

22763

DECLARATION OF RESTRICTIVE COVENANTS
PURSUANT TO M.G.L. c.41, §81U
IN WINTER HEIGHTS SUBDIVISION
WORCESTER, WORCESTER COUNTY, MASSACHUSETTS

105

KNOW ALL BY THESE PRESENTS that we, Mirajuddin Ahmed and Iqbal Ali, Trustees of Winter Heights Worcester Subdivision Trust, u/d/t dated February 9, 1999, recorded in the Worcester District Registry of Deeds ("W.D.R.D.") Instrument No. 22761, of 5 Edgewood Road, Westboro, MA, 01581 (hereinafter "Covenantor"), having submitted to the Worcester Planning Board a definitive plan of a subdivision entitled "WINTER HEIGHTS SUBDIVISION," dated May 1, 1998, prepared by Thompson-Liston Associates, Inc., (hereinafter the "Plan") hereby impose the following restrictions and declarations on the aforementioned land, for the benefit of the City of Worcester, acting by and through its Planning Board, pursuant to M.G.L. c.41, s.81U, as amended.

1. This Declaration of Restrictive Covenants (hereinafter "Declaration") shall apply to lots numbered 1 - 115, inclusive (hereinafter the "Affected Lots") as shown on the Plan.

2. The Covenantor is the record owner of the Affected Lots and there are no mortgages of record or otherwise on any of the Affected Lots.

3. This Declaration shall run with the land encumbered hereunder and be binding upon the executors, administrators, devisees, heirs, assigns, mortgagees and successors of the Covenantor, and shall operate as restrictions upon said land.

4. No lot included hereunder shall be built upon or conveyed, other than by mortgage deed, until the construction of

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ways and installation of municipal services necessary to adequately serve such lot have been completed in accordance with the covenants, conditions, agreements, terms and provisions as specified in the following:

- a. The Subdivision Control Law and the Worcester Planning Board's Rules and Regulations promulgated pursuant thereto dated October 1, 1992.
- b. The Certificate of Approval relative to this subdivision and the conditions of approval specified therein, dated June 9, 1998.
- c. The Definitive Plan as approved and as qualified by the Certificate of Approval.

Provided that, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise, and any successive owner of the mortgaged premises or part thereof, may sell any such lot, subject only to that portion of this Declaration of Restrictive Covenants which provides that no lot included hereunder shall be built upon until ways and services have been provided to serve such lot in accordance with the above.

5. The Covenantor shall complete the requirements of said Regulations, including the construction of sanitary and surface sewers, water mains, roadways, sidewalks, installation of "WH" bounds, street lights, trees and other incidental work for such project as required by the Commissioner of Public Works and as shown on the Plan, on the following streets:

- a. Azalea Drive for a distance of approximately 572 linear feet, more or less; and
- b. Hibiscus Drive for a distance of approximately 443 linear feet, more or less; and

- c. Jasmine Drive for a distance of approximately 1,481 linear feet, more or less; and
- d. Nizam Drive for a distance of approximately 863 linear feet, more or less; and
- e. Oriental Street for a distance of approximately 1,136.5 linear feet, more or less.
- f. Rainbow Drive for a distance of approximately 425 linear feet, more or less; and
- g. Russell Calvin Street for a distance of approximately 516 linear feet, more or less; and
- h. Snowy Owl Lane for a distance of approximately 1,136 linear feet, more or less; and
- i. Taj Drive for a distance of approximately 666 linear feet, more or less; and

6. Upon compliance with the requirements of this Declaration respecting any particular lot or lots, the Planning Board, pursuant to the affirmative vote of a majority of its members, may release such lot(s) from this Declaration by a duly executed, acknowledged and recorded instrument, enumerating the lot(s) to be released.

7. Nothing herein shall prohibit the Covenantor from varying the method of securing the construction of ways and installation of municipal services from time to time, or from securing by one, or in part by one and in part by another, of the methods described in M.G.L. c.41, section 81U, as amended, as long as the Covenantor obtains the prior approval of the Planning Board that the security is sufficient to secure performance of the Covenantor's obligations.

8. Nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to this Declaration, of either (a) the

entire parcel of land comprising the Affected Lots shown on the Plan or (b) of all lots not previously released from this Declaration by the Planning Board.

9. This Declaration shall take effect upon recording.

10. The Covenantor's title being that conveyed by deed of William T. Kelleher, et al, ^{rec'd} dated February 10, 1999 and recorded at the Worcester District Registry of Deeds, Instrument No. 22762.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 6th day of February, 1999.

APPROVED AS TO LEGAL FORM:

COVENANTOR:
Winter Heights Worcester
Subdivision Trust

Stephen F. Madaus
Stephen F. Madaus
Assistant City Solicitor

By: Mirajuddin Ahmed
Mirajuddin Ahmed,
Trustee

By: Iqbal Ali
Iqbal Ali, Trustee

ACCEPTED:
WORCESTER PLANNING BOARD

By: Joe Boynton
Joe Boynton

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

February 6th, 1999

Then personally appeared the above-named Mirajuddin Ahmed and Iqbal Ali, as Trustees of Winter Heights Worcester Subdivision Trust, and acknowledged the foregoing instrument their free act and deed, before me.

seal

Joann P. Forance
Notary Public
My Commission Expires:

JOANN P. FORANCE
Notary Public
My Commission Expires June 18, 2005

ATTEST: WORC. Anthony J. Vigliotti, Register