

844240
File 201-1, 157

This instrument filed by
HEDRICK LAND TITLE CORPORATION

803368

LEAWOOD SOUTH

HOMES ASSOCIATION DECLARATION

THIS DECLARATION, made on this 1st day of April, 1968,
by CENTRAL ESTATES, INC., a Kansas corporation, the owner of
all that property platted as Leawood South, First Plat, as
shown by the recorded plat thereof filed November 2, 1967
as instrument # 792243, in the office of the Register
of Deeds of Johnson County, Kansas, all that property platted as
Leawood South, Second Plat, as shown by the recorded plat
thereof filed January 2, 1968 as instrument # 796178,
in the office of the Register of Deeds of Johnson County, Kansas,
and all that property platted as Leawood South, Third Plat, as
shown by the recorded plat thereof filed April 9, 1968
as instrument # 802758 in the office of the Register
of Deeds of Johnson County, Kansas, the said Leawood South
being a subdivision in the City of Leawood, Johnson County,
Kansas.

WITNESSETH that:

WHEREAS, CENTRAL ESTATES, INC., the developer of Leawood
South, is now developing a portion of said subdivision for high
class residential purposes and desires to create and provide
for the maintenance of a residence neighborhood possessing
features of more than ordinary value to a residence community.

NOW, THEREFORE, in order to assist itself and its grantees
in providing the necessary means to bring this about, CENTRAL
ESTATES, INC., does hereby subject all of Lots 1 through 28,
inclusive, Block 1, Lots 1 through 19, inclusive, Block 2,
Leawood South, First Plat; Lots 1 through 9, inclusive, Block 3,
Lots 1 through 19, inclusive, Block 4, Lots 1 through 4, inclusive,

STATE OF KANSAS }
COUNTY OF JOHNSON } SS
FILED FOR RECORD

1968 APR 18 AM 11 05 8

MARGUERITE H. BRENNER
OF REGISTER OF DEEDS
BY *Edna R. Riquelme* DEP

184 PAGE 621

Block 5, Lots 1 through 9, inclusive, Block 6, Lots 1 through 22, inclusive, Block 7, Lots 1 through 8, inclusive, Block 8, Lots 1 through 14, inclusive, Block 9, Lots 1 through 13, inclusive, Block 10, Lots 1 through 25, inclusive, Block 11, Leawood South, Second Plat; Lots 1 through 25, inclusive, Block 12, Lots 1 through 13, inclusive, Block 13, Lots 1 through 13, Block 14, Lots 1 through 13, inclusive, Block 15, Lot 1, Block 16, Leawood South, Third Plat; the said Leawood South being a subdivision in the City of Leawood, Johnson County, Kansas, to the following covenants, charges and assessments.

SECTION 1. DEFINITION OF TERMS

The term "district" as used in this Declaration shall mean, unless extended as hereinafter provided, all of those lots above described, in Leawood South, a subdivision in the City of Leawood, Johnson County, Kansas.

The term "public places" as used herein shall be deemed to mean all streets and all parks, gateways, entrance and ornamental areas and similar places, together with all improvements which may be situated thereon, the use of which is dedicated to or set aside for the general use of all of the owners within the district.

The term "developer" as used herein shall mean and refer to CENTRAL ESTATES, INC., its successor or successors by any merger, consolidation or sale or transfer of assets.

The term "owners" as used herein shall mean those persons or corporations, including the developer, who may, from time to time, own lots within the district.

The term "lot" as used herein shall be deemed to be either any lot as platted or any tract or tracts of land as conveyed, which may consist of one or more lots or a part or parts of one or more lots as platted, and upon which a residence may be erected.

The term "improved lots" as used herein shall be deemed to be a lot on which a residence has been erected or is in the process of erection. Any other lots covered by this Declaration shall be deemed to be vacant and unimproved.

SECTION 2. MANAGEMENT AND MEMBERSHIP

All public places, together with all improvements thereon and thereto shall be under the management and control of the Leawood South Homes Association, Inc., (hereinafter referred to as the "Association"), subject to that had and exercised by the City of Leawood, the Township of Mission, the County of Johnson and the State of Kansas, or any of them. The membership of the Association shall be limited to the owners of lots within the boundaries of the district. The Association shall be the sole judge of the qualifications of its members and of their right to participate in its meetings and proceedings, except as herein provided.

SECTION 3. POWERS AND DUTIES OF THE ASSOCIATION

In addition to the powers and duties granted by other portions of this Declaration or by law, the Association shall have the following powers any or all of which may be exercised or assumed by it when at its discretion, it deems it to be necessary or advisable:

A. To enforce either in its own name or in the name of any owner within the district, any or all building or use restrictions which may have been heretofore or may hereafter be imposed upon any of the land in said district; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible under the Declarations or plats in which such restrictions and reservations are set forth.

nor shall it serve to prevent the assignment of those rights by the proper parties, whenever and wherever such right of assignment exists. The expense and cost of any such enforcement proceedings by the Association shall be paid for by it. Nothing herein contained shall be deemed to prevent any owner from enforcing any building or use restrictions in his own name.

B. To care for, spray, trim and protect and replant trees along streets and in other public places, to plant and replant, care for, mow, clip and protect shrubbery and grass in all public places.

C. To pick up and remove loose material, trash and rubbish of all kinds in the district, and to do any other things necessary or desirable in the judgment of the officers of said Association to keep the lawns of vacant and unimproved property in the district neat in appearance and in good order.

D. To provide such lights as the Association may deem advisable on streets and other public places.

E. To provide for the collection and disposal of rubbish and trash.

F. To provide for the construction, creation, purchase, maintenance and operation of playgrounds, recreational areas or facilities, gateways, entrances, gardens and other ornamental features in and upon public places.

G. To exercise such control over easements as may be required.

H. To erect and maintain signs for marking of streets.

I. To acquire and own the title to such real estate as may be reasonably necessary to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by it.

SECTION 4. METHOD OF PROVIDING GENERAL FUNDS

For the purpose of providing a general fund to enable said Association to perform its duties and to construct, purchase, operate or maintain the improvements herein provided for, all lots in the district, other than those owned by the developer, shall be subject to an annual assessment to be paid to the Association by the respective owners thereof. No lot shall be subject to any such assessment prior to its conveyance by the developer to an owner (which owner may hereinafter be referred to as the "first owner" of such lot). The amount of assessment shall be fixed by the Association but, until further action of said Association, shall be at the rate of \$30.00 per annum for each improved lot as herein defined and \$15.00 per annum for each unimproved lot as herein defined.

The rate of assessment may be increased or decreased if at a meeting of the members especially called for that purpose, and of which notice is given, a majority of the votes cast at such meeting shall be cast for such increase or decrease.

SECTION 5. ASSESSMENTS DUE

The assessments provided for herein shall commence January 1, 1969, and the first such assessment shall be fixed and levied prior to January 1, 1969, and shall be due and payable on such date, and thereafter each assessment shall be due and payable on the first day of January of each year. Provided, however, the first annual assessment for any lot conveyed by the developer to the first owner thereof after January 1, 1969, shall be due and payable on the first day of the month following such conveyance and the amount of such assessment due and payable on such date shall be a sum equal to the number of full calendar months remaining after such conveyance in the year of such conveyance multiplied by an amount equal to one-twelfth (1/12) of

the regular annual assessment for such year, as fixed in the manner hereinabove provided. It will be the duty of the Association to give notice to all owners on or before that date on which the annual assessment is due of the amount of the assessment on each lot owned by them and when it is due. Failure of the Association to levy the assessment prior to January first of any year shall not invalidate any such assessment subsequently levied for that particular year, nor shall failure to levy assessment for any one year affect the right of the Association to do so for any subsequent year. By action of the Association the assessments levied may be made payable in monthly installments in lieu of annually. When the assessment is levied subsequent to January first of any year, then the first installment thereon shall become due and payable not later than thirty (30) days after the date of the levying of the assessment.

SECTION 6. LIEN ON REAL ESTATE

The entire assessment shall become a lien on said real estate as soon as it, or the first monthly installment thereof, is due and payable as above set forth. In the event of failure of any of the owners to pay any installment of such assessment on or before the first day of the second month following the due date of such installment, then such installment shall bear interest at the rate of eight per cent (8%) per annum from the due date until paid.

SECTION 7. SUBORDINATION OF THE LIEN TO MORTGAGES OR DEEDS OF TRUST

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon any property subject to assessment; provided, however, that such subordination shall apply only to the assessments or installments thereof which have become due and payable prior to the sale of such property pursuant to a foreclosure

of such mortgage or power of sale under such deed of trust, or prior to a conveyance to the mortgagee or beneficial owner in lieu of foreclosure. Such sale shall not relieve such property from liability for any assessments or installments thereof there- after becoming due nor from the lien of any such subsequent assess- ments or installments.

SECTION 8. WHEN DELINQUENT

Nonpayment of any assessment provided for herein within sixty (60) days from the due date shall cause said assessment to be deemed delinquent. Nonpayment of any installment of any assess- ment provided for herein within sixty (60) days from the due date of such installment shall cause the entire unpaid portion of said assessment including all installments due in the future, to be deemed delinquent. Payment of both principal and interest shall be enforced as a lien on said property through proceedings in any court in Johnson County, Kansas, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Associa- tion to bring suits to enforce such liens promptly after they become delinquent.

SECTION 9. TERMINATION OF LIENS

Such liens shall continue for a period of one (1) year from the date of delinquency and no longer unless within such year suit shall have been instituted for collection, in which case the lien shall continue until termination of the suit and until sale of the property under the execution of judgment establishing the same.

SECTION 10. BOARD OF DIRECTORS

The Association shall have a Board of Directors not less than five (5) in number, elected in accordance with its Articles of Incorporation and By-Laws, who shall be charged with the manage- ment of the Association.

SECTION 11. MEMBERSHIP

Every person or entity who is a record owner of a fee interest

in any lot as defined herein, including a contract seller, shall be a member of the homes association; provided that any such person or entity, other than a contract seller, who holds such interest merely as a security for the performance of an obligation shall not be a member.

SECTION 12. VOTING RIGHTS

The Association shall have only one class of membership. Each member shall have one (1) vote for each lot in which he holds the interest required for membership by the preceding section and upon which he shall not be delinquent in the payment of assessments; provided, however, when more than one person holds such interest or interests in any lot, all such persons shall be members and the vote for such lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one (1) vote be cast with respect to any such lot.

SECTION 13. NOTICES

A. At least one week prior to any meeting of the Association, it shall give notice to all owners of lots in the district of the place, time and purpose of regular and special meetings of the Association and shall designate the place where payment of assessments shall be made and other business in connection with said Association may be transacted; and in case of any change of said address, the Association shall give notice to all the owners of lots in the district of its new address.

B. All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, with postage prepaid thereon, and addressed to the person entitled to such notice at the last address listed with the Association for such person.

SECTION 14. DISTRICT MAY BE EXTENDED

The district may be extended by CENTRAL ESTATES, INC., to

include any other lands added by CENTRAL ESTATES, INC., to Leawood South by later plats; provided, however, that all of the land or lands to be added to the district shall at that time be subjected to a homes association declaration, containing the same terms and provisions as are contained in this Declaration, including any future modifications hereof. The extension of said district shall be accomplished by and take effect on the filing of such a homes association declaration in the office of the Register of Deeds in and for the county in which said land or lands are located.

SECTION 15. TO OBSERVE ALL LAWS

Said Association shall at all times observe all applicable state, county or other laws, or regulations, and if at any time any of the provisions of this Declaration shall be found to be in conflict with such laws such provision shall become null and void, but no other parts of this Declaration not in conflict therewith shall be affected thereby. The Association shall have the right to make such reasonable rules and regulations and provide means to enforce such rules and regulations as will enable it to adequately and properly carry out the provisions of this Declaration.

SECTION 16. AMENDMENT AND TERMINATION

At any time the owners of fifty per cent (50%) or more of the lots within the district may, by an appropriate instrument (in one or more counterparts) executed, acknowledged and filed for record in the office of the Register of Deeds for Johnson County, Kansas:

- A. Give additional powers or otherwise amend this Declaration;
- or
- B. Terminate this Declaration and release all of the lands then affected thereby from all of the terms and provisions hereof.

SECTION 17. COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration shall be deemed to be

covenants running with the land and shall be binding upon the undersigned, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed the day and year first above written.

ATTEST:

 Shirley M. Hand, Secretary


CENTRAL ESTATES, INC.
 By 
 Richard J. Stern, President

STATE OF MISSOURI)
 COUNTY OF JACKSON) ss

On this 1st day of April, 1968, before me appeared Richard J. Stern, to me personally known, who being by me duly sworn, did say that he is the President of CENTRAL ESTATES, INC., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Richard J. Stern acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Kansas City, the day and year last above written.

My Commission expires:
July 28, 1970


 Shirley M. Hand, Notary Public