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DEED RECORDS
VOLUME 479 PAGE 529

MAJESTIC OAKS PATIO HOMES ASSOCIATION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

WITNESSETH:

THIS DECLARATION, made on the date hereinafter set forth by FRIENDS REALTY, INC., a Texas Corporation, of Nacogdoches County, Texas, hereinafter referred to as "Declarant" (acting herein by and through its duly authorized officers), being the owner, and FREDONIA STATE BANK, Nacogdoches, Texas, being the lienholder, of that certain 1.59 acres of land lying and being situate in the City of Nacogdoches, Nacogdoches County, Texas, and being a PART OF LOT 74, Block 54, of said City, hereinafter referred to as MAJESTIC OAKS PATIO HOMES ASSOCIATION, INC., according to the plat of said Subdivision recorded in Volume 3, Page 53, of the Map Records of Nacogdoches County, Texas, such residential lots being Lots 1 through 9.

WHEREAS, it is deemed to be in the best interests of Declarant and any other persons who may purchase property in MAJESTIC OAKS PATIO HOMES ASSOCIATION, INC., that there be established and maintained a uniform plan for the improvement and development of MAJESTIC OAKS PATIO HOMES ASSOCIATION, INC., as a highly restricted and modern residential subdivision of the highest quality.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties, or any part thereof, their heirs,

successors and assigns, and shall inure to the benefit of each owner thereof.

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ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean and refer to MAJESTIC OAKS PATIO HOMES ASSOCIATION, INC., a Texas Non-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Building Plot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Declarant" shall mean and refer to FRIENDS REALTY, INC., its successors and assigns, if such successors and assigns should acquire more undeveloped Building Plot from the Declarant for the purpose of development.

Section 5. "MAJESTIC OAKS" shall mean and refer to MAJESTIC OAKS PATIO HOMES ASSOCIATION, INC., heretofore platted and subdivided into that certain subdivision hereinbefore described.

ARTICLE II.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Declarant and every owner of a Building Plot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant and may not be separated from ownership of any Building Plot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership.

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Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Building Plot owned. When more than one person holds an interest in any Building Plot, all such persons shall be members. The vote for such Building Plot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Building Plot.

Class B. Class B member shall be the Declarant and shall be entitled to nine (9) votes, one vote for each Building Plot. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A members equals the total votes outstanding in the Class B members; or
- (b) on the tenth anniversary date of this Declarant.

ARTICLE III.

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Building Plot owned within the Properties, hereby covenants, and each Owner of any Building Plot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and

shall be secured by a continuing Vendor's Lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Properties, and the payment of all expenses and obligations lawfully incurred by the Association in connection with the services for all Building Plots. It being understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of such funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Annual Assessments. The assessments made shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine should be paid by the Developer and the Owners to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of all areas which the Association maintains, which sum may include, among other things: exterior maintenance; cost of management; assessments; fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the townhouses; landscaping and care of grounds; common lighting; repairs and renovations; garbage collections; wages; water charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration; the payment of any deficit remaining from a previous period; the creation of a reasonable reserve as

well as other costs and expenses relating to the general common elements. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or release of the Owners from the obligation to pay.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, 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, reconstruction, repair or replacement of a capital improvement, PROVIDED THAT any such assessment shall have the vote or written assent of a majority of each class of members.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Any action authorized under Sections 3 and 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Building Plots as follows:

- (a) Building Plots owned by FRIENDS REALTY, INC. - None.
- (b) Building Plots with a completed residence sold to individual homebuyers - 100%.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Building Plots on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to

the date of commencement. The first annual assessment shall be adjusted according to the number of months remaining the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Building Plot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Building Plot have been paid.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Building Plot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a deed to a Building Plot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Article 3810 of the Texas Revised Civil Statutes, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided in this section shall be in favor of the Association and shall be for the benefit of all Building Plot Owners. An owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Building Plot.

Section 9. Subordination of the Lien to Mortgages. The Vendor's Lien securing payment of the assessments provided for

herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the Owner of any Building Plot to secure the payment of moneys advanced and used for the purpose of purchasing and/or improving such Building Plot. Sale or transfer of any Building Plot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Building Plot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Insurance.

(a) The Board of Directors of the Association shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees, and each Owner, from and against such liability as they may deem necessary.

(b) Each Owner shall be responsible at his own expense for the cost for his own personal insurance on the building and contents of his own residence, garage, and his improvements thereto, including decorations, furnishings and personal property therein, and his personal property stored elsewhere on the property; and for his personal liability not covered by liability insurance that the Board of Directors authorize as provided for all Owners and be a part of the common expense.

(c) All costs, charges and premiums for all insurance that the Board of Directors authorize as provided herein shall be a common expense of all Owners and be a part of the maintenance assessment.

Section 11. Taxes. Each Owner shall directly render for taxation his own Building Plot and improvements and property thereon, and shall at his own cost and expense directly pay all taxes, levied or assessed against or upon his Building Plot and improvements and property thereon.

ARTICLE IV

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MAINTENANCE AND REPAIRS

Section 1. Owner's Maintenance. Each Owner shall, at his sole cost and expense, maintain and repair his residence in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

Section 2. Neglect of Owner. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guest, invitees, employees or agents and maintenance or repair is not done by the Owner and the Association does such repair and maintenance, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which Building Plot is subject.

Section 3. Authority of Association. In the event an Owner is responsible for certain exterior maintenance as set forth in the Rules and Regulations of the Association and such Owner shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3rds) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Building Plot and to repair, maintain and restore the Building Plot and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Building Plot is subject.

ARTICLE V.

LAND USE AND BUILDING TYPE RESTRICTIONS

Section 1. Land Use and Building Type. No building shall be erected, altered or permitted to remain on any lot other than one detached single family residential dwelling. No building shall be erected, altered, placed or permitted to remain on any lot other

than one single family dwelling not to exceed two stories in height and a private garage for not more than three cars.

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Section 2. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Building Plot except that no more than two (2) house dogs, house cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 3. Garbage and Refuse Disposal. No individual garbage, rubbish or trash containers shall be used or maintained outside of and around the patio homes of this addition. All trash, garbage and other waste shall be kept in sanitary containers or dumpsters at a place as designated "trash bin" on the map and plat of the Majestic Oaks Patio Homes Association.

Section 4. Roofing Material. The roof of any building shall be constructed or covered with composition shingles. Any other type roofing material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.

Section 5. Outside Antennas. No radio or television aerial wires or antennas shall be maintained on any portion of Building Plot unless hidden from front view, and no radio aerial wires or antennas shall be placed or maintained on the outside of any building nor shall any free-standing antennas of any style be permitted.

Section 6. Non-Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 7. Architectural Control. No building or improvements of any character shall be erected or placed, or the erection begun, or changes made in the design thereof after original construction, on any Building Plot until the construction plans and specifications and a plot plan showing the location of the structure or improvements has been submitted to and approved

by the Architectural Control Committee consisting of Charles R. Hensarling and Jerry W. Evans, or their assignee, hereinafter provided for as to compliance with these restrictions, as to quality of material, harmony of external design with existing and proposed structures as to location with respect to topography and finish grade elevation. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its representative shall be entitled to any compensation for services performed pursuant to this covenant. In the event the Committee fails to approve or disapprove within thirty (30) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. The Architectural Control Committee, at its sole discretion, is hereby permitted to approve deviations in building area and location in instances where, in their judgments, such deviation will result in more commonly beneficial use. Such approval must be granted in writing and, when given, will become a part of these restrictions. Charles R. Hensarling and Jerry W. Evans hereby agree to assign its rights to approve or disapprove plans and specifications, location of structures, construction contracts and all other documents or approvals required to be submitted to it to the MAJESTIC OAKS PATIO HOMES ASSOCIATION, INC., when One Hundred Per Cent (100%) of all of the lots in MAJESTIC OAKS are occupied by residents.

Section 8. The Minimum Square Footage Within Improvements. The livable area of each residential structure, exclusive of the porches, stoops, open terraces, garage, shall not be less than one thousand four hundred (1,400') square feet.

Section 9. Location of the Improvements Upon the Lot. No building shall be located on any lot nearer to the front lot line or nearer to the side street lot line than the minimum building setback lines shown on the recorded plat. No fence, wall, hedge,

pergola or other detached structure shall be erected, grown or maintained on any part of any lot whatsoever located in MAJESTIC OAKS. Any wall, fence or hedge erected as a protective screening on a lot by Declarant shall pass ownership with title to the property, and it shall be owner's responsibility to maintain such protective screening thereafter.

Section 10. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat and no structure shall be erected upon any of said easements. Neither Declarant or any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants to shrubbery, trees, flowers or improvements of the owner located on the land covered by said easements.

Section 11. Prohibition of Offensive Activities. No activity, whether for profit or not, shall be carried on, on any lot which is not related to single family residential purposes except as herein referred to. No noxious or offensive activity shall be permitted upon any lot, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood. Declarant, or its assigns, may maintain as long as it owns property in MAJESTIC OAKS as Declarant determines, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation as to offices, storage areas and signs.

Section 12. Use of Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, barn, garage or other out-building, shall be used on any lot at any time as a residence either temporarily or permanently.

Section 13. Signs. No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction or sales period. Declarant, or its assigns, will

have the right to remove any such sign exceeding the five square feet which is placed on said lot and in so doing shall not be subject to any liability of trespass or other sort in connection therewith or arising with such removal.

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Section 14. Storage of Automobiles, Boats, Trailers and Other Vehicles. No boat trailers, boats, travel trailers, inoperative automobiles, campers or vehicles of any kind are to be semi-permanently or permanently stored in the public street right-of-way or on driveways. Permanent and semi-permanent storage of such items and vehicles must be within the garage.

ARTICLE VI.

LEASES

Section 1. The Association shall require that all leases of any residences must: (1) be in writing, and (2) provide that such leases are specifically subject in all respects to the provisions of the Declaration, Articles of Incorporation and By-Laws of the Association, and that any failure by the Lessee to comply with the terms and conditions of such documents shall be a default under such leases. Other than the foregoing, there shall be no restrictions on the right of any Owner to lease his residence.

ARTICLE VII.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Duration. All provisions, restrictions, covenants and conditions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than ninety per cent (90%) of the Building Plot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Building Plot Owners. Any amendment must be recorded in the Deed Records of Nacogdoches County, Texas.

Section 4. Amendments by Declarant. The Declarant reserves and shall have the right at any time and from time to time, without the joinder or consent of any Owner or any other person, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of correcting any typographical error, ambiguity, or inconsistency appearing in this Declaration, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration, and shall not impair the vested property rights of any homeowner or his mortgages.

Section 5. Rights of Mortgagees, Trustees or Lienholders. No violations of any of these restrictions, covenants or conditions, shall affect or impair the rights of any Mortgagee, Trustee, or Lienholder under any mortgage or deed of trust, or the rights of any assignee of any Mortgagee, Trustee or Lienholder under any such mortgage or deed of trust.

IN WITNESS WHEREOF, the undersigned corporation has executed this instrument, this, the 12th day of July, 1982.

FRIENDS REALTY, INC.

BY: Jerry W. Evans
Jerry W. Evans, President

THE STATE OF TEXAS *
COUNTY OF NACOGDOCHES *

BEFORE ME, the undersigned authority, on this day personally appeared JERRY W. EVANS, President of FRIENDS REALTY, INC., a corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this, the 12th day of July, 1982.

Margie Monzingo
NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

MARGIE MONZINGO
MY COMMISSION EXPIRES JAN. 22, 1985



STATE OF TEXAS
COUNTY OF NACOGDOCHES
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and was
duly RECORDED, in the Volume and Page of the named
RECORDS of Nacogdoches County, Texas as stamped
hereon by me, on

OCT 5 1982



Hope Stappes
COUNTY CLERK
NACOGDOCHES COUNTY, TEXAS

Hope Stappes
COUNTY CLERK
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