his successors, grantees and assigns,

WITNESSETH:

This declaration amends and supersedes in their entirety the following:

Declaration of Carmeltown, Inc., recorded the 31st day of August, 1973, in the Office of the Recorder of Hamilton County, Indiana, in ~~Plat~~ Book 139, Pages 353 through and including Page 366 as Instrument No. 5797.

A. Declarant is the sole owner in fee simple title to the following described real estate located in Hamilton County, Indiana, to-wit:

SEE SCHEDULE "A"

B. Declarant by execution of this Declaration assures that all properties which are conveyed which are a part of the land shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors, and assigns, and shall inure in the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. DEFINITIONS. The following terms as used in this Declaration unless the context clearly requires otherwise, shall mean the following:
 - a. "Articles of Incorporation" means the Articles of Incorporation of the Association. The Articles of Incorporation are incorporated herein by reference.
 - b. "Association" means CARMELTOWN, INC., its successors and assigns, a not-for-profit corporation, organized and existing under the laws of the State of Indiana, whose Membership shall be composed of the Owners of Lots.
 - c. "Board of Directors" means the Board of Directors of the Association.
 - d. CARMELAIRE means the name by which the Tract shall be known.
 - e. "Building" means any separated structure(s) which has two or more Townhouses.
 - f. "By-Laws" shall mean the By-Laws of the Association. The By-Laws shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.
 - g. "Common Areas" means the ground designated as such upon the recorded Plat of CARMELAIRE.

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- h. "Common Expenses" means expenses for administration of the Association, for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums assessed against the Owners by the Association.
- i. "Lot" means any plot of ground designated as such upon the recorded Plat of CARMELAIRE, and upon which one (1) Townhouse is constructed or is to be constructed. "Lot" shall be deemed to include the Townhouse, if located thereon.
- j. "Member" means a member of the Association.
- k. "Mortgagee" means the holder of a first mortgage lien on a Lot.
- l. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple absolute title to a Lot.
- m. "Plat" means the survey of the Tract, including therein the Lots and Common Areas prepared by Allen H. Weihe, certified by Allen H. Weihe, a registered land surveyor, under date of 6/7/72, and recorded in Plat Book 4, Page 97, in the Office of the Recorder of Hamilton County, Indiana, which is incorporated herein by reference.
- n. "Property" means the Tract and appurtenant easements, the Lots, Townhouses, Buildings, other improvements on and all property of every kind and nature whatsoever, real, personal, or mixed located upon the Tract, and used in connection with the operation, use and enjoyment of CARMELTOWN, INC.
- o. "Townhouse" means the living unit located upon a Lot.
- p. "Tract" means the real estate described in Paragraph "A" above.
2. DECLARATION. Declarant hereby expressly declares that all properties which are conveyed which are a part of the land shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the land and be binding upon all parties having any right, title or interest in the land, or any part thereof, their heirs, successors and assigns, and shall inure in the benefit of each Owner.
3. DESCRIPTION OF CARMELAIRE. CARMELAIRE consists of 110 Lots numbered 1 through 110, inclusive, together with the Common Areas as set forth on the Plat. The size of Lots and Common Areas are as designated on the Plat. The legal description for each Lot in CARMELAIRE shall be as follows:
- Lot _____ in CARMELAIRE, a subdivision recorded in Plat Book 4, Page 97, in the Office of the Recorder of Hamilton County, Indiana.
4. DESCRIPTION OF TOWNHOUSES. Each Townhouse shall consist of that portion of the Building situated on a Lot

including but not limited to all fixtures, utilities, equipment, appliances and structural components designed and intended for the exclusive enjoyment, use and benefit of the Townhouse wherein the same are located, or to which they are attached. Townhouse shall not include the above which are intended for the use, benefit, support, safety and enjoyment of any other Townhouse, or which may be necessary for the safety, support, maintenance, use and operation of any of the Buildings, or which are normally designed for common use. All fixtures, equipment, and appliances designed or intended for the exclusive enjoyment, use and benefit of a Townhouse shall constitute a part of such Townhouse whether or not the same are located within or partly within the boundaries of such Townhouse.

5. Lots and Easements. The boundaries of each Lot in CARMELAIRE shall be as shown on the Plat, provided, however, in the event the vertical boundary line of any Townhouse does not coincide with the actual Lot line for whatever reason, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, in accordance with the existing construction, and shall extend to the intersection of the perpendicular lot lines. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in and to such base line outside the actual boundary line of the Lot.
6. COMMON AREAS. The definition of Common Areas include all areas not designated as a lot on the recorded Plat of CARMELAIRE.
7. OWNEERSHIP OF COMMON AREAS. The Common Areas shall be owned by the Association, CARMELTOWN, INC., and shall be conveyed to CARMELTOWN, INC., by the Declarant on or before the date the first lot is transferred to an owner. The Association shall hold the Common Area for the use and enjoyment of the Members of the Association. The Membership rights to the Common Areas shall be subject to the provisions of this Declaration including but not limited to the following:
 - a. The right of the Association to charge reasonable admission and other fees for use of any recreational facility.
 - b. The right of the Association to suspend any Member from the right to use any Common Area for any period during which any assessment against such Member's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Board's published rules and regulations.
 - c. The right of the Association upon approval by a written instrument signed by two-thirds of the Members 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 by the Association.
 - d. The right of the Association or its Board of Directors

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to determine the time and manner of use of the recreational facilities by the Members.

e. The right of the Association to adopt such rules and regulations regarding the Common Areas as it deems necessary.

8. DELEGATION OF USE OF THE COMMON AREAS. Any member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Association, his right of enjoyment, and use of the Common Areas and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.

9. ENCROACHMENTS AND EASEMENTS IN COMMON AREAS. The Declarant hereby grants an easement for ingress and egress over the Common Areas in favor of any or all owner(s). If for any reason, a Common area encroaches upon any Lot, an easement shall be deemed to exist in favor of the Association.

Each Owner shall have an easement of use in common with Owner(s) to all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in or on the Townhouse(s) or in the Common Area and serving his Townhouse.

10. GARAGES. The usage of the garages shall be subject to such rules and regulations as the Board of Directors may from time to time adopt.

11. COVENANTS AND RESTRICTIONS. The following covenants and restrictions on the use and enjoyment of the Lots, Common Areas and Property are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner or by the Association. The Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from such violation:

a. All Townhouses shall be used exclusively for residential purposes and occupied by a family.

b. All buildings or structures erected upon the Lots shall be of new construction and shall be Townhouses joined together by a common exterior roof and foundation.

c. No additional buildings shall be erected or located on the Property other than on the Lots or as otherwise shown on the Plat or approved in writing by the Board of Directors.

d. Nothing shall be done or kept in any Townhouse or in the Common Area which will cause an increase in the rate of insurance on any building or the contents thereof, which would result in the cancellation of insurance on any building or the contents thereof.

e. No sign, awning, canopy, television antennae, or other attachment or thing shall be affixed to or placed upon the exterior walls, roofs or windows or on any parts

of any Building without the prior consent of the Board of Directors.

- f. No advertising signs (except one "for sale" or one "for rent" sign per parcel of not more than five square feet), unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot or Common Area, nor shall any Lot or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. The Declarant or the Builder of the Townhouses may maintain on the Lot, Common Area, or other property during the period of construction and sale of the Townhouses such facilities as Declarant or the Builder deems necessary to the construction and sale of the Lots and Townhouses including but not limited to a business office, storage area, construction yards, signs, model units and sales office.
- g. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Townhouse or in the Common Area, except that dogs, cats or customary household pets may be kept provided they are not kept, bred or maintained for any commercial purposes, and do not create a nuisance, and further provided that the Board may adopt from time to time such rules and regulations regarding pets as it may deem necessary and any Owner having such pet shall be fully liable for any damage to the Common Area caused by his pet.
- h. Nothing shall be done or permitted in any Townhouse which will impair the structural integrity of any Building or Townhouse or impair any easement. No Owner shall do any act or allow any condition to exist which would adversely affect the other Townhouses or their Owners.
- i. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed from any Townhouse or any Lot including but not limited to the Patio where such would be viewable from any part of the Common Area, nor shall any such items be hung out or exposed on any part of the Common Area. All Lots and the Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.
- j. No industry, trade or any commercial or religious activity, educational or otherwise designed for profit, altruism, or otherwise, shall be conducted, practiced or permitted on the Property, provided, however, that this shall not apply to the business activities, if any, of Declarant, his agents or assigns during the construction and sale period, or of CARBELTOWN, INC., its successors and assigns, acting in furtherance of its powers and purposes.
- k. All Owners and members of their families, guests or invitees, and all occupants of any Townhouse or any other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of

the Common Area.

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- l. No boats, campers, trailers of any kind, buses, mobile homes, trucks or any other unconventional vehicles of any description shall be permitted parked, or stored, anywhere within the Property.
- m. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas except with express written permission from the Board of Directors.
12. COSTS AND ATTORNEYS' FEES. In any proceeding arising because of an alleged failure of an Owner to comply with any provision of the Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.
13. WAIVER. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot.
14. SEVERABILITY CLAUSE. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of any or all of the remaining provisions of this Declaration.
15. PLAT. The Plat setting forth the layout, locations and dimensions of each lot, and of the Common Areas in CAP-MELAIRE, is incorporated into this Declaration by reference and has been filed in the Office of the Recorder of Hamilton County, Indiana, as of the 28th day of July, 1972, as Instrument No. 6337.
16. EASEMENT FOR UTILITIES AND PUBLIC AND QUASI PUBLIC VEHICLES. All public and quasi public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles and privately owned delivery vehicles shall have the right to enter upon the streets and Common Areas in the performance of their duties. All utilities and their agents shall also have the right to enter upon the streets and common areas in the performance of their duties, provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed and approved by Declarant on the Plat or as thereafter approved by the Board of Directors. All such installations shall be underground. The electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the property and to affix and maintain electrical telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Townhouses. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant or the Board of Directors shall have the right to grant such easement on such Common Areas without conflict with the terms of this paragraph. The easements granted herein shall

in no way affect or impair any other assessment of record on the Property.

17. RIGHT OF BOARD OF DIRECTORS TO ADOPT RULES AND REGULATIONS. The Board of Directors may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas, Garages, Patios, and other areas not covered by the Townhouse(s). Such rules as are adopted may be amended by vote of a majority of the Board, and the Board shall cause copies of such rules to be redelivered and mailed promptly to all Owners.
- Declarant shall have the right to approve or disapprove the promulgation of rules and regulations regarding the operation of the property including but not limited to the use of the Common Areas, Garages, Patios and other areas not covered by Townhouses so long as Declarant owns five lots.
18. MANAGEMENT AGREEMENT. The Board of Directors shall enter into a management agreement with Joseph S. Dawson for the management of CARMELTOWN, INC., for a period of three (3) years following the sale of first Lot. Joseph S. Dawson shall be permitted to assign and transfer the duties and responsibilities to be provided by said Company under the above mentioned management agreement.
19. REAL ESTATE TAXES. Real Estate Taxes are to be separately assessed and taxed to each Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Association and treated as a Common Expense.
20. UTILITIES. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expense unless otherwise determined by the Association.
21. MAINTENANCE, REPAIRS AND REPLACEMENTS. Each Owner shall at his expense be responsible for the maintenance, repairs decoration and replacement within his own Townhouse, except as may otherwise be provided herein. All fixtures and equipment installed within the Townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse, shall be maintained and kept in repair by the owner thereof. Each Owner shall promptly perform all maintenance and repair in his Townhouse, which if neglected, might adversely affect any Townhouse, Common Area or the value of the property. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances, doors, windows, lamps and all other accessories belonging to the Owner and appurtenant to the Townhouse. Maintenance, repairs, replacements and upkeep of the Common Areas shall be furnished by the Association, as a part of the Common Expenses, the responsibility for which may be assigned by the Association.

In addition to the maintenance of the Common Areas, the Association shall provide exterior maintenance upon each Lot, Garage and Townhouse for the following: paint, repair, replacement and care of all exterior doors, roofs, gutters, downspouts, exterior building

surfaces and other exterior improvements excluding, however, any glass surfaces, screens, window fixtures, light bulbs, other hard-wood and patios, which shall be the sole responsibility of the Owner. The Association shall also maintain any trees, shrubs, grass or walks which the Declarant originally planted or installed.

The Board of Directors shall adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it seems necessary.

In the event that the need for maintenance and repair results from the willful or negligent act of the Owner, his family, guests or invitees, and is not covered or paid for by any insurance on such lot, the costs of such maintenance or repair shall be borne by the Owner, and shall be added to and become a part of the assessment to which his Lot is subject.

The Board of Directors, or their designated agents, shall have the right at reasonable times, and upon reasonable notice (except in cases of emergency in which case no notice will be required) to enter into each individual Townhouse for purposes of inspection of the Common Areas appurtenant thereto, and replacement, repair and maintenance of the same.

Declarant shall have the right to approve or disapprove any additions, alterations, modifications to and the maintenance and repairs of, the Common Areas, each Lot and Townhouse, so long as Declarant owns five lots.

22. ALTERATIONS, ADDITIONS AND IMPROVEMENTS. No Owner, except Declarant shall make any alterations or additions to his Townhouse, Lot or to the Common Areas without the prior written approval of the Board of Directors of the Association, which approval shall not be unreasonably withheld.
23. PARTY WALLS. Each wall which connects two Townhouses shall constitute a party wall and to the extent not inconsistent with any of the provisions of this Declaration, the general rules of law regarding party walls and the liability for property damage thereto shall be applicable. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall proportionately to such use. If any party wall is exposed to the elements because of the negligent or willful act of any party, the Board of Directors shall see that the necessary protection against the elements is provided and shall recover the cost thereof, to the extent not covered by insurance, from the responsible party.
24. INSURANCE. The Association acting through its Board of Directors shall obtain fire and extended coverage insurance, insuring the property including all Townhouses, Garages and Common Area buildings, in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount determined and the insurance renewed annually. Such insurance coverage shall be written in the name of the Association, as Trustee for the benefit of each Owner, and, if applicable, the Owner's mortgagee, as its interests may appear. The proceeds of any insurance shall be payable to the Association or the Board of Directors who shall hold such proceeds as Trustee for the individual Owners and mortgagees. The premiums for all

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such insurance shall be paid by the Association as part of Common Expense, except premiums for Townhouse and Garages, to be paid to Association by Owners as an individual Owner's expense.

The Association shall also obtain comprehensive public liability insurance in such limits as the Board of Directors shall deem appropriate together with workmen's compensation insurance and other liability insurance if deemed necessary and appropriate by the Board of Directors. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors and any managing agent or company acting on behalf of the Association. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase at his own expense, any additional insurance he may deem necessary, and each Owner shall be solely responsible for home owners' liability insurance and for the insurance on the contents of his Townhouse, including but not limited to all floor and wall coverings, fixtures and betterments installed by the Owner and his personal property stored elsewhere on the Property.

25. CASUALTY AND RESTORATION. In the event of damage or destruction of the Property by fire or other casualty, the Association shall cause the Property to be promptly repaired and restored. The proceeds of insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are inadequate to cover the cost of reconstruction, or in the event there are no proceeds, the cost for restoring the damage shall be paid by the Owners of the Townhouses directly affected by the damage in such proportion as the Board of Directors shall deem fair and equitable in light of the damages sustained by such Townhouses, provided, however, if the damages are to any improvements which are a part of the Common Area and not a part of a Townhouse, the deficiency, if any, shall be assessed against all Owners. If any Owner refuses or fails to make the required payments, the Association shall complete the restoration and pay the costs thereof, and the cost attributable to the Owner or Owners who refuse or fail to make such payment at the time required by the Board of Directors shall become a lien on such defaulting Owner's Lot, and may be foreclosed in the same manner as provided for a lien for Common Expenses. In the event the insurance proceeds exceed the cost of reconstruction, such excess shall be paid over to the Owners or their respective mortgagee in such proportion as the Board of Directors deem fair and equitable in light of the damage sustained by such Townhouses.

The restoration referred to in this paragraph shall mean construction or rebuilding of the Townhouses in the same condition as they existed immediately prior to the destruction, and with the same type of architecture.

26. SALE OR LEASE OF LOT BY OWNER. For the purpose of maintaining the congenial and residential character of CANTON AIRE and for the protection of the Owners with regard to financially responsible residents, sale or lease of a Lot by an Owner other than Declarant shall be subject to the following conditions and restrictions:

a. LEASE. It is in the best interest of all the Owners that all persons residing in Townhouses have similar proprietary

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interests in their Lots and be Owners. Accordingly, no Owner shall lease his Lot or enter into any other rental or letting arrangement for his Lot without the prior written consent of the Board of Directors. Such consent shall not be unreasonably withheld. Any Owner desiring to enter into a lease for his Lot shall make written application to the Board of Directors, which application shall state the reasons why the applicant wishes to lease the Lot, the name of the proposed tenant, and financial references of the proposed tenant. Within ten (10) days following the receipt of the application, the Board of Directors shall issue its written approval or disapproval to the Owner. In the event the Board of Directors fails to issue written approval or disapproval within such period, the application shall for all purposes be deemed approved.

b. SALE. The Association shall have the right of first refusal to purchase any Lot which an Owner wishes to sell. Any Owner wishing to sell who receives a bona fide offer to purchase shall promptly give written notice to the Board of Directors of his desire to sell together with the name and address of the intended purchaser, and the terms and conditions of such offer. Within seven (7) days after the receipt of such notice, the Board of Directors shall determine if it should recommend exercise of the right to purchase or waive the right to purchase. In the event the Board of Directors elects to waive the right to purchase, a certificate in recordable form, executed by the President or Secretary of the Association, certifying that the Association, through its Board of Directors, has waived its right to purchase, shall be delivered to the Owner, who may then proceed to sell and convey his Lot to that person and upon the same terms and conditions as set forth in the Owner's notice to the Board of Directors. In the event the sale is not completed within ninety (90) days following the date of such certificate, then the Lot shall again become subject to the Association's right of first refusal as herein provided.

In the event that the Board of Directors deems it advisable to exercise the Association's right to purchase the Lot, then it shall give written notice thereof to the Owner and shall, within fourteen (14) days following the receipt of such notice from the Owner wishing to sell, call a meeting of all the Members for the purpose of voting upon the proposed purchase. If the recommendation of the Board of Directors to purchase such Lot is approved by no less than seventy-five per cent (75%) of the votes cast, the Association shall proceed to purchase the offered Lot from the offering Owner upon the same terms and conditions contained in the offer. The purchase price for the Lot shall be considered to be a Common Expense and borne by the remaining Owners, provided, however, that the Owner who has made the offer to sell his Lot shall not be assessed for or required to pay his share of the expense incurred in the purchase of the Lot.

Legal title to the Lot shall be conveyed to the Association as an entity or to those persons then serving as Board of Directors, as trustees for the benefit of the Owners, whichever the Board of Directors, in their sole discretion, deems appropriate.

In the event that the proposed purchase is not approved by the required votes of the Members as set out above, then the Board of Directors, through the President and Secretary of the Association,

shall promptly deliver a certificate in recordable form to the offering Owner who may proceed to sell his lot under the same terms and conditions as if the Board of Directors had not elected to recommend the exercise of the right of the Association to purchase.

If, for any reason, either the Board of Directors or the Members shall fail to act on the Association's right of first refusal...

Notary Public, Hamilton County, Indiana, appeared Victoria Williams, the Secretary of Carbaltown, Inc., Property Ownership, who acknowledged execution of the foregoing Amendments to the Declaration of Carbaltown, Inc. Property Ownership for and on behalf of said association and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 15 day of March, 1993.

Victoria Williams
Notary Public Victoria



My Commission Expires: 6/19/95

Residence County: Hamilton

THIS INSTRUMENT PREPARED BY AND SHOULD BE RETURNED TO P. THOMAS MURRAY, LEWIS & KAPPES, 1210 ONE AMERICAN SQUARE, INDIANAPOLIS, INDIANA 46282.

RECEIVED
MAR 18 AM 11:17
MURRAY
LEWIS & KAPPES
P.C.
INDIANAPOLIS, IN

This instrument Recorded MAR 18 1993
Sharon K. Cherry, Recorder, Hamilton County, IN

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a first mortgage lien upon his Lot or the Mortgagee shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration or proxy granted to such Mortgagee in connection with the mortgage.

28. AMENDMENT OF DECLARATION. Amendments to this Declaration shall be proposed and adopted in the following manner:

a. NOTICE. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

b. RESOLUTION. A resolution to adopt a proposed amendments may be proposed by the Board of Directors or by a majority of the votes cast by the Members.

c. MEETING. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

d. ADOPTION. Any proposed amendment to this Declaration must be approved by not less than seventy-five per cent (75%) of the votes cast and approved by Declarant as long as Declarant owns five (5) Lots.

In the event any Lot is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed Amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the Declaration.

e. SPECIAL AMENDMENTS. No amendment to this Declaration shall be adopted which changes the provisions of Paragraph 25 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

f. RECORDING. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.

29. ACCEPTANCE AND RATIFICATION. All present and future Owners, Mortgagees, tenants and Occupants of the Lots shall be subject to and shall comply with the provisions of this

Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors, which may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and rules and regulations, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Lot or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Property in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

30. NEGLIGENCE. Each Owner shall be liable for the expense of any maintenance repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Lot or its appurtenances or of the Common Areas.
31. INSURANCE (WAIVER). The Association and Owners agree that each shall be relieved of responsibilities and covenants to the extent that injuries or losses to the premises are covered by insurance.
32. ASSOCIATION. The Association shall be a not-for-profit corporation, whose Membership shall be composed of and limited to the Owners of Lots and which shall be known as CARMELTOWN, INC. The Association shall have one class of Membership.

Each Owner of a Lot shall be entitled to one vote on all matters requiring membership approval, for each Lot owned by said Owner. The membership of said Owner shall terminate whenever said Owner ceases to be an owner of a Lot as defined herein, and said certificate of member shall be immediately transferred to the successor in ownership.

The Board of Directors shall be the governing body of the Association and shall be responsible for the functions and duties of the Association, including but not limited to the management, maintenance, repair, replacement and upkeep of the Common Areas. All of the Common Areas shall be owned, operated and managed by the Association.

33. ASSESSMENTS. Assessments and payment of assessments shall be as follows:
- a. ANNUAL ACCOUNTING. Annually after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared and furnished each Member a financial statement prepared by a

certified public accountant firm then serving the Association, which statement shall show all receipts and expenses received, incurred or paid during the preceding calendar year.

b. PROPOSED ANNUAL BUDGET. The first annual meeting of the Association to pass on the annual budget shall be held during the month of January following the sale of fifty per cent (50%) or more of the lots in CAMELAIRE. Prior to the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year and furnishing a copy of such proposed budget to each Member at least two weeks prior to the annual meeting. The annual budget shall be submitted to the Members at the annual meeting of the Association for adoption, and if so adopted shall be the basis for the regular assessments (hereinafter defined) for the ensuing year. At the annual meeting of the Members, the budget shall be approved in whole or in part or may be amended in whole or in part by a majority of the votes cast, provided, however, in no event shall the annual meeting be adjourned without or until the annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended.

c. REGULAR ASSESSMENTS. The annual budget as adopted shall, based on the estimated cash requirements for the Common Expenses in the ensuing year, as set forth in said budget, contain the proposed assessment against each Lot which shall be the same for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his Lot (herein called the "Regular Assessment"). The Regular Assessment against each Lot shall be paid in equal monthly installments, commencing on the first day of February of such calendar year and on the first day of each calendar month thereafter through and including the following January 1. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or as otherwise directed by the Board of Directors. The Regular Assessment for the year shall become a lien on each separate Lot as of February 1, of each calendar year.

Prior to the first annual meeting of the Association, an assessment shall be levied against each lot, said assessment shall not be less than \$35.00 nor more than \$37.28. The monthly assessment shall become due and owing on the first day of the calendar month following the sale of the Lot. The Declarant shall not be responsible for a regular assessment, whether determined by the Board of Directors or the Association, in excess of \$35.00.

d. SPECIAL ASSESSMENTS. From time to time Common Expenses of an unusual extraordinary nature and not otherwise anticipated may be deemed necessary by the Board of Directors. In such event the Board of Directors shall be authorized to adopt a resolution to make such expenditures and shall have the full right, power and authority to make a special assessment of equal amount upon each Lot which shall become a lien on such Lot, upon approval of such resolution by two-thirds of the votes of Members at a special meeting of Members duly called in accordance with the By-Laws for the purpose of approving or rejecting such resolution (herein called "Special Assessment"). The Lots owned by Declarant shall not be subject to the special

e. FAILURE OF OWNER TO PAY ASSESSMENTS. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such person shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessment when due, such Regular or Special Assessment shall bear interest from the date at the rate of eight per cent (8%) per annum, and the lien for such Assessment on the Owner's Lot may be filed and foreclosed by the Board for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. In any action to foreclose the lien for Assessments, the Owner and occupant shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board of Directors shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefor for the benefit of the Association to be applied to the unpaid Regular or Special Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Lot.

f. SUBORDINATION OF ASSESSMENT LIEN TO MORTGAGE AND TAXES. The lien of Assessments shall be prior to all other liens except (1) tax liens on the Lot in favor of any assessing unit or district and (2) all sums unpaid on a first mortgage of record. Sale or transfer of any Lot shall not affect the Assessment lien.

g. NOTICE OF UNPAID ASSESSMENTS. The Association shall, upon request of a mortgagee, a proposed mortgagee or purchaser who has a contractual right to purchase a Lot, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Regular or Special Assessments against the Lot, which statement shall be binding upon the Association and the Members and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments in excess of the amount set forth in such statement.

Joseph S. Dawson

 Joseph S. Dawson

STATE OF INDIANA)
) SS:
 COUNTY OF HAMILTON)

Before me a Notary Public in and for said County and State personally appeared Joseph S. Dawson who acknowledged the execution of the above and foregoing Declaration of CARMELTOWN, INC. Property Ownership, for and on behalf of said Corporation.

WITNESS my hand and Notarial Seal this 22nd day of _____
 May, 1974.

MY COMMISSION EXPIRES:
 March 30, 1978

Virginia A. Fyle

 Notary Public
 Virginia A. Fyle

This instrument was prepared by Joseph S. Dawson. Printed

SCHEDULE "A"

BOOK 142 PAGE 426

A part of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 4 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning 522.90 feet Deed (523.85' Measured) North 03 degrees 03 minutes East of the Southeast corner of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 4 East, and on the East line thereof; thence North 89 degrees 57.5 minutes West 687.33 feet Deed (690.35 feet Measured); thence North 76.0 feet; thence North 89 degrees 51 minutes West 165.0 feet; thence North 247.50 feet; thence North 90 degrees 00 minutes East 92.67 feet; thence North 75.00 feet; thence North 90 degrees 00 minutes East 127.33 feet; thence North 204.43 feet; thence North 89 degrees 51 minutes West 55.00 feet; thence North 50.00 feet; thence South 89 degrees 51 minutes East 690.90 feet to the East line of said West Half; thence South 00 degrees 03 minutes West on and along aforesaid East line 653.50 feet Deed (652.15 feet Measured) to the place of beginning, containing 11.15 acres, more or less. Subject to all legal easements and rights of way.

This subdivision consists of 110 lots numbered from 1 to 110, both inclusive, with streets and common property as shown within the plat. All dimensions are shown in feet and decimal parts thereof.

This Instrument Recorded May 22 19 74
JUNE M. HEDGES, RECORDER, HAMILTON COUNTY, IND.

RECEIVED FOR RECORD
AT 2:00 O'CLOCK P. M

MAY 22 1974

BOOK _____ PAGE _____
June M. Hedges
RECORDER HAMILTON COUNTY, INDIANA