

HAMILTON COUNTY RECORDER
Doc. #: 99 - 89149 Type: R1
Filed: 05/14/1999 9:35:47 AM
Off. Rec.: 7953 1388 R D22

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS

THIS DECLARATION is made this 3rd day of May, 1999, by INDIAN WALK DEVELOPMENT COMPANY, an Ohio limited liability company, hereinafter sometimes referred to as "Developer."

WITNESSETH:

WHEREAS, the Developer is the owner of that certain real property located in Miami Township, Hamilton County, Ohio, which is more particularly described in Exhibit "A" attached hereto and referred to hereafter as the "Indian Walk Subdivision"; and

WHEREAS, the Developer intends to improve that real property described in Exhibit "B" (the "Subdivision") as the initial increment of the Indian Walk Subdivision by subdividing and constructing various on and off site improvements and either by itself or in conjunction with other builders developing residential projects within the Indian Walk Subdivision; and

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in the Indian Walk Subdivision and for the maintenance of Common Areas and Community Facilities; and to this end, desires to subject the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and the subsequent owners thereof; and

WHEREAS, as hereinafter provided in this Declaration, Developer has retained and reserved the right, privilege, and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the community described herein, the remainder or any portion of the Indian Walk Subdivision and such other property as Developer may acquire from time to time or wishes to subject to the terms of this Declaration; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association which will be the successor to the Developer on maintaining and administering the Common Areas and Community Facilities and administering and enforcing the within covenants and restrictions and collecting and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Developer has formed the Indian Walk Homeowners Association, Inc., a non-profit Ohio corporation (the "Association") for the purpose of carrying out the aforesaid powers and duties;

NOW, THEREFORE, the Developer hereby declares that the Subdivision and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the land comprising the Subdivision and be binding on all parties having any right, title, or interest in the Subdivision or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof.

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Doc. #: 99 - 96749 Type: DEEL
Filed: 05/14/1999 9:55:47 AM
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ARTICLE I
DEFINITIONS

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

(a) "Articles" and "Articles of Incorporation" shall mean those Articles, filed with the Secretary of State of Ohio, incorporating the Association as a corporation not for profit under the provisions of Chapter 1702 of the Revised Code of Ohio, as the same may be amended from time to time. A true copy of the Articles is attached hereto as Exhibit "C" and made a part hereof.

(b) "Association" shall mean and refer to Indian Walk Homeowners Association, Inc., and its successors and assigns.

(c) "Board" and "Board of Trustees" shall mean the Board of Trustees of the Association as provided in the Articles of Incorporation and By-Laws of the Association.

(d) "By-Laws" shall mean the By-Laws or Code of Regulations of the Association, as the same may be amended from time to time, pursuant to Section 1702 of the Revised Code of Ohio. A true copy of the By-Laws is attached hereto as Exhibit "D" and made a part hereof.

(e) "Common Areas" and "Community Facilities" shall mean and refer to all real property, together with improvements located thereon, owned by or leased to the Association for the benefit, use and enjoyment of its Members.

(f) "Developer" shall mean and refer to Indian Walk Development Company, an Ohio limited liability company, and its successors and assigns.

(g) "Development" shall mean and refer to the Subdivision and all improvements located or constructed thereon and any portion of the Indian Walk Subdivision or any other property submitted to the provisions hereof pursuant to Article II.

(h) "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the day next following the day on which the Developer owns no part of the Indian Walk Subdivision (whether or not that part of the subdivision has yet been submitted to the provisions hereof).

(i) "Living Unit" shall mean and refer to any portion of a building situated upon a Lot designated and intended for use and occupancy as a residence by a single family, including a townhouse, condominium unit, or patio or cluster home, whether detached or attached, located within the Development.

(j) "Lot" shall mean and refer to any separate parcel of land shown upon any recorded subdivision plat within the Development or recorded re-subdivision thereof with the exception of the Common Areas and Community Facilities.

(k) "Members" shall mean the Owners who are members of the Association as provided in Article IV hereof.

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(l) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or undeveloped tract which is a part of the Indian Walk Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(m) "Indian Walk Subdivision" shall mean the real property described in Exhibit "A" and such additions thereto as may hereafter be annexed pursuant to Article II.

(n) "Structure" shall mean and refer to anything built, placed upon or constructed upon a Lot, including but not limited to, a Living Unit.

(o) "Trustee" and "Trustees" shall mean that person or those persons serving, at the pertinent time, in the capacity of a member of the Board of Trustees of the Association.

ARTICLE II

PROPERTY DEVELOPMENT

Section 1. Property Subject to Declaration. The real property which is, and shall be conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in Hamilton County, Ohio, and is more particularly described in Exhibit "B" attached hereto.

Section 2. Additional Development. Developer reserves the right to subject the remainder or any part of the Indian Walk Subdivision to the provisions of this Declaration. Developer also reserves the right to allow additional property the benefits of the Common Areas and Community Facilities without being subject to the remaining provisions hereof. Notwithstanding the above, nothing contained in this Declaration or in the By-Laws shall obligate the Developer to annex any additional property to the Subdivision and the remainder of the Indian Walk Subdivision shall remain wholly free from any covenant or restriction herein contained until annexed as hereinafter provided.

Section 3. Annexation of Additional Property. During the Development Period, additional property, including but not limited to the Indian Walk Subdivision, may be subjected to this Declaration by the Developer without the assent of the Members of the Association. Thereafter, such additional property may be annexed only with the consent of fifty-one (51 %) percent 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 Indian Walk Subdivision.

Any annexations made pursuant to this Article II, or otherwise, shall be made by recording a supplement to this Declaration with the Recorder of Hamilton County, Ohio, which supplementary declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such supplementary declaration may contain such additional covenants, conditions, restrictions, easements, charges and liens as the Developer shall deem appropriate for the purpose of completing the development of the Indian Walk Subdivision.

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

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Section 1. Members. Every Owner shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Development Period, the Association shall have Class A Members (being all Owners except Developer) and a Class B Member (Developer). After the Class A Members are entitled to elect all of the Board, the Class B membership shall terminate and Developer, if it is then an Owner, shall become a Class A Member and continue as such so long as it shall remain an Owner.

Section 2. Voting Members.

(a) With the exception of Developer until Class B membership has lapsed, every person, group of persons or entity who is an Owner of a fee interest in any Lot and which is or becomes subject to assessment by the Association, shall be a Class A Member of the Association. Unless otherwise required by law, the Class A Members shall not be entitled to vote on any matters concerning the Association (including election of Trustees) during the Development Period. After the Development Period, the Class A Members shall be entitled to a total of one vote per Lot in which they hold the fee interest. If more than one person, group of persons, or entity is the record Owner of a fee interest in any Lot, then the vote for such Lot shall be exercised as they determine among themselves but in no event shall more than one vote be cast with respect to any Lot.

(b) The Class B Member shall be the Developer and shall be the voting Member of the Association until such time that the Developer is no longer a Class B Member.

(c) At such time as Class B membership shall terminate, Developer shall be deemed a Class A Member with reference to the Lot or Lots in which Developer holds the fee interest and Developer shall be entitled to the voting and all other rights of a Class A Member.

ARTICLE IV

ASSESSMENTS

Section 1. Covenant for Assessments. Each person, group of persons, or entity who becomes an Owner of a Lot whether or not it shall be expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments; (2) Individual Assessments; and (3) Special Assessments (collectively the "Assessments"); the Assessments shall be fixed, established and collected from time to time as hereinafter provided. All Assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the Lot of such Owner and shall be a continuing lien upon the Lot against which such Assessment is made. Each such Assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person, group of persons, or entity who was the Owner of such 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 Owners and for protecting, advancing and promoting the environmental concept of the Subdivision and preserving the aesthetic and scenic qualities of the Indian Walk Subdivision. To carry out these purposes, an Annual Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion

and maintenance of the Common Areas and Community Facilities, including, but not limited to, the payment of taxes and insurance and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and, in the discretion of the Association, the areas for which the Annual Assessment may be used may include any entrance roads or adjoining roads or areas, boundary walls, landscaping areas or other public amenities, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association. Unless otherwise determined by a majority vote of the Class A Members and the consent of the Class B Member, the Annual Assessment shall be billed in advance on an annual basis, due as of January 1 of each year. The Board of Trustees, after obtaining the consent of the Class B Member, shall fix the Annual Assessment after approving the following year's budget. The Annual Assessment shall be fixed at a uniform rate based upon the number of Living Units. The initial Annual Assessment is set forth in Exhibit "E" attached hereto and incorporated herein. The Annual Assessments shall commence on a particular Lot when a Living Unit is completely constructed on said Lot and the Owner of said Lot occupies the Living Unit as a residence. Subject to Section 5 of this Article, the first Annual Assessment of an Owner shall be prorated based on a calendar year and the date the owner occupied the Living Unit.

Section 3. Individual Assessments. In the event an Owner of any Lot shall fail to maintain the Lot and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that which is to be provided by the Association, then the Association, after approval by a sixty-six and two-thirds percent (66-2/3 %) vote of all Trustees, and the approval of the Class B Member, 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 improvements thereon. The cost of such maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot or unit) shall be added to and become part of the total Assessment to which such Lot is subject.

Section 4. 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 or Community Facilities, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment affecting the Common Areas or Community Facilities shall have the approval of fifty-one percent (51 %) of the total number of votes held by Class A Members and the vote of the Class B Member. Any Special Assessments levied by the Association pursuant to the provisions of this section shall be fixed at a uniform rate based upon the number of applicable 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 and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The Special Assessment may be billed in advance on a monthly, quarterly or annual basis.

Section 5. Commencement of Assessments. The Annual Assessments shall commence on the first day of the month following the conveyance of the first Lot with a Living Unit to an Owner who occupies the Living Unit as a residence. The first Annual Assessment 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 Trustees of the Association to periodically fix the amount of the Assessment against each Lot for such assessment period and the Board of Trustees 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 the date due 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 Assessments shall thereupon be sent to the Owner of any Lot subject thereto. Annual Assessments subsequent to the first Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice of such validity. No Special Assessment, Individual Assessment or change in the Annual Assessment shall be made without the consent and approval of the Class B Member.

Section 6. Assessment of Developer. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Developer, while it is a Class B Member, shall not be required to pay Assessments.

Section 7. Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for the Assessments, a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of the Assessments, i.e., whether the same are 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 8. Non-Payment of Assessment. Any Assessment levied pursuant to this Declaration which is not paid on the date when due, together with interest thereon at the rate herein provided and cost of collection thereof, shall become a continuing lien upon the Lot, and shall be the personal obligation 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 the personal obligation of the Owner and shall not pass to his successors in title (except as a lien against the Lot) unless expressly assumed by such successors with the consent of the Association.

If the Assessments are not paid within fifteen (15) days after the due date, the Assessments shall bear interest at the rate of ten (10%) percent per annum, and the Association may bring an action against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, in either of which events, interest, costs and reasonable attorney's fees shall be added to the amount of the Assessments. No Owner shall waive or otherwise escape liability for the Assessments by non-use of the Common Areas or Community Facilities or abandonment of his Lot or Living Unit.

In addition to the ten (10%) percent per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any Assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the Assessment which is delinquent by fifteen (15) days.

Section 9. Subordination of Lien to Mortgage. The lien of the Assessments 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 or any tax lien foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessment as to payment which becomes due prior to such sale or transfer.

Section 10. Public Assessments. The Subdivision and the Indian Walk Subdivision as a whole may be subject to certain assessments for public improvements made in and around the Indian Walk Subdivision. Any such assessments will be contained within the tax bill from the Hamilton County Treasurer's Office. Each individual Lot Owner is responsible for the paying of any such public assessments directly to the Hamilton County Treasurer.

ARTICLE V

COMMITTEES

Section 1. Finance and Budget Committee. The Board of Trustees may appoint a Finance and Budget Committee composed of Members as set forth in the By-Laws of the Association. This Committee shall prepare the annual budget of the Association for submission to the Board of Trustees. The Committee shall also determine the needs, repairs and monetary requirements for the property subject to the Annual Assessment for the following year and make recommendations to the Board of Trustees as to the type of work to be performed by the Association for the following year consistent with the purposes of the Annual Assessment. The Committee shall further have such additional duties as may be assigned to it from time to time by the Board of Trustees. The Association's annual budget must be approved and consented to by the Class B Member.

Section 2. Design Review Committee. A Design Review Committee shall be appointed by the Board of Trustees and shall be composed of not less than three persons. Except for original construction or as otherwise provided in Article VII of this Declaration, no building, fence, wall or other Structure shall be commenced, erected, or maintained upon Common Areas or Community Facilities or upon any Lot or property upon which is located all or part of a Living Unit, nor shall any exterior addition to or change or alteration in a Living Unit or Structure 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 Developer or, after the Development Period, the Board of Trustees acting through the Design Review Committee.

ARTICLE VI

DESIGN REVIEW

Section 1. Design Review Guidelines. In order to facilitate initial development of the Subdivision, detailed Design Review Guidelines have been made a part of all contracts for the sale of Lots between Developer and third parties. The Design Review Guidelines may be amended, modified, revoked, waived or replaced by the Developer, during the Development Period, and by the Board of Trustees thereafter. In the event the lender or lenders who provide acquisition and development financing for the Indian Walk Subdivision acquire title to the Indian Walk Subdivision through foreclosure or deed in lieu of foreclosure, such lender shall be deemed the Developer for

purposes of the Design Review Guidelines. A copy of the initial Design Review Guidelines are attached as Exhibit F.

Section 2. Submission of Plans and Specifications. No Structure on any Lot shall be constructed, remodeled or altered in any way which materially changes the exterior appearance thereof, or otherwise increases the area under roof of any Structure (including garage area) unless detailed Plans and Specifications therefor shall have been submitted to and approved by the Developer, during the Development Period, and by the Design Review Committee thereafter. Such Plans and Specifications shall be in such form and shall contain such information as the Developer, during the Development Period, or the Association thereafter, may reasonably require but shall, in all cases unless waived by the Developer, during the Development Period, or the Association, thereafter, include:

- (a) a site plan showing the location of all proposed and existing Structures on the Lot and the approximate size in square footage of the first, or ground floor of a Structure and the square footage of the entire Lot;
- (b) contours reflecting existing topography and a grading plan showing finished contours, existing environmental features and significant tree stands;
- (c) any proposed retaining walls;
- (d) proposed fencing; and
- (e) architectural plans including structural cross-section, floor plan, decks or balconies, and elevations clearly depicting the design and exterior appearance including specification of materials, color scheme, trim and other details affecting the exterior appearance of the proposed Structures.

Prior to submission of detailed Plans and Specifications for any Structure proposed for any Lot, the Developer, during the Development Period, or the Design Review Committee thereafter, may require, and any applicant may submit for tentative approval schematic or preliminary Plans and Specifications for any phase or stage thereof. The Developer, during the Development Period, or the Design Review Committee thereafter, shall either (i) approve the Plans and Specifications, (ii) disapprove them or (iii) approve them with conditions or qualifications.

Section 3. Approval of Plans and Specifications. The Developer, during the Development Period, or the Design Review Committee thereafter, shall approve any Plans and Specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Lot if it finds that they (a) comply with the requirements of this Article and (b) conform to the Design Review Guidelines then in effect and any additional standards or policies promulgated by Developer or the Board. Upon final approval thereof, a copy of the detailed Plans and Specifications shall be deposited for permanent record with the Association. After the receipt of final approval by the applicant, the Developer, during the Development Period, or the Design Review Committee thereafter, shall not revoke such approval. Approval by the Developer, during the Development Period, or the Design Review Committee thereafter, of detailed Plans and Specifications with respect to any Lot shall not impair the right of the Developer, during the Development Period, or the Design Review Committee thereafter, subsequently to approve a requested amendment of such Plans and Specifications

relating to such Lot (subject to the requirements of this Article and the Design Review Guidelines then in effect).

Section 4. Disapproval of Plans and Specifications. If Plans and Specifications (whether schematic, preliminary or detailed) submitted to the Developer, during the Development Period, or the Design Review Committee thereafter, with respect to any Lot do not comply with the requirements of this Article as to the information required to be included in the Plans and Specifications, the Developer, during the Development Period, or the Design Review Committee thereafter, shall either disapprove such Plans and Specifications or approve them subject to such conditions and qualifications as the Developer, during the Development Period, or the Design Review Committee thereafter, may deem necessary to achieve compliance.

Section 5. Failure of the Design Review Committee to Act. If the Developer, during the Development Period, or the Design Review Committee thereafter, shall fail to act upon any Plans and Specifications submitted to it within thirty (30) days after submission thereof, such Plans and Specifications shall be deemed to have been approved as submitted, and no further action by the Developer, during the Development Period, or the Design Review Committee thereafter, shall be required. If construction on the proposed alteration or remodeling of a Structure is not commenced on a Lot on or before six (6) months from the date of submission of Plans and Specifications, then such "deemed approval" shall be automatically canceled and a new submission shall be required.

Section 6. Rules, Regulations and Policy Statements. The Board may, subject to the approval and consent of the Class B Member, from time to time, adopt, amend, and enforce reasonable rules and regulations pertaining to its and the Design Review Committee's authorized duties and activities under this Declaration, and may, from time to time, issue statements of policy with respect to Plans and Specifications (whether schematic, preliminary or detailed) and such other matters as it is authorized to act on. Upon the adoption of any such rule, regulation or policy statement, or any amendment thereof, the Board shall file in its records a copy thereof, and the same shall become effective on the date of such filing. No rule, regulation or policy statement, or any amendment thereof, shall operate to revoke any detailed Plans and Specifications previously approved by the Design Review Committee.

The Board shall maintain a copy of the rules, regulations and policy statements and of each amendment thereof as a permanent record and shall make copies thereof available to any interested person at a reasonable cost.

Section 7. Violations. If any Structure situated upon any Lot shall have been constructed, erected, placed, remodeled or altered other than in accordance with the approved detailed Plans and Specifications, the Board shall certify a default to the Owner of the Lot involved, provided, however, that the Board may, subject to the approval and consent of the Class B Member and upon such conditions as it may determine, waive any such default if it finds that such default does not substantially conflict with the policies of the Board.

Section 8. Right of Entry. The Board or Developer through their authorized officers, employees, and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling, or alteration of any Structure thereon is in compliance with the provisions of this Article, without the Board or

Developer or their officers, employees or agents being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

Section 9. Fees. The Board or Developer may charge reasonable fees for the processing of Plans and Specifications. Such fees shall cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Association.

Section 10. Approval - Not a Guarantee. No approval of Plans and Specifications and no publication of standards shall be construed as representing or implying that such Plans, Specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall not be construed as representing or guaranteeing that any Living Unit or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Developer, the Association, nor the Design Review Committee shall be responsible or liable for any defects in any Plans or Specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any Plans or Specifications, any loss or damage arising from the non-compliance of such Plans and Specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such Plans and Specifications.

Section 11. Assignment By Developer. The Developer may, in its sole discretion, assign its powers under this Article to the Association at any time prior to the expiration of the Development Period.

ARTICLE VII

USE RESTRICTIONS

Section 1. Prohibited Uses and Nuisances - All Living Units and Lots. Except for activities of the Developer during the Development Period, the following provisions shall apply to all Living Units and Lots:

(a) No noxious or offensive trade or activity shall be carried on upon any Lot or within any Living Unit located in the Subdivision, 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 any portion of the Indian Walk Subdivision.

(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 Living Unit located in the Subdivision, 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 and cats must be kept within the confines of the Owner's Living Unit or Lot, except when being held on hand leash by person attending animal. Owners and/or harborers of dogs and cats shall be liable for any damage caused by such animals. Subject only to the provisions of Article

III, the Association acting through its Board of Trustees may suspend for reasonable length 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 of any kind shall be permitted on any Lot.

(d) Trash and garbage containers shall not be permitted to remain outside any Living Unit except on days of trash collection.

(e) No sound hardwood trees or shrubbery shall be removed from any Common Areas or Community Facilities without the written approval of the Association acting through its Board of Trustees or duly appointed committee. All plantings in the median strips, landscaping islands or along right-of-ways shall be subject to review by the Hamilton County Engineer's Office. The Hamilton County Engineer's Office shall have the final authority to remove any planting which impedes traffic or traffic visibility to insure public safety.

(f) 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. Any structure, planting or other material which represents a safety problem (e.g. sight restriction) shall be removed at Owner's expense.

(g) 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 Trustees and promulgated among the Members by them in writing, and the Board of Trustees is hereby and elsewhere in this Declaration authorized to adopt or amend such rules, subject to the consent and approval of the Class B Member.

(h) 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), etc.).

(i) No fence or wall of any kind, specifically including the use of hedge or other growing plants as a fence, and for any purpose, except a retaining wall, shall be erected, placed or suffered to remain upon any Lot without the specific approval of Developer, during the Development Period, or the Association thereafter.

(j) Except as otherwise provided herein, no junk vehicles, commercial vehicles, trailers, boats, trucks of more than one ton, Structures of a temporary character, recreational vehicles, trailers, tents, shacks, barns or temporary or permanent outbuildings, excepting doghouses not maintained for commercial purposes, shall be kept or used upon the Lots or Common Areas, 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 Trustees provide and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Developer, the builder of a Living Unit and their contractors may, for the purpose of business use in connection with the development of the Lots or construction

of Living Units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

(k) No signs, letters, numbers, symbols, markings or illustrations shall be erected, posted, attached, or displayed upon, or on any Lot or Living Unit except:

- (i) street and identification signs installed by the Association or the Developer;
- (ii) one temporary sign, approved by Developer, informing the public that the real estate is for sale, lease or rent, provided that the sign must not exceed five square feet in area and must be erected upon the real estate to which it refers;
- (iii) a post office house number for designation of home location.

No sign, name plate or postal house number shall be animated or illuminated. This subsection shall not apply to Developer as long as it is a Class B member, or at any time, to a sign, placed by or on behalf of Developer, advertising or marketing the Indian Walk Subdivision or any part therein.

(l) No outside television or radio aerial or antenna, or other aerial or antenna for reception or transmission, or satellite dish in excess of 18" in diameter shall be erected, placed on, maintained or allowed to remain on any Lot or Living Unit.

(m) The covenants and restrictions set forth in this Section 1 pertaining to Living Units and Lots may be altered, amended or rescinded, in full or in part by resolution approved by seventy-five (75 %) percent of the total number of votes held by Class A Members and, in addition, the vote of the Class B Member for so long as the Class B Member exists.

Section 2. Residential Use. All of the Living Units shall be used for private residential purposes exclusively except that Developer may, and the builders of Living Units, with the consent of the Developer (which may be granted or revoked at the Developer's discretion), may allow the use of Living Units as models and as offices in connection with the marketing or sale of Lots or Living Units in the Subdivision.

Section 3. Right of Association to Remove or Correct Violations of this Article. The Association may, in the interest of the general welfare of the Owners, and after reasonable notice to the affected Owner, enter upon any Lot or the exterior of any Living Unit at reasonable hours for the purpose of removing or correcting any violation or 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 Trustees. All charges incurred by the Association in obtaining access to any Lot or Living Unit covered under this Section and any charges incurred by the Association in correcting the violation hereunder, (including court costs and reasonable attorney's fees) shall constitute a charge against the Lot and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of said lien amount, which lien shall be subordinate to first mortgages as provided in Article IV, Section 9.

RE-RECORDED

Section 4. Developer's Reservation of Entry Rights. The Developer reserves the right for a period of five (5) years after the sale of a Lot by the Developer to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of the Indian Walk Subdivision, provided that the Lot shall be restored to a like condition as to pavement, grass or sod which shall have been removed.

Section 5. Developer's and Association's Right to Grant Easements. Notwithstanding any other provision of this Declaration, during the Development Period, the Developer, and thereafter the Association, is authorized, without the consent of the Members, to grant easements across, through or under any Lot, Common Area, or Community Facility for utilities, public services, walks, trails, signage maintenance and for construction purposes, deemed by the granting party to be necessary or convenient for the enjoyment of the Indian Walk Subdivision or any part thereof, provided that no easement shall be granted across, through, or under any Living Unit or Structure, which restricts ingress or egress to such Living Unit or Structure.

Section 6. Arbitration. In the event of any dispute between Owners regarding the application of this Declaration or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

ARTICLE VIII

REPURCHASE OPTION

Developer hereby reserves unto itself, its successors and assigns, the right and option to purchase any unimproved Lot within the Indian Walk Subdivision which is offered for sale by the Owner thereof, such option to be at the price and upon the terms and conditions of any bona fide offer for such Lot which is acceptable to such Owner and which is made to such Owner by a third party (or any offer made by such Owner that is acceptable to a third party). Upon the receipt (or making) of any such offer by an Owner, such Owner shall promptly submit a copy of the same to Developer, and Developer shall have a period of three (3) business days from and after Developer's actual receipt of such copy from such Owner in which to exercise its purchase option by giving such Owner written notice of such exercise. If Developer fails to respond or to exercise such purchase option within said three (3) business day period, Developer shall be deemed to have waived such purchase option. If Developer declines to exercise such option, Developer shall execute an instrument evidencing its waiver of its repurchase option, which instrument shall be in recordable form. In the event that Developer does not exercise its purchase option and a sale to a third party is not consummated on such terms within six (6) months of the date in which the offer is transmitted to Developer, the terms and limitations of this Article shall again be imposed upon any sale by such Owner. If Developer shall elect to purchase such Lot the transaction shall be consummated within sixty (60) days following delivery of written notice by Developer to such Owner of Developer's decision to so purchase such Lot. This repurchase option shall terminate at the end of the

Development Period. Nothing in this Article shall supersede or nullify any repurchase options agreed to by contract between the Owner and Developer.

ARTICLE IX

INSURANCE

Section 1. Liability Insurance. The Developer, prior to the conveyance of the Common Areas and Community Facilities to the Association, and the Association thereafter, shall obtain and maintain a comprehensive policy of public liability insurance covering the Common Areas and Community Facilities in an amount of not less than five hundred thousand dollars (\$500,000.00), per occurrence for personal injury and/or property damage.

Section 2. Insufficient Insurance. In the event the improvements forming a part of the Common Areas or Community Facilities or any portion thereof shall suffer damage or destruction from any peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which the amount was so advanced, and such Assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of Assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

ARTICLE X

GREENBELT REGULATIONS AND COMMON AREAS

Section 1. Use and Enjoyment. Members, their families and their guests may use the Common Areas and Community Facilities for their general benefit and enjoyment, subject to the Articles, By-Laws, rules of the Association as and the Greenbelt Regulations attached hereto as Exhibit H and incorporated herein, and subject to such other reasonable rules and regulations as the Developer or the Association may adopt from time to time.

Section 2. No Trespass. Members, their families and their guests shall not have any implied or express right to trespass on the private property of any Owner when using or entering into the Common Areas or Community Facilities.

Section 3. Conveyance of Common Areas. Unless the Developer determines that retention of ownership of Common Areas or Community Facilities is necessary for the additional development of the Subdivision, for each phase in the Subdivision, the Developer shall convey the Common Areas and Community Facilities to the Association no later than the sale of the last Lot in that phase with a constructed Living Unit in the Subdivision to an Owner who uses the Living Unit as a residence. The Developer may add additional Common Areas or Community Facilities from time to time by amendment to this Declaration.

ARTICLE XI

RE-RECORDED

MISCELLANEOUS

Section 1. Duration. The terms and provisions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Developer, Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, and except where permanent or perpetual assessments or other permanent rights are herein created, the term of the covenants, conditions and restrictions shall be for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument agreeing to terminate the Declaration signed by the then Owners of two-thirds (2/3) of the Lots has been recorded.

Section 2. Amendment. The Declaration may be amended, from time to time as follows:

A. **By Developer:** Developer reserves the right and power to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, without the approval of the Owners, or to the extent necessary to enable Developer to meet any other reasonable need or requirement in order to complete the development of the Indian Walk Subdivision and to facilitate the making and marketing of first mortgages upon any of the Lots. Any amendment must be recorded and shall take effect only upon recording.

Each Owner, by acceptance of a deed to a Lot, consents to such right to amend the Declaration by Developer.

B. **By Lot Owners.** Except as otherwise provided in this Declaration, this Declaration may be amended at any time by an instrument executed by seventy-five (75 %) percent of the Class A Members and, in addition, the Class B Member. Any amendment must be recorded and shall take effect only upon recording.

Section 3. Personal Liability. Nothing in this Declaration, the Articles or the Regulations or By-Laws of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any member of the Board of Trustees or any officer of the Association acting in his capacity as such, for the maintenance, repair or replacement of any Living Unit or of any part of the Common Areas or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct. Each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Trustee, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such said person is covered by insurance and, in such event, the amount of recovery shall be limited to the amount of insurance.

Section 4. 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, postage prepaid, 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.

RE-RECORDED

Section 5. Enforcement. Except as provided in Article VIII, enforcement of this Declaration shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration, either to restrain or to enjoin violation or to recover damages, and against the land to enforce any lien created or allowed by this Declaration; and the failure or forbearance by the Association or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 6. Severability. Invalidity of any part of this Declaration by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

Section 7. Conflicts. In the case of any conflict between this Declaration and either the Articles of Incorporation or the By-Laws of the Association, the Declaration shall control.

Section 8. Condemnation.

In the event any Common Area or Community Facility or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the appropriate Members.

Section 9. Professional Management Contracts. The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee on ninety (90) days or less written notice.

Section 10. Non-Liability of Developer. Neither Developer nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authority granted or delegated to it, by or pursuant to, this Declaration, the Articles or the By-Laws, whether or not such claims shall be asserted by an Owner, the Association, or by any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Indian Walk Subdivision or any part thereof not being maintained or repaired by reason of any act or neglect of any Owner, the Association or their representative agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Indian Walk Subdivision, or by reason of the failure to furnish or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.) except as provided by any written warranty provided to an Owner or the Association.

Section 11. Gender and Grammar. The singular, whenever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other forms of business organizations, or individuals, men or women, shall in all cases be assumed as though in such case fully expressed.

IN WITNESS WHEREOF, Indian Walk Development Company, an Ohio limited liability company, by and through Stewart Biederman, President, has executed this Declaration on the day and year first written above.

Signed and acknowledged
in the presence of:

Indian Walk Development Company
an Ohio Limited Liability Company

Amy C. Earley
Print Name: Amy C. Earley

By: Stewart Biederman *President*
Stewart Biederman, President

Gene M. Holloman
Print Name: Gene M. Holloman

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 3rd day of May,
1999, by Stewart Biederman, President of Indian Walk Development Company, an Ohio limited
liability company, on behalf of the Company.

Jason B. Sims
Notary Public

This Instrument was prepared by:
Joanne M. Schreiner
Dinsmore & Shohl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
513/977-8482

JASON B. SIMS, Attorney at Law
Notary Public State of Ohio
My Commission has no Expiration
Date, Section 147.03 O.R.C.

RE-RECORDED

Architectural Guidelines for Indian Walk

Elevations / Plans Approval by The Developer, during the Development Period, or the Design Review Committee thereafter

Exterior colors and materials to be approved by The Developer, during the Development Period, or the Design Review Committee thereafter

Dimensional shingles on roofs

Landscape Plan Approval by The Developer, during the Development Period, or the Design Review Committee thereafter

Landscape Plan to include a tree in the front yard

Driveway and apron: poured concrete or blacktop

Yards to be seeded or sod installed

Limestone address blocks

Sidewalks by street

Approved mail boxes

Minimum 1700 SQ FT for One Story

Minimum 2000 SQ FT for Two Story