Book 151 Page 311 (12 pages)

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DECLARATION OF PROTECTIVE RESTRICTIONS,
COVENANTS AND CONDITIONS

THIS DECLARATION, made this 4TH. day of DECEMBER, 1978, by E.M. SMALL, R.H. SMALL, ROBERT GREENE, & SKIP BUCK, hereinafter called Declarants:

W I T N E S S E T H:

WHEREAS, Declarants are the owners of all of the real property, as described in Exhibit "A" hereto attached, and desire to place restrictions, covenants and conditions upon a portion of said real property for the use and benefit of themselves as present owners and for the future owners thereof;

WHEREAS, the following restrictions, covenants and conditions shall only be placed on said premises and the owners and contract purchasers shall be charged with the following restrictions, covenants and conditions; and

WHEREAS, the said real property described shall be known as RIVERVIEW ORCHARDS.

NOW, THEREFORE, Declarants hereby make the following declarations as to limitations, uses and restrictions to which the specifically above-named tracts or any part thereof constituting said real property may be put, hereby specifying that such declarations shall constitute covenants to run with the land specified herein and shall be binding on all parties and persons claiming under them, for the benefit of and limitations on all future owners in said RIVERVIEW ORCHARDS, and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof, and further declare that all the specified property above described shall be held, used, sold and conveyed subject to the following restrictions, covenants, conditions and easements for the purpose of insuring the use of the property for residential and agricultural purposes only, to enhance and protect the value of the real property as a highly desirable rural subdivision, to prevent nuisances, to prevent the impairment of the attractiveness of the property, and to maintain the desired tone of the subdivision, thereby securing to each site owner the full benefit and enjoyment of his home.

ARTICLE I: DEFINITIONS

Section 1. "Association" shall mean and refer to RIVERVIEW ORCHARDS HOMEOWNERS ASSOCIATION, a proposed Montana non-profit corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described namely, RIVERVIEW ORCHARDS, of Certificate of Survey No. _____ and such other real property as is now or may hereafter be brought within the jurisdiction of the Association.

Section 3. "Lot" shall mean and refer to any tract of land specified herein as subject to this Declaration and as shown upon any recorded certificate of survey of the properties with the exception of any dedicated street, road easements, irrigation easements, drainage easements, public utility easements, and the specific lots exempted from this Declaration. In the event a Lot is subdivided or other than a tract as shown on the recorded certificate of survey is used as a dwelling location, as hereinafter authorized, such location, as modified, shall thereafter be considered as a Lot.

Section 4. "Member" shall mean and refer to every person or entity who is a member of the Association.

Section 5. "Owner" shall mean and refer to every person or entity who is the owner of a fee or of the equitable title, one purchasing under a contract for deed, of any Lot which is a part of the Properties, including buyers under a contract for deed, excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Members of the Association.

Section 7. "Declarants" shall mean and refer to E.M. Small, R.M. Small, Robert Greene & Skip Buck their heirs, successors or assigns, if such heirs, successors or assigns should acquire the entire interest of said properties.

Section 8. "Class A" Members shall be all Members of the Association except the Declarants.

Section 9. "Class B" Members of the Association shall be the Declarants.

Section 10. "Dwelling House" shall mean and include double wide mobile home, modular home, constructed home and pre-engineered home.

ARTICLE II: ANNEXATION

The association may, at any time, annex additional residential properties that border property within the jurisdiction of the Association, and so add to its membership; provided, that such annexation shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly and properly called for the purpose and the assent of the owner of the bordering property.

137-311

ARTICLE III: MEMBERSHIP

Every person or entity who is the owner of a fee or the equitable title, when purchasing under a contract for deed, of a Lot which is subject by covenants of record to assessment by the association, including buyers under a contract for deed and contract sellers, shall be a Member of the Association. For the purpose of determining membership, such ownership shall be deemed to have vested upon the recording of a duly executed deed or a notice of purchaser's interest to the grantee or vendee with the clerk and recorder of Ravalli County, Montana. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of the Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

ARTICLE IV: VOTING

Section 1. Class A. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest in any Lot, the vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more than one Class A vote be cast with respect to any Lot.

Section 2. Class B. Class B Members shall be entitled to one (1) vote for each Lot which they hold the interest required for membership, but in no event shall more than ne Class B vote be cast with respect to any lot.

Section 3. When such distinction of classes shall terminate all members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership of the Association. When more than one person holds such interest in any Lot, the vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 4. Suspension of voting rights. The voting rights of any Member shall be suspended by action of the Board of Directors of said Association if such Member shall have failed to pay when due any assessment or charge lawfully imposed upon him or any Lot owned by him, or if the Member, his family, or any guest of any thereof, shall have violated any rule or regulation of the Association regarding the use of any property or conduct with respect thereto.

151-311

ARTICLE V: PURPOSES

The Association shall represent the Owners and serve them in accordance with the provisions of this Declaration.

Its services may include, but shall not be limited to architectural control, maintenance of roads within the Properties and providing such other services and representation as are authorized in accordance with the provisions of this Declaration.

ARTICLE VI: ASSESSMENTS

Section 1. Assessment Obligation. The Declarants for each Lot owned within the Properties covenant to, and each other Owner of any Lot by acceptance of a deed or contract for deed of any Lot within the Properties, whether or not it shall be so expressed in said deed or contract, is deemed to covenant and agree to, and shall be a member of, and subject to the assessments and duly enacted By-Laws and all other rules of the Association. The assessments in this regard shall be paid promptly when the same becomes due, as hereinafter provided, and in the event of Declarants' or Owner's failure to pay the same promptly when due shall constitute a lien upon the above described premises and the same may be enforced in equity as in the case of any lien foreclosure. The Board of Directors of the Association may duly record said lien upon and against any such lot, and such recording thereof shall constitute notice of said lien to all persons, including successors in title, who shall take said Lot subject to that recorded lien. In this regard, Declarants shall not be liable or charged with any assessment allowed herein subject to the conveyance of all lots herein by contract for deed to Class B Members.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Rate of Assessments. Both annual and special assessments must be fixed at a uniform rate per Lot except as otherwise provided herein. However, all undeveloped Lots owned by the Declarants or Class B Members shall be subject to assessments of one-fourth (1/4) of the amount of the fixed assessment, whether annual or special.

151-311

Section 4. Annual Assessments. Assessments shall be fixed annually by the Board of Directors of the Association. Until January 1, 1990, the maximum monthly rate shall be FIVE DOLLARS ($ 5.00) per lot.

(a) From and after January 1, 1990, the maximum annual assessment may be increased effective January 1st of each year in proportion to the annual rise, if any, in the Consumer's Price Index as published for the preceding month of July by the United States Department of Labor.

(b) From and after January 1, 1990, the maximum annual assessment may be increased above that established by the Consumer's Price Index formula or decreased to a different basis (subject to subsequent adjustment by the Consumer's Price Index formula) provided that any such change shall have the assent of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly and properly called for this purpose. These limitations shall not apply to any change in the assessments incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation; nor shall these limitations apply to any special assessments as hereinafter mentioned.

(c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessments at an amount not in excess of the maximum allowable.

Section 5. Road Maintenace Assessments. The Association shall levy a special assessment for the purpose of paying for road maintenance costs. This Assessment shall be levied at a uniform rate for all Lots.

Section 6. Special Assessments for Capital Expenditures. The Association may levy a special assessment applicable to one year only for the purpose of defraying, in full or in part, the cost of any purchases, construction or reconstruction, or unexpected repair or replacement of capital items, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly and properly called for this purpose.

151 - 311

Section 7. Assessment procedures. The Board of Directors of the Association is authorized to make the initial assessments at such time as it determines appropriate. Such Board shall fix the amount of assessments against each Lot and send written notices to every Owner at least thirty (30) days in advance of the due date. The payment of assessment installments shall be made at such intervals as are established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by any authorized officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Non-Payment of Assessment. Any assessments or installment payments or assessments which are not paid when due shall be delinquent. If not paid within thirty (30) days after the due date, the amount shall bear interest from the date of delinquency until paid at the rate of eight percent (8%) per annum. The Association may bring an action at law or in equity to collect the amount of the assessment, by a personal action against the delinquent Owner and by foreclosure of the lien against said Lot, together with interest, costs and reasonable attorney's fees for such action. The Board may also suspend all voting rights as hereinabove mentioned.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein.

(a) All properties dedicated to and accepted by public authority or agencies;

(b) All properties owned by the Association, including the said Common Area; and

(c) All properties owned by charitable organizations exempt from taxation by the laws of the State of Montana.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

151-311

ARTICLE . .: PROTECTIVE COVENANTS

The following protective covenants are designed to provide a uniform plan for the development of the properties. They shall constitute a covenant running with the land for each Lot within the Properties.

Section 1. All Lots in the above-described property shall be used for residential purposes only, to include duplexes, except as hereinafter provided. No business, trade, manufacture or other commercial activity shall be conducted thereon. No Lot shall be divided in such a manner as to leave any parcel of less than two (2) acres, subject to the control of the Architectural Control Committee with regard to the manner, occasion and shape of said division as hereinafter set forth, provided, however, the Declarants or Class A Members may, for financing purposes only, execute a conveyance of any portion of any Lot for less than two (2) acres in site and the Architectural Control Committee may, because of topography and access, waive the two acre minimum.

Section 2. No building shall be erected, altered, placed or permitted to remain on any Lot other than a single family dwelling or duplex, private garage, greenhouse and a barn. The Architectural Control Committee is authorized in its absolute discretion to approve exceptions to this section so a guest house or other reasonable outbuildings may be constructed to serve the residents of the principal dwelling house. All such dwelling houses, buildings or structures shall be completed as to external appearance within six (6) months of commencement of construction. No structure other than a fully completed residence shall be occupied. No outbuilding, garage, shed, tent, camping trailer, basement or temporary building shall be used for permanent or temporary residence purposes.

Section 3. The ground floor area of the main dwelling house shall not be less than Eight Hundred (800) square feet per floor for a two story house and One Thousand (1,000) square feet for a one story house, exclusive of garage, covered walks and open porches. All buildings must have either a full basement or a double-car garage of at least 20' x 24'.

Section 4. No building shall be located on any Lot closer than seventy-five (75) feet to any street or roadway easement nor closer than fifteen (15) feet to any property line. The Architectural Control Committee shall have exclusive control and approve all building sites as hereinafter provided and the right to grant, in its sole discretion, a variance to the fifteen (15) foot setback when necessary.

151 - 311

Section 5. No dwelling house, garage, fence, enclosure or other structure shall be erected, placed or altered on any Lot until the construction plans and specifications and proposed building site therefor have been approved by the Architectural Control Committee as to materials, size, harmony of external design with existing structures in the surrounding area, access, location of the structure with respect to topography and the finished grade elevation and health and sanitation requirements and restrictions. No Lot shall be divided as hereinbefore mentioned until the survey of the proposed division has been approved by the Architectural Control Committee as to location, harmony of existing land ownership in the surrounding area, relationship to the topograph, access, population density and health and sanitation requirements and restrictions. Said committee shall consist of the Board of Directors of the Association. Approval or disapproval by the Architectural Control Committee shall be in writing. In the event the Committee fails to act within thirty (30) days after the proposed plans and specifications of any structure, proposed building site and survey of any proposed Lot division are submitted, no specific approval shall be required for said structure, proposed building site, or proposed Lot division and pertinent provisions of this Declaration shall be deemed to have been fully complied with. If no suit is commenced to enjoin construction or placement of a dwelling house prior to its completion or within thirty (30) days of the time construction is commenced or placement occurs, whichever is longer, said dwelling house and said building site shall thereafter be deemed in compliance with this Declaration; and if no suit is commenced to enjoin any division of a Lot within sixty (60) days after said survey of such a division is duly recorded, said Lot division shall thereafter be deemed to be in compliance with this Declaration.

Section 6. No advertising signs (except a small "For Sale" sign) bill boards, or unsightly objects shall be erected, placed or permitted to remain on any Lot. Until December 31, 1982, Declarants or Class B Members may place reasonable signs within the property to promote its development..

Section 7. Each property Owner shall provide exterior maintenance. The premises, improvments and appurtenances shall be maintained in a safe, clean, neat and orderly condition. No rubbish or other waste shall be allowed to accumulate on the property. All containers for the storage and disposal of garbage shall be kept in a clean and orderly condition. No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.

151-311

Section 8. Only normal family pets, 4-H project animals and cattle, horses and poultry may be kept on the premises. No swine or goats shall be kept on any portion of said premises. No large scale agricultural operations such as feed lots, dairy herds or poultry farms shall be allowed to operate on the premises. Such animals, as allowed, shall be confined within the property of their owner and shall not be permitted to become a nuisance or annoyance to neighbors.

Section 9. The premise shall not be utilized for communal living and no noxious or offensive activities shall be carried on or permitted on any Lot; nor shall the property be used in any way which may endanger the health or safety of, or unreasonably disturb the neighborhood.

Section 10. All water systems and sewage disposal systems must be located and constructed in accordance with the requirements, standards and recommendations of the appropriate state and county governmental authorities.

Section 11. No trucks exceed One Ton capacity or other unsightly vehicles shall be parked or allowed to remain in said Properties unless stored in a garage or completely screened from view by screening as is approved by the Architectural Control Committee.

Section 12. Certain access routes and road within the Properties have been established by easement and are not dedicated. Also certain easements for public utilities have been established. No fence or other obstruction shall be built upon any easement thereon.

Section 13. Roads shall be dust oiled as and when required by local sanitary regulations.

Section 14.

Section 15. The Declarants have caused survey monuments to be placed on the corners of each Lot. It shall be the responsibility of the Owner of each Lot to provide for the immediate professional replacement of any survey monument that is removed or becomes lost or obliterated from his Lot.

Section 16. No wild bird or animal shall be trapped, hunted or killed within the Properties, excepting for the protection of life, limb or to prevent unreasonable property damage.

151-311

Section 17. There shall be no fires started on any Lot without adequate on-site supervision necessary to protect the other Lots. All burning shall be done according to the regulations promulgated by the Association. Any Owner who fails to control any fire he has started which damages another's property shall be liable for all damage caused by said fire.

Section 18. All outdoor yard lights, including mercury vapor lights, shall be limited to one per Lot and no such light shall be erected, placed or altered until its location has been approved by the Architectural Control Committee.

Section 19. All irrigation on the Properties shall be accomplished by use of sprinkling systems which comply with all governing laws and regulations relating to water supply, sanitation and sewage disposal.

Section 20. All access driveways from the private developed roads within the Properties to the dwelling site shall be graveled with a minimum width of ten (10) feet.

Section 21. Pre-engineered homes and all modular homes placed and erected on a Lot within the Properties shall be placed and erected upon a concrete foundation, as approved by the Architectural Control Committee. All homes must conform to F.H.A. minimum building specifications or with the approval of the Architectural Control Committee. All building will conform to the protective covenants. Mobile homes will not be allowed.

ARTICLE VIII: ENFORCEMENT

These covenants may be enforced by the Declarants, the Association or any Owner of real property in the subdivision, by an appropriate proceeding at law or in equity, and may include proceedings to enjoin the violation and recover damages. Invalidation of any one of the restrictions shall in no way affect other provisions which shall remain in full force and effect. Failure to enforce any provisions shall not be deemed a waiver of the right to do so thereafter.

ARTICLE IX: TERM

The covenants shall be binding until January 1, 1998, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the Owners of a majority of the Lots in the subdivision has been recorded agreeing to change the covenants in whole or in part.

151-31

ARTICLE X: AMENDMENT

These covenants may be amended by an instrument signed by the Owners of two-thirds (2/3) of the Lots in the subdivision which has been recorded, agreeing to such amendment.

IN WITNESS WHEREOF, the Declarants have executed this instrument this 5TH. day of JANUARY, 1979.

Edward M. Small

D. M. Small

STATE OF MONTANA,)
ss.
County of Missoula.)

On this 5 day of January, 1979, before me, the undersigned, a Notary Public for the State of Montana, personally appeared [illegible] known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same as the Declarants.

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

Notary Public for the State of Montana, residing at: Missoula
My commission expires: March 17, 1979

151 - 311

EXHIBIT "A"

BLOCK 2, Lots 3a, 3b, 4a, 4b, 29a, 29b. 31a, 31b 32a, 32b, 33a, 33b.

BLOCK 3, Lots 1, 3a, 3b, 4a, 4b, 5a, 5b, 6a, 6b, 7a, 7b, 9a, 9b, 10a, 10b, 11a, 11b 12a, 12b, 13a, 13b, 14a, 14b. 15a, 16a, 16b 18a, 18b, 19a, 19b, 20a, 20b, 21a, 21b, 22a, 22b, 23a, 23b, 24a, 24b, 25a, 25b, 26a, 26b 27a, 27b, 28a, 28b, 29a, 29b.

BLOCK 4, Lots 1a, 1b, 2a, 2b, 3a, 3b, 4a, 4b, 5a, 5b, 19a, 19b, 20a, 20b, 22a, 22b.

All of the above according to the Amended Subdivision Plat of Riverview Orchards. A recorded subdivision in Ravalli County, and being in the S½ of Sec, 5, the S½ of Sec. 6, Sec. 7, and the N½ & SW¼ of Sec. 8, T.10N. R19W, P.M., Montana.

State of Montana, County of Ravalli:
Recorded April 20 1979 12:45 o'clock P. M., Book 151 Page 311
Darlene E. Hughey by [illegible] Deputy
Fee $ 24.00 Ka... [illegible] Robert A. Greene
3207 Blanke
Missoula, Mt. 59801

MAR/03/2010/WED 11:55 AM

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That I, JOHN H. BUCK, of the City and County of Missoula, State of Montana, hereby appoints DENNIS E. LIND as my true and lawful attorney, to act in, manage and conduct my affairs.

I hereby give and grant unto my said attorney full power and authority to do and perform all and every act, deed, matter and thing whatsoever in and about my estate, property, and affairs as fully and effectually as I might [illegible] if personally present, and I hereby ratify and confirm all that said attorney shall lawfully do by virtue of this power.

Said power of attorney shall terminate upon written notice from John H. Buck.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of [illegible], 1979.

JOHN H. BUCK

STATE OF MONTANA)
) ss.
County of Missoula)

On this 7th day of [illegible], 1979, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JOHN H. BUCK, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first hereinabove written.

Notary Public for the State of Montana
Residing at Missoula
My Commission Expires: [illegible], 1979

State of Montana, County of Ravalli:
Recorded Feb 8th 1982 at 9:20 o'clock A. M., Book 163 Page 51
Clerk & Recorder, By [illegible] Deputy
Fee $ 7.00 Return to Capital Land Title
201 W. Main St.
Missoula, MT 59802