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DECLARATION OF RESTRICTIONS



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REGISTER'S OFFICE
WALKESHA COUNTY, WI
RECORDED ON

12-12-2002 9:49 AM

MICHAEL J. HASBLINGER
REGISTER OF DEEDS

REC. FEE: 20.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 9

Recording Area

Name and Return Address

John Elliott
10701 W. Lincoln Avenue
West Allis, WI 53227

Part of MSKC 2200-985
and MSKC 2200-985-001

Parcel Identification Number (PIN)

pd 2719

Riverview Ct.

**DECLARATION OF RESTRICTIONS
FOR
RIVERVIEW COURT**

KNOW ALL PERSONS BY THESE PRESENTS; THAT Tomjohn LLC is a limited liability company duly organized and existing under and by the virtue of the laws of the State of Wisconsin. (hereinafter referred to as "Developer", which terms shall also include the duly authorized agent to Developer). Developer is the owner of the premises described as follows (hereinafter referred to as "**RIVERVIEW COURT**").

SEE ATTACHED

**Legal Description
of
Riverview Court**

That part of the Southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 10, Township 5 North, Range 20 East, in the City of Muskego, County of Waukesha and State of Wisconsin, bounded and described as follows:

Commencing at the Southwest corner of said Southeast $\frac{1}{4}$ Section; thence North $98^{\circ} 48' 08''$ East along the southline of said $\frac{1}{4}$ Section, 1,334.46 feet to a point; thence north $01^{\circ} 37'$ west along the west line of the Southeast $\frac{1}{4}$ of said Southeast $\frac{1}{4}$ Section, 25.00 feet to a point; thence north $87^{\circ} 48' 08''$ east along a line, 25.00 feet north of and parallel to the south line of said $\frac{1}{4}$ Section, 147.69 feet to the point of beginning of the lands to be described; thence north $02^{\circ} 11' 52''$ west, 185.00 feet to a point; thence north $87^{\circ} 48' 08''$ east, 197.67 feet to a point; thence north $02^{\circ} 45' 07''$ west, 211.49 feet to a point; thence northwesterly 54.95 feet along the arc of a curve, whose center lies to the southwest, whose radius is 50.00 feet and whose chord bears north $45^{\circ} 14' 03''$ west 52.22 feet to a point; thence northerly 142.44 feet along the arc of a curve whose center lies to the east, whose radius is 60.00 feet and whose chord bears north $02^{\circ} 17' 30''$ east, 111.27 feet to a point; thence north $19^{\circ} 41' 43''$ west, 165.82 feet to a point on a future 50.00 foot right-of-way line; thence north $89^{\circ} 03' 24''$ east along said right-of-way line, 218.90 feet to a point; thence northeasterly 323.53 feet along said right-of-way and the arc of a curve whose center lies to the northwest, whose radius is 720.00 feet and whose chord bears north $76^{\circ} 11' 01''$ east, 320.82 feet to a point; thence north $63^{\circ} 18' 38''$ east along said right-of-way line, 113.38 feet to a point on the west line of Ladwig's Grove, an unrecorded subdivision; thence south

02° 45' 07" east along said west line, 816.70 feet to a point 25.00 feet north of said south line of said Southeast ¼ Section; thence south 87° 48' 08" west along a line 25.00 feet north of and parallel to the said south line, 770.95 feet to the point of beginning.

Developer, intending to establish a general plan for the use, occupancy and enjoyment of Riverview Court does hereby declare that, for the mutual benefit of present and future owners, Riverview Court shall be subject to the following restrictions:

1. **General Applicability.** Unless specifically stated otherwise within this Declaration, all of the restrictions stated in this Declaration are applicable to all lots 1-20 of the Plat of Riverview Court.

2. **Building Restrictions.** The following restrictions are applicable to all single-family lots:

- a. Only one 1-story, 1-½ story, 2 story, split-level or bi-level single-family residential building and attached garage may be erected per lot.
- b. The minimum living area of a 1-story home shall be 1600 square feet.
- c. The minimum living area of the first floor of a 1-½ story home shall be 1100 square feet.
- d. The minimum living of a 2-story home shall be 1100 on the first floor, and 1900 square feet total.
- e. The minimum living area of a split-level or bi-level home shall be 1300 square feet total on the upper two levels.
- f. Garages must be attached to the home directly, by breezeway or in the basement of the home, and must be constructed at the same time as the home. The maximum size of any garage shall be 900 square feet.
- g. The house, garage and paved driveways to the garage must be completed within one year after the first start of construction.
- h. Minimum setbacks shall be 40 feet from the front lot line with side yard setbacks a minimum of 10 feet on one side, all other sides shall be 15 feet. Rear yard set backs shall not be less than 20 feet. Corner lots shall have a 40-foot street setback from both streets.
- i. There will be no outside storage of boats, trailers, buses, trucks, RV campers or other vehicles or items deemed unacceptable by the Developer.
- j. All building plans, including the exterior design of each building, and basic site features such as landscaping, lighting, fences, garden structures, satellite dishes, swimming pools, additions and other temporary or permanent structures which affect the overall aesthetics of the Development, must be approved by the Developer in writing prior to construction, and prior to application for a building permit when one is required.

- k. In lieu of public streetlights, one outdoor electric post-mounted lamp with photoelectric controls, must be installed.

3. **Lot Grading.** Each lot owner must strictly adhere to and finish grade his lot in accordance with the Master Grading Plan on file in the office of the Subdivider and the office of the City Building Inspector unless a change is approved by the City Engineer. The Subdivider and/or the City and/or the agents, employees or independent contractors shall have the right, but not the responsibility, to enter upon any lot, at any time, for any purpose of inspection, maintenance, correction of any drainage conditions and the property owner is responsible for the cost of the same.

4. **Pond Liability.** Storm water retention pools have been created and are required by the City of Muskego to assist in the removal of sediment and detention of storm water in Riverview Court. The storm water retention ponds are not intended to be used for swimming or recreational facilities, and any use of the storm water retention ponds for such use is strictly prohibited. Any person entering into or using the storm water retention ponds for such use is strictly prohibited. Any persons entering into or using the storm water retention ponds either intentionally or accidentally do so at their own risk. By purchase of a Lot in Riverview Court, each Owner and its respective successors, assigns, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the City of Muskego, the Developer, the Riverview Court Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, for injury or damage to person or property sustained in or about or resulting from the use of existence of the storm water retention ponds. In addition, each Owner (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the City of Muskego, the Developer, the Riverview Court Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorney's fees), including those arising from any injury or damage to any person (including death) or property sustained in or about or resulting from the use or existence of the storm water retention ponds.

5. **Owner's Association.** An incorporated association of the owners of single family lots in Riverview Court is hereby created for the purposes of managing and controlling Common Areas, as defined below, and performing other duties as set forth herein for the common benefit of the Owners. This owner's association will formally be titled Riverview Court Homeowner's Association, and it is referred to herein as the "Association". The membership of the Association will be comprised of the owners, or the authorized agents of the owners, of lots in the Development. Members of the Association are referred to herein as the Owners.

6. **Management Committee.** The Association will be governed by a Board of Directors as referred to herein as the "Board". The Board will conduct and manage all of the responsibilities of the Association. The members of the board will be selected as follows:

- a. At any time that the Developer owns Fifty Percent (50%) or more of the lots including all future additions to the Development, all three of the Board members will be appointed by the Developer.
- b. At any time that the Developer owns between Twenty and Fifty Percent (20%-50%) of the lots in the Development, including all future additions to the Development, two members of the Board will be appointed by the Developer, and one member will be chosen according to the procedure stated below.
- c. At any time that the Developer owns between Five and Twenty Percent (5%-20%) of the lots in the Development, including all future additions to the Development, one member of the Board will be appointed by the Developer and two members will be chosen according to the procedure below.
- d. At any time that the Developer owns fewer than Five Percent (5%) of the lots in the Development, including all future additions to the Development, all three members of the Board will be chosen according to the procedure stated below.

7. **Election of Committee Members.** The initial members of the committee will be John F. Elliott and Thomas J. Beaudry. The initial members will serve until December 31, 2003.

- a. No later than sixty (60) days before the expiration of any term of the Board members, a notice of the election of Board members will be sent to all Owners. The notice will state the number of board positions that are subject to election, according to the criteria stated in sections 6a, 6b, 6c, and 6d, and will solicit nominations for those positions. The notice will also state the date, time and place for a meeting of the Association, to be held no later than ten (10) days prior to the expiration of any term of the Board members, at which time an election of Board membership will take place.
- b. At the election meeting, the nominations for the board membership will be announced, and additional nominations may be taken from the floor. Only owners may be nominated for Board membership, except for the initial members named above, who may be re-appointed to successive terms by the Developer, subject to the criteria of sections 6a, 6b, 6c, and 6d.
- c. Each owner is entitled to vote in person or by written proxy in elections for selecting members of the Board. Owners will have one vote for each single family lot owned.
- d. Board membership will be assigned to those Owners receiving the greater number of votes at the meeting.
- e. Except for the initial members, Board members terms will be as specified in the By-Laws of the Association. If any member of the Board dies, resigns, becomes unable to act or is no longer an Owner, the unexpired term of such member must be filled by a

special election by the Board Members, or appointed by the Developer, if applicable, at a meeting called as soon as possible after the board vacancy exists.

8. **Common Area Definition.** Wherever used in this Declaration or the By-Laws of the Association, the term Common Area shall include:

- a. All areas within Riverview Court which are not owned by any Owner, or which are owned by the Association.
- b. The areas which are generally identified as such on the plant of Riverview Court which is attached as Exhibit "B".
- c. Outlots 1-3 in Riverview Court, which outlots include the storm retention pond and portions of the surface water drainage system.
- d. All lawn and landscaped areas, and any entrance monuments, fencing and lighting, contained within the public right-of-way associated with Riverview Court; and all such areas contained within landscaping easements or pedestrian easements within Riverview Court.
- e. Any storm water drainage easements contained on private lots within Riverview Court, if any.
- f. Any future stages of the development that will be designated as a Common Area by the Association or the Developer.

9. **No Agency for Other Owners.** No Owner, other than members of the Board, has any authority to act for the Association or the other Owners, as agent or otherwise to bind the Association or the other Owners to contracts, negotiable instruments or other obligations or undertaking of any kind.

10. **Utility Easements.** Developer has the right to grant and convey easements to the City or to any public or private utility company or individual party upon, over, through or across those portions of any lot in the Development for purposes of allowing the City, individual party or utility service to any lot or lots or through any portions of the Subdivision or for purposes of facilitating said services within or through the Subdivision. Such easements may be granted by Developer, in its own name and without the consent or approval of any lot Owner, until such time as Developer has conveyed legal title to all lots platted or to be platted in the Subdivision to persons other than a successor - Developer.

11. **Maintenance Easements.** Certain lots in Riverview Court may have or will have storm water drainage or maintenance easements. These easements are within defined boundaries in these lots, and are restricted to only such areas, methods of access and duration as are reasonably required to perform necessary maintenance to the easements or storm water retention ponds or drainage ways. If a property owner does not perform required maintenance in the easement area, the City of Muskego is authorized but not required to perform said maintenance. The costs and expenses associated with said maintenance shall be entered on the tax roll as a special assessment against the

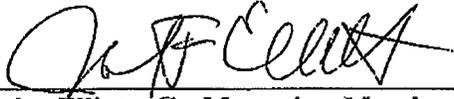
property and collected with any other taxes levied thereon for the year in which the work is completed. Irrespective of the foregoing, however, the obligation to repair and maintain any underground sewer or water mains, pipes, or conduits are the responsibility of the Owners' Association established pursuant to paragraph 5 above.

12. **No Waiver of Rights.** Any failure of the Association or the Committee to enforce any provisions contained in this Declaration will not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent action.

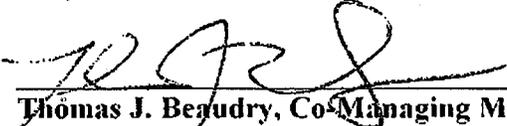
13. **Amendments.** The responsibility for maintenance of all common areas defined in paragraph 8 above shall be the responsibility of the Association established pursuant to paragraph 5 above.

14. **Duration of Restrictions.** These restrictions will be in force perpetually from the date hereof and will be deemed to run with the land, to bind the owners and their successors and assigns, and be enforceable by any Owner. This Declaration is executed by the Developer's signatures below, and is effective upon recording by the Waukesha County Register of Deeds.

Tomjohn LLC

By: 
John Elliott, Co-Managing Member

Dated: 11/20/02

By: 
Thomas J. Beaudry, Co-Managing Member

Dated: 11/20/2002

STATE OF WISCONSIN }
 } ss.
MILWAUKEE COUNTY }

Personally came before me this 20 day of Nov., 2002, the above-named John Elliott, to be known to be the person who executed the foregoing instrument and acknowledged the same.

Wendy Crawley
Notary Public, Milwaukee, County, Wisconsin
My commission expires 11-30-03

STATE OF WISCONSIN }
 } ss.
MILWAUKEE COUNTY }

Personally came before me this 20 day of Nov., 2002, the above-named Thomas J. Beaudry, to be known to be the person who executed the foregoing instrument and acknowledged the same.

Wendy Crawley
Notary Public, Milwaukee, County, Wisconsin
My commission expires 11-30-03

This document was drafted by:
Atty. Phil Elliott, Jr.
ELLIOTT, ELLIOTT & STASKUNAS
10701 West Lincoln Avenue
West Allis, Wisconsin 53227

LEGAL DESCRIPTION:

LOTS 1 THROUGH 19 AND OUTLOTS 1 AND 2 OF RIVERVIEW COURT
SUBDIVISION, A SUBDIVISION LOCATED IN THE SOUTH EAST ONE-
QUARTER OF SECTION 10, TOWNSHIP 5 NORTH, RANGE 20 EAST, IN
THE CITY OF MUSKEGO, COUNTY OF WAUKESHA, STATE OF
WISCONSIN.