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DECLARATION OF COVENANTS
RESTRICTIONS AND EASEMENTS FOR
MILLBROOK HOMES HOMEOWNERS ASSOCIATION, INC.
ROCKLAND, MASSACHUSETTS

Received & Recorded
PLYMOUTH COUNTY
REGISTRY OF DEEDS
06 JAN 1994 12:03PM
JOHN D. RIORDAN
REGISTER

BEECH HILL LIMITED PARTNERSHIP, a Massachusetts Limited Partnership (hereinafter generally referred to as the "Owner"), having its usual place of business at 37 Bay Path Lane, Rockland, Plymouth County, Massachusetts, is the owner of certain land in Rockland, Plymouth County, Massachusetts shown as:

Lot 1, lots 10 through 15, lots 75-77 and lots 109-113 (the "Lots") located off of Beech Street, Rockland, Massachusetts, as more clearly shown on a "Definitive Plan, Millbrook, Rockland, Massachusetts" dated May 17, 1988, as prepared by Bradford Saivetz & Associates, Inc. (the "Plan"). Said Plan was recorded with the Plymouth County Registry of Deeds as Plan Number 611 of 1989. Additional lots may be added hereto subsequently as long as all such lots appear on the Plan or on any successor plans covering land shown on the Plan, and all such additional lots as are added hereto shall be deemed to be part of the Lots when they are added hereto by an amendment of this Declaration.

WHEREAS, Owner desires to create thereon a residential community ;

WHEREAS, Owner will set aside a portion of the property for the permanent common use and enjoyment of the members of said community (hereinafter generally referred to as the "Common Property"); and

WHEREAS, Owner, desiring to provide for the preservation of the values and amenities of said community, will file Articles of Organization and establish By-Laws of the Millbrook Homes Homeowners Association, Inc., a Massachusetts corporation,

Mail to: Kotin, Crabtree & Strong
1 Bowdoin Square
Boston MA 02114

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(hereinafter generally referred to as the "Association") for the purpose of exercising the functions granted herein and as the ultimate legal owner of the fee in the said Common Property;

NOW, THEREFORE, the Owner declares for itself and its successors in record title, that all of the Lots shown on the Plan are and shall be held, transferred, sold, conveyed, inherited and occupied subject to and with the benefit of the covenants, reservations, restrictions, easements, charges and liens, hereafter set forth.

ARTICLE I

COMMON SCHEME RESTRICTIONS

Owner declares that the common scheme restrictions are imposed in accordance with Massachusetts General Laws (Ter. Ed.) Chapter 184, Section 26, for the benefit of each owner of the Lots shown on the Plan, enforceable by it or them at law or in equity and also for the benefit of the Association, enforceable by it at law or in equity. Notices recorded in the Plymouth Registry of Deeds extending the period(s) of time during which these restrictions are in force may be recorded by the Association.

1. No use shall be made of said land which shall be in conflict with the Zoning By-Laws, except as the same may be lawful as nonconforming uses or by the granting of special permits, exceptions or variances.

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2. No business, trade or profession shall be conducted from any building erected on any of the Lots, excepting however, that the owner of any of the Lots may maintain an office in his/her residence thereon, provided he/she employs therein not more than one person. The terms of this paragraph 2 shall not apply to the owner.

3. No dog or cat kennel, or other facility for the breeding and housing of animals shall be erected or maintained on any of the Lots nor shall horses, pigs or other barnyard animals be stabled or maintained thereon. This restriction shall not apply to household pets if reasonable in number.

4. Clothes lines and poles and outside radio aerials shall be located on or near each residence in such a way that they are, as much as possible, not visible from the ways adjacent to any of the Lots. Solar panels or other solar heat collectors, television or radio dish type antennas or towers shall be located on or near such residence in such a way that they are not visible from the ways shown on the Plan. Above ground pools shall be located on or near such residence so as to minimize their visibility from the ways shown on the Plan. If said panels, collectors, dish type antennas, towers or above ground pools are screened from visibility by a fence or plant material, said fence or plant material must be maintained or replaced in such a manner to adequately screen the visibility as required herein. No tank for the storage of fuel may be maintained on any of the Lots

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unless it is maintained within a building and unless it complies with all applicable municipal, state and federal statutes and regulations.

5. No yard or open area on any of the Lots shall be used for the storage or parking of trucks, machinery, supplies, materials or equipment of any business conducted by any lot owner off the premises. Any commercial vehicles kept on a Lot by a lot owner must be garaged. For purposes of this paragraph, commercial vehicles are defined as vehicles which are larger than a one ton van or a three-quarters of a ton pick-up truck, except that all recreational vehicles in excess of these sizes are not deemed to be commercial vehicles. Employees of any lot owners shall not park their vehicles on any of the ways shown on the Plan.

6. Rules and Regulations may be promulgated by the Owner and by the Association from time to time in order to further the purposes set forth in paragraph 1 through 5 hereof and in order to govern the use of the Common Property consistent with the contents of this Declaration.

ARTICLE II

TEMPORARY SUSPENSION OF RIGHTS FOR THE
ENFORCEMENT OF COMMON SCHEME RESTRICTIONS,
OF ISSUANCE OF SHARES AND OF ASSESSMENTS

Until unconditional certificates of occupancy have been issued for one hundred thirty-eight (138) homes on the Lots,

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these common scheme restrictions created for the benefit of the lot owners shall be enforced only by the Owner. Upon the issuance of the one hundred thirty-eighth (138) certificate of occupancy and the issuance of the Class A shares, any lot owner or the Association may enforce these restrictions at law or in equity. The share due each Class A Shareholder, as hereinafter defined, shall be issued upon the issuance of the aforesaid one hundred thirty-eighth (138) certificate of occupancy. However, until that time, the Class B Shareholder (the Owner) shall be the only shareholder. All assessment charges shall be phased in and levied at the times and in the proportions set forth hereinafter.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN

THE MILBROOK HOMES HOMEOWNERS ASSOCIATION, INC.

SECTION 1. - MEMBERSHIP. Every person or entity, other than the Class B Shareholders, who or which is the record owner of the fee or of an undivided interest in the fee of any of the Lots is subject to the provisions of this Declaration, including particularly Article IV hereof, as well as the By-Laws and Rules & Regulations of the Association, and each such person or entity shall be a Shareholder of the Association as provided in Article 2 and Section 2 of this Article III. Any person or entity who or which holds an interest in any of the Lots as the security of any obligation and which has taken possession of the lot or purchased the same at foreclosure or acquired ownership by a deed in

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satisfaction or partial satisfaction of the mortgage obligation may be a shareholder of the Association with all rights and obligations of a shareholder, until such time as a subsequent transfer of title to the lot is made to a homeowner. Any such debtor in possession shall promptly notify the Association that it has taken possession of a lot.

★ SECTION 2. - VOTING RIGHTS. - The Association shall have two classes of Shares designated as Class A and Class B.

Class A. Class A Shareholders shall be all those Shareholders as defined in SECTION 1 hereof with the exception of the Owner and of its successors in record title as developers and/or builders. Class A Shareholders shall be entitled to one vote for each of the Lots in which they hold the interest required for membership by SECTION 1. When more than one person holds such interest or interests in any of the Lots, the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Class B. The Class B Shareholder shall be the Owner, or its successors in record title as a developer and/or builder. The Class B Shareholder shall be the only shareholder until the Class A shares are issued as provided for herein.

SECTION 3. - MEMBER'S EASEMENT OF USE AND ENJOYMENT. Every owner of any of the Lots shall have a right and easement of use and enjoyment in and to the fee to the Common Properties, if any,

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which may be conveyed to the Association, and such easement shall be appurtenant to and pass with the record title to every lot, subject to the provisions of SECTION 4. However, residents of the Town of Rockland shall be permitted to use the active recreational areas in the Common Properties as they are constructed within the subdivision; however, they shall be subject to all applicable rules and regulations governing the use of said recreational area.

SECTION 4 - EXTENT OF MEMBERS' COMMON EASEMENTS The rights and easements of use and enjoyment created hereby shall be subject to the following:

(a) The right of the Association as provided herein, by its Articles of Organization and by its By-Laws to suspend the enjoyment rights of any member for any period during which an assessment remains unpaid, and, in the case of any infraction of its published rules and regulations, for any period not to exceed thirty (30) days; and

(b) The right of Beech Hill Limited Partnership to dedicate, transfer or deed any of the Lots subject to the provisions hereof to residential purchasers, to its own affiliates or to any public agency, authority, utility or entity to be maintained as conservation land in which case such land shall not then be subject to these restrictions or assessments.

(c) The enforcement provisions set forth in Article IV hereof.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1 - CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The owner of each of the Lots hereby covenants and each owner of any of the Lots, by the acceptance of a deed thereto or the devise or inheritance of the record title thereto, whether or not it shall be expressed in the devise, deed or other conveyance, does and shall be deemed to covenant and agree to pay to the Association:

- (1) Annual Assessments or Charges; and
- (2) Special Assessments for capital improvements; both of such assessments to be fixed, established and collected from time to time as hereinafter provided. Both the annual and/or the special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon such of the Lots against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such of the Lots at the time when the assessment fell due.

SECTION 2 - PURPOSE OF ASSESSMENT. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the shareholders, and, in particular for the improvement and

maintenance of the Common Property and incidental facilities thereon, including but not limited to, the payment of bond premiums, taxes, if any, and insurance, if any, repairs, replacements and additions thereon. Without limiting the generality of the foregoing, such assessments shall include the cost of maintaining and repairing the Common Property and any improvements (such as play yard equipment) thereon from time to time, as provided herein, in the Zoning By-Law and in the applicable General Laws as the same may be from time to time amended.

SECTION 3 - SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the assessments authorized by SECTION 2 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of providing for the payment of (and unexpected repairs or replacements to) a capital improvement on the Common Properties, including the necessary fixtures, provided that, regardless of any change in the Articles of Organization and/or By-Laws of the Association, any special assessment may only be made for repairs or replacements to capital improvements and any such special assessment authorized by said Association must receive a two-thirds majority of the votes of each class of shareholders entitled to vote who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which

shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

SECTION 4 - DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. The annual assessments provided for hereinbefore shall commence on the date the Class A shares are issued, and shall be payable on the date fixed by the duly elected officers of said Association. Said Association shall furnish, upon demand by any owner, a certificate that any annual or special assessment is paid or outstanding. The Owner or any individual director or officer of the Association shall be authorized to sign and issue a Certificate of Compliance indicating that all assessments have been paid to date for a certain Lot, which signed Certificate may be conclusively relied upon as valid by any person seeking to purchase any of the Lots or by any person or entity seeking to secure a mortgage on any of the Lots.

SECTION 5 - ASSESSMENTS PRIOR TO ISSUANCE OF CLASS A SHARES. Prior to the date on which the Class A shares of common stock are to be issued as described in Articles II and III hereof, the following assessment may be levied on the owners of any of the Lots: all costs related to the maintenance, repair and replacement of the Common Property, including, but not limited to, the entryway landscaping, the esplanade and the park, which are to be shared equally by all of the Lots which have frontage on a road which is paved with at least a base coat as of the date of the levying of such assessment. During the period prior to

the issuance of Class A shares, no assessment for capital improvements may be levied on the owners of any of the Lots.

SECTION 6 - EFFECT OF NON-PAYMENT OF ASSESSMENT; THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF ASSOCIATION. If the assessments are not paid on the date when due, then the amount thereof and interest thereon and costs of collection thereof as hereinafter provided, shall thereupon become a continuing lien on the Lots for which payment has not been received, which shall bind such Lots in the hand of the then owner and his successors in record title. Similarly, any and all reasonable costs, including legal fees, which are incurred by the Association in order to enforce the terms of this Declaration against any of the Lots shall immediately upon being incurred become a continuing lien on the Lots for which such payments are incurred, which shall bind such Lots in the hand of the owner and all successors in title. While any such lien shall run with the land regardless of the title holder, it shall also be the personal obligation of the then owner to pay such assessment.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen (18%) percent per annum, and the Association may bring any action against the owner personally obligated to pay the same or foreclose the lien against the lot, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in

such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee together with the costs of the action.

SECTION 7 - PROCEDURE FOR FORECLOSURE OF LIEN. The lien provided for hereinabove may be enforced, in case of nonpayment for two (2) years from the due date of the assessment or from the date on which the owner is given notice of the amount of the enforcement costs incurred by the Association, by sale by public auction on or near the lot owner's lot in the same manner as the exercise of the Statutory Power of Sale for foreclosure of a Massachusetts real estate mortgage, provided that a notice of the commencement of said lien foreclosure will have been recorded in the Plymouth Registry of Deeds, said recording to take place two (2) years or more after the date on which payment was due. The recording of an affidavit of such sale together with the Association's deed to the purchaser(s) shall forever bar the delinquent lot owner and his successors in record title, from all right and interest in said lot at law or in equity.

ARTICLE V

GENERAL PROVISIONS

SECTION 1 - DURATION. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the owner of any of the Lots subject to this Declaration and

their successors in record title, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be extended in accordance with General Laws (Ter. Ed.) Chapter 184, Section 27, if the then existing shareholders of the Association so decide. The owner of each of the Lots hereby covenants and each owner of any lot by the acceptance of a deed thereto or the devise or inheritance thereof, covenants that his shares in the Association shall be voted in favor of extending said covenants and restrictions for the maximum period then allowed by law, and each such lot owner shall hereby be deemed to grant an irrevocable proxy to the President of the Association to vote his share(s) in favor of such extension and in favor of successive extensions for the maximum period allowed by law upon the expiration of each such extension.

SECTION 2 - NOTICES. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when hand delivered or mailed Certified Mail, Return Receipt Requested, postpaid, to the last known address of the person who appears as a shareholder or owner of any of the Lots on the records of the Association at the time of such mailing.

SECTION 3 - WAIVER OF BREACH. A waiver by the Owner or of the Association of the covenants, restrictions, agreements or charges herein contained, in any instance, shall not constitute a

waiver of the right to enforce any of such covenants, restrictions, agreements or charges thereafter.

SECTION 4 - INVALIDITY. If any easement, covenant, restriction, agreement or charge herein contained, or any part thereof, should be held invalid by any court, such invalidity shall in no way affect any other easement, covenant, restriction, agreement or charge herein contained, or any other part thereof.

SECTION 5 - ADDITIONAL PHASES. When and if subsequent phases are developed at the Millbrook Subdivision in Rockland the Owner may, at such time as they Owner deems appropriate, add such phases to and subject such phases to this Declaration whereupon this Declaration shall then be amended accordingly by an amendment executed by the Owner.

IN WITNESS WHEREOF, the said BEECH HILL LIMITED PARTNERSHIP, by its sole general partner, Beech Hill Properties, Inc., has caused these presents to be signed under seal, acknowledged and delivered in its name and behalf by Lloyd Geisinger, hereto duly authorized this 6 day of Jan in the year 1993. 1994.

Signed and sealed in presence of Suzanne M. Maye Beech Hill Limited Partnership By: Lloyd Geisinger Beech Hill Properties, Inc. Witness: By: Lloyd Geisinger President

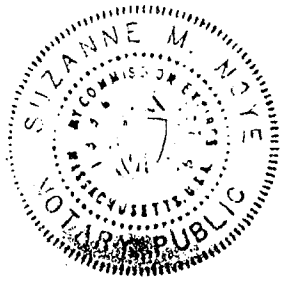
THE COMMONWEALTH OF MASSACHUSETTS

Norfolk Co., ss. Jan. 6, 1994

Then personally appeared the above named Lloyd Geisinger as President of Beech Hill Properties, Inc., and acknowledged the foregoing instrument to be the free act and deed of Beech Hill Properties, Inc., as general partner of Beech Hill Limited Partnership before me.

Suzanne M. Maye
Notary Public Suzanne M. Maye
My Commission Expires: 10/4/96

DJV\fr*]mi*dc*



← END OF INSTRUMENT →