Compared

STATE OF IOWA, MADISON COUNTY, ss.

Inst. No. 1714 Filed for Record this 18 day of May 19 81 at 2:45 P.M.
Book 33 Page 521 Recording Fee 18.00 Mary E. Welty, Recorder, By _____ Deputy

M welty

DECLARATION OF PROTECTIVE COVENANTS

Clarke Co., Ltd., Earlham Building Center, Inc., Roger E. Howell, Clifford G. and Helen Imboden, husband and wife, Rollin I. and Dolores E. Eivins, husband and wife, Fay S. Hunter and Polk County Federal Savings and Loan Association of Des Moines, being the owners, record titleholders, and lienholders of the following described real property situated in Earlham, Madison County, Iowa:

LOTS 1 THROUGH 19, INCLUSIVE, EIVINS ADDITION PLAT TWO, EARLHAM, IOWA

do hereby impose upon said property and hereby bind themselves and their successors in interest in the continuing use of such property by the following restrictions:

Article I
Replacement Covenants

These covenants replace and supercede the protective covenants enacted September 5, 1978 and recorded October 5, 1978, with the platting documents in Town Lot Deed Rec. 48, page 565, et. seq.

Article II
Single-Family and Two-Family Homes

A. Lots

All lots described above shall be known, described, and used solely as residential lots, and no structure shall be erected on any lot other than one detached single-family dwelling or one bi-attached two-family dwelling, neither of which shall exceed two stories in height. One garage may be built on each lot and may be attached to or detached from the dwelling.

B. Easements

Perpetual easements for public utilities, storm sewer, sanitary sewer, and drainage where applicable, are reserved as are shown on the final plat which is filed of record in the office of the Polk County Iowa, Recorder.

C. Building Size.

No building shall be erected on any lot unless the design and location are in harmony with existing structures and do not violate any protective covenants. In any case, no single-family dwelling shall be permitted on any lot described herein having a ground floor square foot area of less than eight hundred square feet (800 square feet) in the case of one-story structure and one and one-half story structures, and no less than seven hundred square feet (700 square feet) in the case of two-story structures. If a dwelling is of tri-level design, then the ground floor area shall be not less than eight hundred square feet (800 square feet). Two-family dwellings shall have a total ground floor area of no less than nine hundred and fifty square feet (950 square feet). Garages and porches are excluded from the above minimum square footage computations.

D. Lot Size.

No dwelling shall be erected or placed on any lot having an area of less than 4,500 square feet.

E. Lot Lines.

No building shall be erected on any residential building lot nearer than 25 feet to nor farther than 25 feet from the front lot line and the rear lot line, nor nearer than 5 feet to any side lot line. The side restrictions shall not apply to a garage located on the rear one-quarter of a lot, except that on corner lots no structure shall be permitted nearer than 30 feet to the side street line.

F. General Restrictions.

1. No trailer, basement, tent, shack, garage, barn or other out building erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted.

2. The titleholder of each lot, vacant or improved, shall keep his lot or lots free of weeds and debris.

3. No obnoxious or offensive trade shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2001, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of the majority of the then owners of the lots it is agreed to change the said covenants in whole or in part.

5. If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants or restrictions herein before January 1, 2001, it shall be lawful for any other person or persons owning any other lots in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction and either to prevent him or them from so doing or to recover damages or other dues for such violation.

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

Article III
Provisions Re Two-Family Dwellings.

The following restrictions shall particularly apply to two-family dwellings erected on any lot described above:

A. Party Walls:

The dividing wall which straddles the boundary line between the attached dwellings shall at all times be considered a party wall and to the extent not inconsistent with the provisions of this Article, the same rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance to a party wall shall be shared by the owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and as the other owner thereafter makes use of the wall, they shall contribute to the construction and restoration thereof in proportion to such use without prejudice. However, the right of such owner to call for larger contributions from the other owner shall be governed by the rules of law regarding liability for negligence or willful acts of omissions. Further, the right of any owner to contribute to any other owner under this Article shall bear pertinent to the land and shall pass to such owner, heirs at law, or successors in title.

B. Exterior Maintenance:

The owner or owners of each attached dwelling shall be responsible for the maintenance or repair or replacement of that portion of the common roof and gutter system as is located, restored upon, or attached to said dwelling, and shall obtain written consent from the owner or owners of the other side of said dwelling if an owner wishes to make any material change by way of color, type or other change in color of said roofing or gutter system. Further, all outside painting and decorating of said dwelling shall conform in color and quality to the outside painting and decorating of the other side of said dwelling unless written consent is obtained from the owner or owners of the other side.

C. Hazard Insurance:

The owner or owners of the dwelling shall have in force and effect hazard insurance in an amount equal to replacement cost of said dwelling for their dwelling and shall upon request of the other owner make available a copy of his policy.

D. Utilities:

The owner of each dwelling shall share in the cost and maintenance for that part of any public utility service which is shared in common with the owner of the other dwelling.

E. Encroachment Easements:

To the extent that any public utility service, line or cable, encroaches upon the property or building on the other side of the dwelling, the benefited owner shall have an easement to the extent of said encroachment.

Dated this 15th day of May, 1981.

CLARKE CO., LTD.

By: Clarke Interests, Inc.

By Lloyd E. Clarke
Lloyd E. Clarke, President

Rollin I. Eivins

Dolores E. Eivins

EARLHAM BUILDING CENTER, INC.

By
Title

Roger E. Howell

Clifford G. Imboden,

Helen Imboden

POLK COUNTY SAVINGS & LOAN ASSOCIATION

By
President

By Rodney L Hungerford
Vice President - Asst. Treas.

Fay S. Hunter
Fay S. Hunter

State of Iowa
:ss
County of Polk

On this 15 day of May, 1981, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Lloyd E. Clarke, to me personally known, who being by me duly sworn did say that he is the President and Secretary of Clarke Interests, Inc., an Iowa corporation, and a co-partner in Clarke Co., Ltd., an Iowa partnership and he acknowledged and that he executed this deed by the authority of the Board of Directors of Clarke Interests Inc., and as the voluntary act and deed of such corporation and as the voluntary act and deed of the partnership, Clarke Co., Ltd., by him and such partnership voluntarily executed.

[redacted]

Ken L Bostwick
Notary Public in and for the State of Iowa

On this 15th day of May, 1981, before me the undersigned a Notary Public in and for the State of Iowa, personally appeared Gary S. Staples to me personally known, who being by me duly sworn, did say that he is the President of said corporation executing the within and foregoing instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Gary S. Staples as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

KEN L. BOATWRIGHT
MY COMMISSION EXPIRES
September 30, 1983

Ken L. Boatwright
Notary Public in and for the State of Iowa

On this 15th day of May, 1981, before me the undersigned a Notary Public in and for the State of Iowa, personally appeared Rodney L. Hengesteg to me personally known, who being by me duly sworn, did say that he is the V.P.-Asst. Treas. of said corporation executing the within and foregoing instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Rodney L. Hengesteg as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

KEN L. BOATWRIGHT
MY COMMISSION EXPIRES
September 30, 1983

Ken L. Boatwright
Notary Public in and for the State of Iowa

On this 15th day of May, 1981, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Roger E. Howell, to me personally known to be the identical person named in and who executed the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

William W. Knight
Notary Public in and for the State of Iowa

On this _____ day of _____, 1981, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Clifford C. and Helen Imboden, to me personally known to be the identical persons named in and who executed the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

_____
Notary Public in and for the State of Iowa

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On this 15 day of May, 1981, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Fay S. Hunter to me personally known to be the identical person named in and who executed the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Hazel M. Rose
Notary Public in and for the State of Iowa

On this _____ day of _____, 1981, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Rollin I. Eivins and Dolores E. Eivins, to me personally known to be the identical persons named in and who executed the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

_____
Notary Public in and for the State of Iowa

On this 15th day of May, 1981, before me, the undersigned, Notary Public in and for the State of Iowa, personally appeared Gary A. Arnburg, to me personally known, who being by me duly sworn did say he is the President of Earlham Building Center, Inc. an Iowa corporation, and he acknowledged that he executed this instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Gary A. Arnburg as such office acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

William W. Hunter
Notary Public in and for the State of Iowa