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WAYNE TOWNSHIP
ASSESSOR
Date: 10-19-1988
By: PHILLIP D. HINKLE
ASSESSOR

CURTIS L. COONROD
MARION COUNTY RECORDER

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DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS
OF
DEBELLO ESTATES

THIS DECLARATION of Covenants, Easements and Restrictions (hereinafter referred to as "Declaration") is made this 18th day of October 1988, by DONALD DEBELLO (hereinafter referred to as "Developer"), and

WITNESSES THAT:

WHEREAS, Developer is the owner of all of the land contained in the area described in Exhibit A, attached hereto and made a part hereof, which land will be subdivided and known as "DeBello Estates" (together with any additions thereto as herein provided, hereinafter referred to as the "Real Estate" or the "Development"), and will be more particularly described on the plat thereof to be recorded in the Office of the Recorder of Marion County, Indiana and making reference hereto; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of lots and lands in the Development and future home owners thereof.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions and those set forth on the final plats to be recorded from time to time in the Office of the Recorder of Marion County, Indiana, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Real Estate or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development.

1. DEFINITIONS.

A. The following are the definitions of the terms as they are used in this Declaration.

(1) "Builder" shall mean the person constructing the first residence on each Lot (which may be the Developer for one or more Lots).

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(ii) "Committee" shall mean the DeBello Estates Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of Developer until such time as each Lot in the subdivision has a completed residence thereon at which time the Owners shall elect from their constituency this Committee in accordance with the provisions of Section 7.E. hereof.

(iii) "Developer" means Donald DeBello, the initial developer of the Real Estate, and any successor or assignee of their interest in all or part of the Real Estate or in this Declaration under an instrument or instruments which expressly state that the successor or assignee thereunder shall become the Developer for purposes of this Declaration.

(iv) "Easement Area" shall mean those areas set aside for and included within the boundaries of one or more Lots and designated as an easement on the plat of DeBello Estates, which includes but shall not be limited to any landscaping areas, various easements for utilities, sewers, storm drainage and retention/detention ponds.

(v) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by the final plats of the Development which shall be recorded in the Office of the Recorder of Marion County, Indiana from time to time.

(vi) "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(vii) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

B. Approvals, Etc. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing signed, with respect to Developer by the Developer or an authorized agent thereof, and with respect to the Committee by two members thereof (except during such time that the Developer controls this Committee, in which event the written approval of the Developer or an authorized agent of Developer shall suffice).

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered and/or lettered Lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain on any Lot, other than one detached single-family dwelling or one attached single-family dwelling constituting a part of a duplex building on two adjoining Lots or one attached single-family dwelling constituting a part of a triplex building on three adjoining Lots, and permanently attached accessory buildings. No such structures shall exceed two stories in height. No business or commercial enterprise may be conducted on any of the Lots in the

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Development other than by Developer or his agents in connection with the building and sale of the residential units in the Development.

B. Accessory Outbuildings Prohibited. No detached accessory outbuildings shall be erected on any of the residential Lots without the advance written approval of the Committee.

C. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Living Space Areas. The finished and livable floor area of the main structure on any lot, exclusive of one-story open porches and garages and other attached residential accessory buildings, shall be not less than 600 square feet.

B. Residential Setback Requirements. Residential setbacks shall be as indicated on the final plat in accordance with applicable zoning ordinances and zoning variances obtained.

C. Fences, Light Fixtures, Etc., Mailboxes and Lawns. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence, outdoor light fixture, basketball goal or similar structure must be approved by the Committee as to size, location, height and composition before it may be installed. Any fencing in the Development will first be approved in advance by the Committee; any fence erected, placed or constructed upon any portion of the Development shall be constructed with wood or masonry materials with no chain-link fences or farm fences being permitted within the Development; no fence will be higher than six (6) feet; no fencing will extend forward of the furthest front corner of the home. Fencing style and color will be consistent with the Development as determined by the Committee. The Builder shall finish grade and seed or sod the Lot.

D. Exterior Construction. The following requirements shall be applicable unless the Committee shall approve otherwise: (i) All utility facilities in the Development will be underground, except where required to be placed above-ground by the individual utility supplier; (ii) Each driveway in the Development will be of concrete or asphalt material and will not exceed in width the side boundaries of the garage associated therewith; (iii) Each dwelling will have a continuous concrete

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sidewalk from the driveway to the front porch; (iv) All garage doors in the Development will be of a hard-board or wood material; (v) whenever possible, all utility meters and HVAC units in the Development will be located in places unseen or screened from the fronts of the dwellings; (vi) No outside fuel storage tanks will be permitted above ground and no gasoline storage will be permitted above or below ground in the Development; (vii) All windows in the Development will be factory or on-the-job painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break; (viii) All gutters and downspouts in the Development will be factory or on the job painted; (ix) all roofing in the Development will be of a shingle-type material with weight no less than two hundred thirty-five (235) pounds per square and rating of Class A; (x) All roof pitches will be four to twelve (4:12) or greater; (xi) No metal, fiberglass or similar type material awnings or patio covers will be permitted in the Development; (xii) No above-ground swimming pools will be permitted on any Lot in the Development; and (xiv) Modular-type construction is not permitted in the Development.

E. Heating Plants. Every dwelling in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the dwelling. Heating plants shall have ductwork capable of handling central air conditioning.

F. Wells. One well shall be provided for each duplex building and each triplex building. Electrical consumption for the use of the wells shall be separately metered among each Owner. The cost of repair and maintenance of the well shall be shared by the Owners who make use of the well in equal proportions. If the well is damaged or if a new well must be provided, any Owner who has used the well may restore it or provide a new well, and if the other Owner or Owners thereafter make use of the well, they shall contribute to the cost of restoration thereof in equal proportions.

G. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

H. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any numbered Lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

I. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

- (i) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and weeds and exercise good husbandry with respect to all landscaping-located thereon.

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(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(iv) Cut down and remove dead trees.

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

J. Lot Access. All Lots shall be accessed from DeBello Court. No direct access to Lots shall be permitted from 21st Street.

K. Sight Obstructions. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersections from said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitation shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

L. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform any of the obligations, covenants, conditions or restrictions set forth herein, and in the further event that such failure is not cured within thirty (30) days after written notice of the same is given by the Committee, the Committee and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Committee shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Committee. All costs, including attorney's fees and costs of collection, incurred by the Committee in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure shall be payable by the defaulting Owner upon demand by the Committee. Any amounts owed the Committee may be collected by the Committee by action at law or in equity, and may further be enforced, after ten (10) days' written notice to each mortgagee of record of the Lot, by imposition of a lien and foreclosure of such lien against any such Lot, the Owner of which has failed to reimburse the Committee, in the manner that mechanic's liens are imposed and foreclosed in Indiana. Any lien sought to be imposed pursuant to this Section 3(K) shall be perfected upon filing in the Office of the Recorder of Marion County, Indiana, at any time within sixty (60) days after the date payment is due, a notice of intention to hold the lien in the same manner that a notice of intention to hold a mechanic's lien is filed in Indiana. Any lien created pursuant to this Section 3(K) shall be subordinate to the lien of any mortgage on a Lot, or any part thereof or any interest therein. The rights in the

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Owners and the Committee under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

4. EASEMENTS.

A. In General. There is hereby granted, reserved, declared and created for the benefit of public utility companies, the Owners of Lots and the Developer for the purpose of installing, maintaining, repairing and replacing municipal, public and other utility facilities and for such other purposes incidental to the development of the Real Estate, to be perpetual hereof, from the date of this instrument by the Developer, its successors and assigns, full right and authority to lay, operate, maintain, repair and replace such drainage facilities, sanitary sewer and water lines including the drilling and maintenance of waterwells on any of the Lots in the Development, gas and electric lines, communication lines (which shall include cable television) as the same may be initially installed, repaired and replaced, and such other further facilities which may be similar or functionally related thereto in such easement areas as shown on the plats of the Development except that a blanket easement is hereby reserved for water wells and lines and sanitary sewer lines on, over, under and across all Lots in the Development; provided, however, that the disturbed area shall be restored as nearly as is possible to the condition in which it was found. No permanent structures shall be constructed within any such easement area, except such structures as may be required in connection with maintaining the purpose of any such easement and except that water lines or sanitary sewer lines servicing more than one Lot may be located within the residential building on the Lots. Each Owner shall be obligated to maintain all easement areas on such Owner's lot in accordance with good husbandry practices and so as to maintain the same in a functional state suitable for its intended easement purposes.

B. Private Easements. Private Drive easements are hereby reserved for the common use and enjoyment of the Owners and their invitees as shown on the plats of the Development. Private Drive easements shall not be used for parking of trucks and/or commercial vehicles, except temporarily or incidentally for the making of pick-ups and deliveries. Private Drives shall be kept clear of obstruction by private property, and no outside storage of such property shall occur on the private drives. No fence, barrier, or other obstruction shall be placed or constructed on any private drives.

5. PARTY WALLS

A. In General. Each wall built as a part of the original construction of the units which shall serve and separate any two (2) adjoining units shall constitute a party wall and, to the extent not inconsistent with this Section 5, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Maintenance, Repair and Contribution. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall may restore it, and if the other Owner or Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without

prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability from negligent or willful acts or omissions. Notwithstanding any other provisions of this Section 5, an owner who by negligent or willful acts causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of any owner to contribution from any other owner under this Section 5 shall be appurtenant to the land and shall pass to such owner's successors-in-title.

C. Party Wall Easement. In the event that, by reason of the design, inexactness of construction, shifting or settling of the units on adjoining Lots, any spaces, structures, utility lines, ventilation ducts, appliances or other portions or components intended to serve the dwelling on one Lot encroach upon the adjoining Lot, an exclusive easement shall be deemed to exist in favor of the encroaching Lot for the maintenance, use and enjoyment of such portions or components as encroached upon the adjoining Lot, for so long as such portions or components exist. Additionally, in the event DeBello Court encroaches upon any Lot other than as depicted graphically on the plat of the development to be recorded in the Office of the Recorder of Marion County, Indiana, a mutual non-exclusive easement in favor of all other Lots shall be deemed to exist for the maintenance, use and enjoyment of DeBello Court as actually in existence and all replacements and renewals thereof.

6. MISCELLANEOUS PROVISIONS AND PROHIBITIONS.

A. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, the Committee or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including attorneys' fees and costs of collection, shall become a charge or lien upon the Lot. Any amounts owed Developer, the Committee or any Owner in connection with such abatement may be collected by action at law or in equity, and may further be enforced, after ten (10) days' written notice to each mortgagee of record of the Lot, by imposition of a lien and foreclosure of such lien against any such Lot, the Owner of which has failed to reimburse Developer, the Committee or any Owner, in the manner that mechanic's liens are imposed and foreclosed in Indiana. Any lien sought to be imposed pursuant to this Section 6(A) shall be perfected upon filing in the Office of the Recorder of Marion County, Indiana, at any time within sixty (60) days after the date payment is due, a notice of intention to hold the lien in the same manner that a notice of intention to hold a mechanic's lien is filed in Indiana. Any lien created pursuant to this Section 6(A) shall be subordinate to the lien of any mortgage on a Lot, or any part thereof or any interest therein. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development.

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Neither Developer, any officer, agent, employee or contractor thereof, the Committee nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.

B. Construction of Sewage Lines. All sanitary sewage lines on the Lots shall be designed and constructed in accordance with the provisions and requirements of the City of Indianapolis Department of Public Works. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining from said Committee of permission to proceed.

C. Signs. No sign of any kind shall be displayed to the public view on any Lot (whether indoors or outdoors), except that one sign of not more than six square feet may be displayed for the purpose of advertising for sale or rent a home on such Lot and except for such signs as may be erected by a Builder(s) (including Developer) to advertise the property during construction and sale.

D. Animals. No animals shall be kept or maintained on any Lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance.

E. Vehicle Parking. No campers, trailers, recreational vehicles, boats, commercial vehicles or similar vehicles other than ordinary passenger vehicles, shall be parked on DeBello Court or on any Lot in the Development, unless the same shall be parked in the garage with the garage door closed such that it is not visible to the occupants of other Lots in the Development or the users of DeBello Court. No additional parking will be permitted on a Lot other than in the existing driveway for said Lot. No vehicle shall be parked on a regular, recurrent or permanent basis on DeBello Court. This Section 6(E) shall not apply to any construction vehicles, trailers or equipment of Developer or any other Builder in DeBello Estates during the development thereof.

F. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burying out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in Section 6(G) below. All dwelling units built in the Development shall be equipped with a garbage disposal unit.

G. Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made.

H. Model Homes. No Owner of any Lot in the Development other than Developer or a builder shall build, or permit the building upon said Lot of, any dwelling that is to be used as a model home or exhibit house.

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I. Temporary Structure. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot except for such temporary structures as the Developer may approve for construction, sales or related purposes, nor shall any overnight camping be permitted on any Lot.

J. Ditches and Swales. It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Committee.

K. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by the Committee. All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

L. Septic Tanks. No septic tanks or septic systems shall be installed on any of the Lots.

M. Antennas and Satellite Dishes. Exposed antennas and satellite dishes shall require advance written approval by the Committee. The maximum height of any such antenna so approved shall not exceed five (5) feet above the roof peak.

N. Solar Heat Panels. Unless otherwise approved by the Committee, no solar heat panels shall be allowed in the Development.

7. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(i) In General. No dwelling, building structure or improvement of any type or kind shall be repainted, constructed or placed on any Lot in the Development, and no existing trees shall be removed, without the prior written approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one inch (1") equals ten feet (10'), or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land

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surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof. The Committee shall have the power and right to waive any requirement of this Declaration in proper circumstances (except that zoning requirements and regulations shall nonetheless be applicable).

(ii) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

(b) the design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or

(c) the proposed improvement, or any part thereof, or proposed tree removal, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

(iii) Developer Improvements. The Committee shall have no powers with respect to any improvements or structures erected or constructed by the Developer (or any Builder if Developer has approved the plans therefor).

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval.

C. Enforcement Rights; Liability of Committee. Neither the Committee nor any agent thereof, nor Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. The committee shall have the power to enforce the provisions hereof in accordance with Section 4(k) hereof.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

E. Membership. After a completed residence is constructed on each Lot in the Development, the Committee shall consist of three (3) Owners selected from time to time through the written approval of at least 66 2/3 percent of all Owners. Membership on the Committee may be changed and vacancies shall be filled from time to time upon the written approval of at least 66 2/3 percent of all the Owners; provided, however, that in the event of a vacancy on the Committee, the remaining (2) Committee members may appoint an Owner to the Committee to serve until the requisite percentage of Owners, as aforesaid, shall otherwise appoint an Owner to fill such vacancy.

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8. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single dwelling.

9. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, the Committee and any homeowner within DeBello Estates, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer, nor the Committee shall be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Metropolitan Development Commission of Marion County, Indiana, its successors and assigns, shall have no right, power, authority, or obligation to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the subdivision control ordinance, 58-AO-3, as amended, or conditions attached to approval of the plat of DeBello Estates by the Plat Committee.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

10. EFFECT OF BECOMING AN OWNER.

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of Developer and the Committee with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners, covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

11. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as

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an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

12. DURATION AND AMENDMENT.

A. This Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken.

Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Developer hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within the Development; provided that Developer shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner.

13. RIGHTS OF MORTGAGEES.

Except to the extent otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Developer, the Owners nor the Committee shall have any right to make any amendment to these Restrictions which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

14. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

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15. DEDICATED STREETS AND SANITARY SEWERS.

DeBello Court and the sanitary sewers in the Development are hereby dedicated to the public.

IN WITNESS WHEREOF, witness the signature of Developer this 18th day of October, 1988.


Donald DeBello

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Donald DeBello, who acknowledged execution of the foregoing Declaration of Covenants, Easements and Restrictions of DeBello Estates, and who, having duly been sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 18th day of October, 1988.

Signature Jeffrey D. Linton

Printed Jeffrey D. Linton
NOTARY PUBLIC

My Commission Expires:

July 6, 1992

County of Residence:

Marion

This instrument was prepared by Jeffrey D. Linton, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

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EXHIBIT A

Part of the Southwest Quarter of the Southwest Quarter of Section 27, Township 16 North, Range 2 East in Marion County, Indiana, more particularly described as follows, to-wit:

Beginning at a point in the South line of said Section 270.41 feet East of the Southwest corner of said Section; thence North and parallel to the West line of said section, a distance of 106.33 feet to a point; thence West and parallel with the South line of said section a distance of 8.4 feet to a point; thence North and parallel to the West line of said section a distance of 312.59 feet (303.75 feet measured) to the South right of way line of the C.I. & W. Railroad; thence in a Southeasterly direction along said south right of way line of the C.I. & W. Railroad, a distance of 389 feet (372.61 feet measured) to the West right of way line of the Indiana and Frankfort Railroad; thence in a Southeasterly direction along said west right of way line of the Indiana and Frankfort Railroad a distance of 328.5 feet (327.78 feet measured) to the intersection of said West right of way line of said Indiana and Frankfort Railroad and the South line of said section; thence West on the South line of said section, a distance of 477 feet (470.79 feet measured) to the place of beginning, containing 3.351 acres, more or less.

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