22.00
(7)

Cross Reference: Instrument No. 9809805625

200500070182
Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J HAYDEN
10-25-2005 At 03:04 pm.
AMEND DECLA 22.00

AMENDMENT TO

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS AND RESERVATIONS

FOR

KINGSBOROUGH

AMENDMENT TO

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,

RESTRICTIONS, LIENS AND RESERVATIONS FOR

KINGSBOROUGH

THIS AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS AND RESERVATIONS FOR KINGSBOROUGH ("Amendment") is made this 25 day of October, 2005 by Kingsborough Community Association, Inc., an Indiana non-profit corporation ("Declarant"). All capitalized terms not otherwise defined herein shall have the meaning ascribed in that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions, Liens and Reservations for Kingsborough, dated January 19, 1998 (the "Declaration").

W I T N E S S E T H:

Recitals

A. Zaring Homes of Indiana, LLC, an Indiana limited liability company (the "Original Developer"), executed the Declaration and filed the Declaration with the Hamilton County Recorder on February 5, 1998, as Instrument No. 9809805625.

B. The Original Developer subsequently assigned its rights in and to the Declaration and its right, title and interest in the Declarant to The Drees Company, a Kentucky corporation (the "Developer"), and the Developer's membership in the Declarant subsequently terminated as the result of Developer's selling all lots to Owners.

C. The Declarant's Board of Directors has determined that it is advisable and in the best interest of the Declarant to amend Section 4.3(N) of the Declaration to allow additional fence styles and Owners to erect fences in Landscape Easements and Drainage Easements, provided that the Developer and Association shall not be liable for any changes, destruction, repair or restoration of any fence that is damaged, destroyed or remodeled by the Developer or Association or their agents or employees as a result of any construction, reconstruction, landscaping or other improvements in or use of such Landscape Easement and Drainage Easements.

D. Pursuant to Section 12.3 of the Declaration, the Declaration may be amended with the consent of not less than seventy-five percent (75%) of the Declarant's Class A Members, and at least seventy-five percent (75%) of the Declarant's Class A Members have consented to this Amendment.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. Description of Kingsborough. Kingsborough consists of two (2) sections, the legal descriptions of which are set forth on Exhibits A and B.

2. Section 4.3(N) of the Declaration is amended and restated as follows:

(i) No fence or any portion thereof may be installed on that part of any Lot which is closer to the street than the primary rear wall of the Dwelling Unit on the Lot. The "primary rear wall" shall be determined by lineal feet of wall area at the rear of the Dwelling Unit, and garage walls shall not be included in the calculation of the primary rear wall if the garage extends further to the rear of the Dwelling Unit than does the living area of the Dwelling Unit.

(ii) No fence may be installed on any Lot in the rear yards of any Dwelling Unit unless approved by the Board. Only the following fence styles are authorized:

(1) "Post and Board" or "Post and Rail" design. Three or four horizontal boards may be used and construction must be of wood or vinyl materials. Approved colors are cedar, natural and white, and protective finishes must be applied to maintain the look of the fence.

(2) "Split Rail" design. Approved color is a natural finish, a split rail fence must be constructed of wood, and protective finishes must be applied to maintain the look of the fence.

(3) "Picket" style or "Decorative Vertical Slat" design. Wood, vinyl, iron, or aluminum may be used in the construction of these fences. Approved colors are:

(a) Wood Fences: Natural, cedar, and white, and protective finishes must be applied to maintain the look of the fence.

(b) Vinyl, Iron or Aluminum Fences: White or black.

(4) Fences enclosing swimming pools must be constructed within thirty (30) feet of such pool and may be of a design and construction as is from time to time required by applicable government authorities for enclosure of swimming pools. The maximum height shall be 6 feet, and final approval shall not be granted until construction of the pool has begun.

(iii) The maximum height of any fence shall be 48" with a minimum height of 42". Post height including caps or finials may not exceed 9" from the top height of the fence. In order to maintain an open design, the boards or slats on any fence may not exceed 50% of the frontal view of the fence.

(iv) No fence or part thereof may be erected which may change, obstruct or retard direction of the flow of any drainage channel. It is recommended that no fence be erected in a Landscape Easement or Drainage Easement. In the event that any portion of a fence is erected on such easements, the Developer and Association shall not be liable for any changes, destruction, repair or restoration of any fence, which is damaged, destroyed or remodeled by Developer or Association, or their agents or employees as a

result of any construction, reconstruction, landscaping or other improvements in or use of such easements.

(v) Any fencing along 141st Street or Ditch Road shall be constructed of the same material, and be substantially the same height, the same color, the same design and the same appearance as the Entry Way fencing and shall be constructed only with the advance approval of the Board.

3. Except as set forth herein, the terms and conditions of the Declaration remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

ATTEST:

By: _____

Name: MARK WADE

Title: Secretary

My Commission Expires: _____

My County of Residence: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared MARK WADE by me known and by me known to be the Secretary of Kingsborough Community Association, Inc., who acknowledged the execution of the foregoing "Amendment to Amended and Restated Declaration of Covenants, Conditions, Restrictions, Liens and Reservations for Kingsborough" on behalf of said corporation.

Witness my hand and Notarial Seal this 24 day of October, 2005 ~~1997~~.

_____
Notary Public

CASIE GROVE
(Printed Signature)

My Commission Expires: 07-19-2009

My County of Residence: MARION

CASIE GROVE
NOTARY PUBLIC, STATE OF INDIANA
[illegible] 504493
QUALIFIED IN MARION COUNTY
COMMISSION EXPIRES 07/19/2009

This instrument prepared by Anthony P. Aaron, Esq., Ice Miller, One American Square, Box 82001, Indianapolis, Indiana 46282-0002; (317) 236-2100.

EXHIBIT A

KINGSBOROUGH
"PROPERTY"

A part of the Northwest Quarter of Section 22. Township 18 North, Range 3 East in Hamilton County, Indiana being more particularly described as follows:

Commencing at the Southeast corner of said Quarter Section thence North 90 degrees 00 minutes 00 seconds West (assumed bearing) along the South line thereof 525.00 feet to the POINT Of BEGINNING of this description; thence continuing North 90 degrees 00 minutes 00 seconds West along said South line 450.25 feet; thence North 00 degrees 00 minutes 00 seconds East 361.29 feet; thence North 35 degrees 45 minutes 42 seconds West 165.22 feet; thence North 46 degrees 39 minutes 45 seconds West 157.10 feet; thence North 26 degrees 57 minutes 10 seconds East 10.16 feet; thence South 61 degrees 22 seconds 03 minutes East 103.03 feet; thence North 34 degrees 40 minutes 01 seconds East 135.00 feet to a point on a nontangent curve concave southwesterly the radius point of said curve being South 34 degrees 40 minutes 01 seconds West 625.00 feet from said point; thence northwesterly along said curve 26.32 feet to a point on said curve the radius point of said curve being South 32 degrees 15 minutes 15 seconds West 625.00 feet from said point; thence North 32 degrees 15 minutes 15 seconds East 50.00 feet, thence North 10 degrees 39 minutes 26 seconds East 177.36 feet; thence North 00 degrees 59 minutes 47 seconds East 366.55 feet; thence North 38 degrees 59 minutes 47 seconds East 12.17 feet; thence North 89 degrees 58 minutes 52 seconds East 600.00 feet; thence South 33 degrees 15 minutes 34 seconds East 44.52 feet; thence North 53 degrees 37 minutes 10 seconds East 193.52 feet to a point on a nontangent curve concave southwesterly the radius point of said curve being South 57 degrees 17 minutes 59 seconds West 125.00 feet from said point; thence northwesterly along said curve 5.10 feet to a point on said curve the radius point of said curve being South 54 degrees 57 minutes 44 seconds West 125.00 feet; thence North 54 degrees 57 minutes 44 seconds East 258.33 feet; thence South 00 degrees 59 minutes 36 seconds West 1,132.73 feet; thence South 89 degrees 49 minutes 12 seconds West 514.20 feet; thence South 02 degrees 38 minutes 11 seconds West 377.46 feet to the place of beginning of this description containing 26.009 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.

EXHIBIT B

KINGSBOROUGH
"ADDITIONAL PROPERTY"

A part of the Northwest Quarter of Section 22, Township 18 North, Range 3 East in Hamilton County, Indiana being more particularly described as follows:

Commencing at the Southeast corner of said Quarter Section; thence North 90 degrees 00 minutes 00 seconds West (assumed bearing) along the South line thereof 975.25 feet to the POINT OF BEGINNING; thence North 00 degrees 00 minutes 00 seconds East 361.29 feet; thence North 35 degrees 45 minutes 42 seconds West 165.22 feet; thence North 46 degrees 39 minutes 45 seconds West 157.10 feet; thence North 26 degrees 57 minutes 10 seconds East 10.16 feet; thence South 61 degrees 22 minutes 03 seconds East 103.03 feet; thence North 34 degrees 40 minutes 01 seconds East 135.00 feet to a point on a nontangent curve concave southwesterly the radius point of said curve being South 34 degrees 40 minutes 01 seconds West 625.00 feet from said point; thence northwesterly along said curve 26.32 feet to a point on said curve the radius point of said curve being South 32 degrees 15 minutes 15 seconds West 625.00 feet from said point; thence North 32 degrees 15 minutes 15 seconds East 50.00 feet; thence North 10 degrees 39 minutes 26 seconds East 177.36 feet; thence North 00 degrees 59 minutes 47 seconds East 366.55 feet; thence North 38 degrees 59 minutes 47 seconds East 12.17 feet; thence North 89 degrees 58 minutes 52 seconds East 600.00 feet; thence South 33 degrees 15 minutes 34 seconds East 44.52 feet; thence North 53 degrees 37 minutes 10 seconds East 193.52 feet to a point on a nontangent curve concave southwesterly the radius point of said curve being South 57 degrees 17 minutes 59 seconds West 125.00 feet from said point; thence northwesterly along said curve 5.10 feet to a point on said curve the radius point of said curve being South 54 degrees 57 minutes 44 seconds West 125.00 feet; thence North 54 degrees 57 minutes 44 seconds East 258.33 feet to a point on the East line of said Quarter Section; thence North 00 degrees 59 minutes 36 seconds East along said East line 90.04 feet; thence South 89 degrees 58 minutes 52 seconds West 1312.43 feet; thence South 00 degrees 59 minutes 47 seconds West 611.08 feet; thence North 90 degrees 00 minutes 00 seconds West parallel with the aforesaid South line 1312.45 feet to a point on the West line of said Quarter Section; thence South 00 degrees 59 minutes 58 seconds West along said West line 660.00 feet; thence South 90 degrees 00 minutes 00 seconds East parallel with the aforesaid South line 924.00 feet; thence South 00 degrees 59 minutes 47 seconds West 330.00 feet to a point on the aforesaid South line; thence South 90 degrees 00 minutes 00 seconds East along said South line 725.74 feet to the place of beginning, containing 68.407 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.