

11/1/74
11/1/74
73/794
THIS DECLARATION, made this 25th day of October, 1974, by Drees Builders and Developers, Inc., a Kentucky Corporation, hereinafter sometimes called the "Declarant",

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described in Article II hereof and desires to create thereon a residential community with permanent common areas and community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas and community facilities; and to this end, desires to subject the real property described in Article II hereof to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and community facilities, administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed Prospect Point Homeowners Association, Inc., as a non-profit Kentucky corporation for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that all of the properties described in Article II 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

Section 1. Definitions. The following words when used in this Declaration shall have the following meanings:

(a) "Association" shall mean and refer to the Prospect Point Homeowners Association, Inc., and its successors and assigns.

(b) "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. In the case of

a Condominium Building existing under a horizontal scheme, the Regime shall not be deemed an owner, but the owner of the individual apartment in a Building shall be considered a separate Owner.

(c) "Properties" shall mean and refer to that certain real property hereinafter described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat or map of the property or recorded resubdivision thereof with the exception of the common areas or community facilities. In the case of a Condominium Building existing under a horizontal scheme, each apartment therein shall be deemed a separate "Lot". The land on which the Building is located shall not be considered a Lot.

(e) "Common Areas" or "Community Facilities" shall mean and refer to all real property owned by the Association for the benefit, use and enjoyment of its members, including arterial streets.

(f) "Living Unit" shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by single family. Each apartment in a Multi-family Structure as originally designed shall be deemed a separate Living Unit.

(g) "Multi-family Structure" shall mean and refer to any building containing two or more living units under one roof, even though such living units may be located on more than one lot.

(h) "Member" shall mean and refer to all those owners who are members of the Association as provided in Article IV hereof.

(i) "Developer" shall mean and refer to the Declarant and its assigns if such assigns should acquire more than one developed lot from the Declarant for the purpose of resale to an Owner or for the purpose of constructing improvements thereon for resale to an Owner.

(j) "Declarant" shall mean and refer to Drees Builders and Developers, Inc., a Kentucky Corporation, and its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

(k) "Section" shall mean and refer to all of the land area encompassing a lot or group of lots as set forth on a recorded plat intended by the Declarant for use for the same housing type (i.e., townhouse, detached living unit, attached living unit, attached garden type living unit, apartment rental buildings) contained in a specific stage of development and encompassing the street and parking areas owned by the Association for the primary use of such group of lots.

ARTICLE II

Section 1. Property Subject to Declaration. The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used occupied and improved subject to this Declaration is located in the County of Kenton, Commonwealth of Kentucky, and is more particularly described on "EXHIBIT A" attached hereto and by this reference made a part hereof.

Section 2. Additions. For a period of ten (10) years from and after the date hereof, additional property may be annexed to the above described property by the Declarant without the assent of the members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of fifty-one percent (51%) of each class of members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above described property. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on "EXHIBIT A", as hereinafter provided.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a supplement to this Declaration of Covenants and Restrictions in the real estate records of the Clerk of the County of Kenton, Kentucky, which supplementary declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such Supplementary Declaration may contain such complementary additions and modifications to the covenants and restrictions set forth in the within Declaration as may be necessary to reflect the different character of use, if any, of such annexed property.

ARTICLE III

Section 1. Member's Right of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Areas and Community Facilities and such easement shall be appurtenant to and shall pass with the title to every lot, subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Community Facilities and in aid thereof to mortgage said property. The Association shall not mortgage the Common Areas or Community Facilities except by resolution approved by fifty-one percent (51%) of the total number of votes held by Class C members and fifty-one percent (51%) of the total number of votes held by all other members of the Association.

(b) The right of the Association to levy reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas by the members of the Association and their guests; and

(c) The right of the Association to take such steps as are reasonably necessary to protect the above described property against mortgage default and/or foreclosures; and

(d) The right of the Association to limit the number of guests of members; and

(e) The right of the Association to suspend the voting rights and the rights to use of the Common Areas and Community Facilities for any period during which any assessment remains unpaid and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations; and

(f) The right of the Association to dedicate or transfer all or any part of the Common Areas or Community Facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members, provided, however, that no such dedication or transfer shall be effective unless an instrument signed by fifty-one percent (51%) of the total number of votes held by Class C members and fifty-one percent (51%) of the total number of votes held by all other members of the Association has been recorded, agreeing to such dedication, transfer, purpose or conditions, and unless written notice of the proposed agreement and action thereunder is sent to each member at least ninety (90) days prior to the taking of any action; and provided further that

Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each mortgage) of individual units in the Planned Unit Development have given their prior written approval, the Association shall not be entitled, by act or omission, to seek to abandon, partition, subdivide, encumber, sell or deliver real estate or improvements thereon which are owned, directly or indirectly, by such Association for the benefit of the units in the Planned Unit Development. (PUD Common Property). The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Planned Unit Development shall not be deemed a transfer within the meaning of this clause.

(g) The rights of the fee owners of lots to a perpetual easement over any Common Area or Community Facility for such portions of their Living Unit that may overhang said Common Areas or Community Facilities, and for necessary pedestrian and automotive ingress and egress to and from any such Living Unit over said Common Areas and Community Facilities, which rights are hereby expressly reserved for the benefit of the individual lots.

(h) The right of individual owners to the exclusive use of parking spaces as provided in this Article.

(i) The right of the Association to require any or all of the following with reference to insurance carried on any lots or living unit owned by a Class A member:

- (1) that all improvements on any lot be insured with an all risk policy;
- (2) that all improvements on any lot be insured with a fire policy with extended coverage provisions;
- (3) that such insurance be in an amount equal to the "full replacement" cost of such improvements;
- (4) that such policy be a "homeowners policy";
- (5) that such policy be issued by a company designated by the Association;
- (6) that the Association be designated as a "named insured" in such policy;
- (7) that the proceeds of such policy be paid to the Association as trustee to be held and used to repair, rebuild or replace the damaged improvement;

and the right of the Association to make rules and regulations for the administering of this insurance provision and carrying out of the requirements hereunder.

Section 2. Parking Rights. Ownership of each lot on which is located all or part of a Multi-Family Structure shall entitle the owner or owners thereof to the use of not more than one automobile parking space for each living unit located on the lot, which shall be as near and convenient to the lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall permanently assign the vehicle parking spaces for each lot. No parking for lots on which are located detached single family living units shall be provided, and no parking shall be provided for lots for Apartment Rentals (Class B members). Parking for the benefit of lots of such members shall be provided on the lots themselves by the owner.

Section 3. Delegation of Use. Any owner may delegate, in accordance with the applicable By-Laws of the Association, his right of enjoyment in and use of the Common Areas and Community Facilities to the members of his family, guests, his tenants, or contract purchasers who reside on the property, provided that in the instance of a delegation to tenants or contract purchasers who reside in the property, the Owner's right of enjoyment in and use of the Common Areas and Community Facilities and that of his family and guests shall be suspended unless the Owner shall likewise reside on the property, subject however to the provisions of Section 4 below.

Section 4. Rights Not Subject to Suspension. Notwithstanding anything herein contained to the contrary, the rights and easements created in paragraph (g) of Section 1 of this Article III shall not be suspended by the Association for any reason.

ARTICLE IV

Voting Members. The Association shall have three (3) classes of voting members.

(a) With the exception of a Developer until Class C membership has lapsed and become a nullity, every person, group of persons, or entity who is a record owner of a fee interest in any lot which is or becomes subject by covenants of record to assessment by the Association shall be a member of the Association as follows:

Class A. Class A members shall be all the owners of lots with the exception of the Declarant and owners of lots designated by the Declarant for use for Apartment Rental Buildings;

Class B. Class B members shall be owners of lots designated by the Declarant for use for Apartment Rental Buildings;

(b) Class C. Class C member shall be the Declarant, which shall be entitled to three votes for each lot in which any Developer holds the interest otherwise required for Class A or B membership multiplied by the number of living units located or proposed by the Declarant to be located on such lot, provided, however, that each Class C membership shall lapse and become a nullity ten years from and after the date hereof.

At such time as Class C membership shall lapse and become a nullity, any Developer which, for any lot, holds an interest therein otherwise required for Class A or B membership, shall be deemed a member of such applicable Class with reference to such lot or lots and entitled to the voting and all other rights of such Class member.

ARTICLE V

Section 1. Covenant for Assessments. The Declarant for each lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments; (2) individual assessments; (3) special assessments for capital improvements, or other services, provided by the Association, such assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person, group of persons, or entity who was the owner of such property and lot at the time when the assessment fell due.

Section 2. Annual Assessments, Purposes. The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the esthetic and scenic qualities of the development. To carry out these purposes, an Annual General Assessment shall be levied by the Association to provide and be used for the improvement and maintenance of the properties, services and facilities related to the use and enjoyment of the Common Areas and Community Facilities, including, but not limited to, the payment of taxes and insurance for said Common Areas and Community Facilities and, repair, replacement and additions thereto, and for the cost of labor, equipment, and materials, management and supervision thereof, including the maintenance and repair of streets. To further carry out these purposes, an Annual Maintenance Assessment shall be levied by the Association to provide and be used for the purpose of: (a) providing fire protection and waste collection to all lots owned by all members, except Class B members (Apartment Rental Buildings); (b) providing grass cutting (excluding trimming); providing exterior maintenance as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, driveways and parking areas serving the lots of such members, (excluding the exterior maintenance of glass surfaces and exterior patios designed for the exclusive use of one Living Unit); such grass cutting and exterior maintenance to be provided to all lots owned by all members except for lots designated by the Declarant for use for one detached living unit and excepting Class B members; (c) providing and paying for share of administrative and management expenses attributable to carrying out purposes of Annual Maintenance Assessment; and (d) providing such additional matters, consistent with the general purposes of the Annual Assessments as may be approved in writing by not less than two-thirds vote of members of the Section (as heretofore defined) to be affected thereby.

Section 3. Annual General Assessments, Initial Amount. Until January 1, 1980 the maximum annual general assessment for each Class A or B membership for general purposes provided in Section 2 of this Article V shall not exceed Two Hundred Sixteen Dollars (\$216.00) per Living Unit per annum.

The assessment may be billed in advance on a monthly, quarterly, or annual basis. The Board of Directors may fix the annual assessment at any amount not in excess of the maximum hereinabove provided for. The assessment shall be fixed at a uniform rate based upon Living Units.

Section 4. Annual General Assessment, Maximum Increase.

(a) From and after January 1, 1980 the amount of the maximum general assessment set out in Article V, Section 3, above, for all membership will increase automatically five percent (5%) per year in addition to the maximum sum allowed for the previous year (whether changed or not), unless prior to the levying of such new assessment year, the Board of Directors votes to reduce the assessment below that allowed to be changed in such year. As used herein, the term, "allowed to be changed", shall mean the sum set out in Article V, Section 3, above,

increased and compounded five percent (5%) per year beginning with the year immediately following the conveyance of the first lot to an Owner.

(b) From and after January 1, 1980 the maximum annual general assessment for all memberships may be increased above that established by the preceding paragraph, by a vote of members as hereinafter provided, for the next succeeding year and at the end of such year for each succeeding year. Any change made pursuant to this paragraph shall have the assent of fifty-one percent (51%) of the total number of votes held by Class C members and fifty-one percent (51%) of the total number of votes held by all other members of the Association, voting in person or by proxy, at a meeting called for this purpose. A notice of such meeting shall be sent to all members at least fifteen (15) days in advance of such meeting, which notice shall set forth the purpose of such meeting.

(c) The assessment may be billed in advance on a monthly, quarterly, or annual basis. The Board of Directors may fix the annual assessment at any amount not in excess of the maximum hereinabove provided for. The assessment shall be fixed at a uniform rate based upon Living Units.

Section 5. Annual Maintenance Assessment.

(a) The Annual Maintenance Assessment shall be levied on the members in such amount as is determined by the proportionate share for each owner of a lot within a Section (as heretofore defined) as may be necessary, in the determination of the Board of Directors of the Association, to carry out the purposes of the Annual Maintenance Assessment. Each section shall be computed individually and a record of funds collected from the respective Sections shall be separately maintained. This assessment may be billed on a monthly, quarterly or annual basis. The assessment shall be fixed at a uniform rate within the Section based upon lots within the sections, but assessment amounts may vary from Section to Section. All monies received by the Association as the Maintenance Assessment shall be held in trust by the Association for the benefit of the members in each Section to be used solely for the purposes as herein provided. Maintenance Assessments and any income derived therefrom shall be held as a separate fund and shall not be comingled with other assets coming under the control of the Association.

(b) Negligence or Wilful Neglect. In the event that the need for maintenance or repair is caused through the wilful or negligent act of the owner, his family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment against the individual lot upon which the maintenance or repairs are performed.

(c) Access to Lot. For the purpose solely of performing the exterior maintenance required or authorized herein, the Association, through its duly authorized agent or employees, or subcontractors, shall have the right, after reasonable notice to the owner, to enter upon any lot or the exterior of any living unit at reasonable hours on any day. No notice shall be required for grass cutting.

(d) Annual Maintenance Assessment for Developer's Lots. With reference to the application of the Section 5 Annual Maintenance Assessment, and subject to Section 9 of this Article, lots owned by a developer shall be considered as part of Class A or B into which they otherwise would belong but for their ownership, provided that the Declarant shall retain its three votes with reference to each such lot as provided in Article IV, Section 1(b).

Section 6. Individual Assessments. In the event an Owner of any lot in the properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, and such maintenance is not that to be provided by the Association under Section 2 or 5 above for which assessments are provided, then the Association, after approval by two-thirds (66-2/3%) vote of all members of the Board shall have the right through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the total assessment to which such lot is subject.

Section 7. Special Assessments. In addition to the annual assessments authorized by this Article, 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 or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty-one percent (51%) of the total number of votes held by Class C members and fifty-one percent (51%) of the total number of votes held by all other members of the Association, voting in person or by proxy at a meeting called for this purpose. A meeting of the members shall be duly called for this purpose, written notice of which shall be sent to all members at least fifteen (15) days in advance of such meeting, which notice shall set forth the purpose of the meeting. Any special assessment levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the members to be used solely for the purpose of the Special Assessment as voted hereunder by the Members and Special Assessments and any income derived therefrom shall be held as a separate fund and shall not be comingled with other assets coming under control of the Association.

Section 8. Commencement of Assessments. The Annual assessments shall commence on the first day of the month following the conveyance to the Association of the Common Areas. The first assessment for any such membership shall be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of Directors of the Association to periodically fix the amount of the assessment

against each lot for each assessment period and the Board of Directors shall make reasonable efforts to fix the amount of the assessment against each lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any lot subject thereto.

Section 9. Assessment of Developer and Class B Members. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Developer, while there exists a Class C member, and Class B members shall be required to pay an assessment for any recorded, unsettled lot in which it has the interest otherwise required for Class A or B membership only in an amount equal to twenty-five (25%) percent of the Annual Assessments which the Association levies for purposes set forth in Section 2 of Article V. The provisions of this Section 9 shall not apply to the assessment of any living unit held by a Developer or Class B member for rental purposes that is or has been occupied as a living unit; in which event the Developer or Class B member shall be required to pay the full amount of the assessments levied thereon.

Section 10. Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to any Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment; i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Ten (\$10.00) Dollars may be levied in advance by the Association for each certificate so delivered.

Section 11. Non-Payment of Assessment. Any Assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of the Association.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest at the rate of eight percentum (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each assessment. No Owner may waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or Community Facilities or abandonment of his lot or living unit.

Section 12. Subordination of Assessment 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, any tax lien foreclosure, land contract cancellation or 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.

ARTICLE VI

Section 1. Architectural Control Committee. Except for original construction or as otherwise in these covenants provided, no building, fence, wall or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) members appointed by the Board of Directors.

Section 2. Prohibited Uses and Nuisances. Except for the activities of the Developer during original construction:

(a) No noxious or offensive trade or activity shall be carried on upon any lot or within any Dwelling situate upon the Property, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of the Property.

(b) The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number shall be and is hereby prohibited on any lot or within any Dwelling situate upon the Property, except that this shall not prohibit the keeping of dogs, cats and/or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes. Dogs must be kept within the confines of the Owner's Lot or on a leash when outside Owner's Lot. Owners and/or harborers of dogs shall be liable for any damage caused by such dogs off of Owners or harborer's lot. Subject only to the provisions of Article III, Section 4, the Association acting through its Board of Directors may suspend for reasonable lengths of time the voting rights and the rights to use the Common Areas and Community Facilities, of any person who violates this subparagraph (b).

(c) No burning of any trash and no accumulation or storage of litter, new or used building materials, or trash or any kind shall be permitted on any lot.

(d) Except as hereinelsewhere provided, no junk vehicle, commercial vehicle, trailer, truck of more than 3/4 structure of a temporary character, trailer, tent, shack, barn or other outbuilding, shall be kept or used upon the lots; nor

(except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Developers and their subcontractors may, for the purpose of business use in connection with the development of the properties or construction of living units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

(e) Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection.

(f) In order to facilitate the free movement of passing vehicles, no automobiles belonging to the residents shall be parked on the paved portion of any joint driveway or streets, public or private, except during bona fide temporary emergencies.

(g) No sound hardwood trees shall be removed from any lot without written approval of the Association acting through its Board of Directors or duly appointed committee, provided that this provision shall not apply to any lots owned by the Declarant or any Developer prior to completion of all living unit(s) on the lot and sale thereof or use as rental units by the Declarant or Developer.

(h) No signs of any character shall be erected, posted or displayed upon, in or on any lot or Living Unit, excepting street and identification signs installed by the Association or the Declarant and excepting one (1) temporary real estate sign not exceeding five (5) square feet in area erected upon any lot or attached to any Living Unit advertising same upon the market for sale or rent. This resolution shall not apply to any Developer as long as there exists Class C member, or to sign advertising or marketing Prospect Point Subdivision or any units therein.

(i) No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

(j) No outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission, shall be maintained on any Lot or Living Unit.

(k) There shall be no violation of any rules for the use of the Common Areas or Community Facilities which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt or amend such rules.

(l) Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or

converted into living area, e.g., family room(s), bedroom(s), recreation room(s), office room(s), etc.

(m) The covenants and restrictions set forth above in this Section 2 may be altered, amended or rescinded, in whole or in part, at a regular or special meeting of the members by affirmative vote of two-thirds (66-2/3%) of the total number of votes held by Class C members and two-thirds (66-2/3%) of the total number of votes held by all other members of the Association.

Section 3. Residential Use. All of the units shall be used for private residential purposes exclusively except that a Developer may use living units as models and as offices in connection with the marketing or sale of lots or living units in Prospect Point Subdivision.

Section 4. Right of Association to Remove or Correct Violations of this Article. The Association may, in the interest of the general welfare of all the Owners, and after reasonable notice to the Owner, enter upon any lot or the exterior of any Dwelling at reasonable hours on any day except Sunday for the purpose of removing or correcting any violation or breach of any attempted violation of any of the covenants and restrictions contained in this Article, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board.

Section 5. The Declarant for itself and any Developer reserves the right for a period of two (2) years after sale of a lot by the Declarant or Developer to an Owner to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of the entire Properties, provided that the lot shall be restored with any pavement, grass or sod which shall have been removed.

Section 6. Notwithstanding the provisions of Article III, Section 1(f) or other provisions of this Declaration, as long as there exists Class C Membership, the Declarant, and thereafter, the Association is authorized without consent of the members to grant across, through or under any Lot or Common Area any utility easement, including Television Cable easement, deemed by the granting party to be necessary or convenient in the development or enjoyment of the Properties, provided that no easement shall be granted across, through or under any Living Unit or Building which materially restricts ingress or egress to such Living Unit or Building.

ARTICLE VII

Section 1. Joint Driveways or Walkway. Any driveway or walkway which is built or installed as part of the original construction upon the properties and which is situated on the dividing line between lots or partly on one lot and partly on another lot or other lots, shall constitute a joint driveway or

walkway for the equal and common use and benefit of the Owners of any lots or other portions of the properties which it is reasonably designed to serve, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding joint driveways or walkway and of liability for property damage due to negligent or wilful acts or omissions regarding the same shall apply thereto.

Section 2. Repair and Maintenance. The cost of reasonable repair and maintenance of any joint driveways or walkway shall be shared by the Owners who make use of the same in equal amounts, unless such repair and maintenance is provided by the Association through assessment.

Section 3. Damage or Destruction. Unless provided by the Association through assessment, in the event any joint driveway or walkway is destroyed or damaged, any Owner who has used the same may restore it, and if the other Owners thereafter make use of the same, 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 for negligent or wilful acts or omissions.

Section 4. Easement. There shall be a perpetual and non-exclusive easement in, through and over any such joint driveway or walkway reserved to the Owners of any lot or lots upon which the same has been built or installed or which the same has reasonably been designed to serve and no person shall in any way interfere with the free and unobstructed use thereof by said Owners.

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. Rights Not Subject to Suspension. The rights and easements created in this Article VII, Sections 1 through 5 inclusive, shall not be suspended by the Association for any reason.

ARTICLE VIII

Section 1. Party Walls. Each wall which is built as part of the original construction of the dwellings upon the Property and placed on the dividing line between lots or dwellings 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 of liability for property damage due to negligent or wilful acts or omissions shall apply thereto.

Section 2. 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 wilful acts or omissions. Unless otherwise agreed by Owners of all Living Units in a Multi-family Structure damaged or destroyed by fire or other casualty such Structure shall be rebuilt and all proceeds of insurance available therefor shall be used to restore the Structure.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or wilful 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. For purposes of making inspections and repairs under this Article VIII, an Owner, his agents or contractors shall have the right to enter upon the premises of the other owners of a party wall upon the giving of notice.

Section 6. Easements. In the event that a Multi-family Structure is erected on more than one lot, each such lot shall have the benefit of mutual easements across the other lots upon which said Structure is located and through the Structure, and each such lot shall be subject to easements across it and through the Structure erected thereon for the benefit of the other lots upon which said Structure is located, for the maintenance, continuation and upkeep of utility wires and lines serving the individual lots and living units located thereon. The owner(s) of each Lot shall maintain, repair and replace all wires and lines serving such lot and living unit, and for such purpose may enter upon the other lots or living units, but shall at all times be responsible for repairing and restoring to its former condition any lot or living unit which is damaged or disturbed by reason of the performance of any maintenance, repair or replacement of such wires and lines, or by reason of the exercise of any right of easement, ingress and egress herein provided. The cost of repair and maintenance of wires and lines used jointly for the benefit of two or more of such lots shall be shared by the Owners thereof using same in the same manner and in accordance with the provisions for repair, maintenance, damage or destruction of joint driveways and walkways in Article VII.

Section 7. 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 8. Notwithstanding provisions otherwise contained herein, all of the following utility lines designed to serve more than one living unit shall be under the exclusive control of and shall be maintained by the Association (subject to the rights and duties of the utility company providing the service).

(a) Electric supply and water supply lines extending from the service of supply delivered by the utility company

to the meter base location for the living unit.

(b) Sanitary sewer lines extending from the connector sewer line to the point at or near the living unit where common usage by more than one living unit stops.

ARTICLE IX

Section 1. Duration. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date of recordation of this Declaration after which the said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of two-thirds (66-2/3%) of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken and no such agreement to change shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Areas herein created.

Section 2. Notices. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants; and the failure or forbearance by the Association or 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. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach of any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or by recovery of damages.

Section 4. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any common areas or community facilities by any public or municipal agency, authority, or utility.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order

shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

IN WITNESS WHEREOF, the said Drees Builders and Developers, Inc., a Kentucky corporation by its duly authorized officers, has hereunto set its signature on the day and year first written above.

DREES BUILDERS AND DEVELOPERS, INC.

Ralph A. Drees
RALPH A. DREES, PRESIDENT

John M. Moody
JOHN M. MOODY, SECRETARY

COMMONWEALTH OF KENTUCKY

COUNTY OF KENTON

I hereby certify that on the 25 day of October 1974, before me a Notary Public in and for the county and state aforesaid, personally appeared RALPH A Drees, President and John M Moody, Secretary

who executed the foregoing and acknowledged the same to be their act and deed, and the act and deed of Drees Builders and Developers, Inc.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal on the day and year written above.

Donath G. G. G.
Notary Public
Kenton County, Kentucky

My commission expires August 9, 1976

This instrument prepared by
HUGHES, CLARK & ZIEGLER
Attorneys at Law
Covington Trust Building
Covington, Kentucky

By Albert L. Ziegler

PARCEL NO. 1 - BEING all of "Parcel A" as shown on the plat of Prospect Point Subdivision, Phase A, Part 1, recorded as Original Plat No. 7678 in the Kenton County Clerk's records at Covington, Kentucky.

PARCEL NO. 2 - A parcel of land lying near the end of River Cliff Road in Kenton County, Kentucky and being more particularly described as follows:

BEGINNING at a point, the most northeasterly corner of Prospect Point, and running thence: S 6° 42' W, along the easterly line of Prospect Point, a distance of 860 feet, to a point; thence N 81° 04' W, a distance of 475 feet, to a point; thence N 8° 56' E, a distance of 10 feet, to a point; thence N 81° 04' W, a distance of 30 feet, to a point; thence S 8° 56' W a distance of 10 feet, to a point; thence N 81° 04' W, a distance of 80 feet, to a point in the westerly right of way line of River Cliff Road; thence Southwestwardly, along the westerly right of way line of River Cliff Road as it curves toward the west (curve having a radius of 77.53 feet, a distance of 119.84 feet, to a point; thence Westwardly, continuing along the aforementioned right of way line as it curves toward the south (curve having a radius of 123.84 feet), a distance of 72.98 feet, to a point; thence S 63° 44' W, continuing along the aforementioned right of way line, a distance of 50 feet more or less, to a point in the northeasterly right of way line of Prospect Point Drive; thence Northwestwardly, along the northeasterly right of way line of Prospect Drive as it curves toward the west (curve having a radius of 150 feet), a distance of 115 feet more or less, to a point; thence N 82° 30' W, a distance of 110 feet more or less, to a point; thence N 3° 45' E, a distance of 705 feet more or less, to a point; thence S 88° 30', a distance of 234 feet more or less, to a point; thence S 63° 58' E, a distance of 170 feet more or less to a point; thence S 89° 13' E, a distance of 433.62 feet, to the place of beginning.