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BOOK 2088 PAGE 114

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DECLARATION
OF COVENANTS, RESTRICTIONS AND RESERVATIONS
FOR GREAT HILLS, EAST SANDWICH, BARNSTABLE
COUNTY, MASSACHUSETTS

I, RICHARD W. LEYDON (hereinafter referred to as the "Developer"), being the owner of land in Sandwich, Barnstable County, Massachusetts (hereinafter referred to as "Great Hills" or the "Subdivision") shown on a plan entitled "Great Hills Definitive Subdivision Plan of Land in Sandwich, Mass. for Richard W. Leydon" dated December 10, 1973, revised February 20, 1974, by Cape Cod Survey Consultants, which plan has been recorded in the Barnstable County Registry of Deeds, in Plan Book 282, Pages 1 through 11, do hereby impose upon said land the following covenants, restrictions and reservations which shall run with said land and be binding upon all persons now or hereafter having any right, title or interest therein.

ARTICLE I

1.1 The Subdivision embraced by said plan has been subdivided into one hundred thirty-five (135) consecutively numbered building lots (each hereinafter referred to as a "lot") abutting on public and private ways as shown on said plan, and additional areas not included within the perimeters of either the lots or the ways. Said additional areas, which have been set aside for recreational and conservation purposes for the benefit of the owners of the lots, pursuant to the Zoning By-laws of the Town of Sandwich, shall hereinafter be referred to as Common Areas.

1.2 Every conveyance or other transfer of each lot, whether voluntary or involuntary and whether by deed, will or by operation of law, including transfers by mortgage, shall be deemed to convey to the grantee or transferee of such lot

(a) An undivided one-hundred thirty-fifth (1/135) interest in and to said Common Areas, and

(b) a right of way, in common with others lawfully entitled thereto, over all the public and private ways shown on said plan for all purposes for which ways are commonly used in the Town of Sandwich, subject to the right of others therein, including rights and powers reserved by or to the Developer or to the Association hereinafter referred to.

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1.3 Every owner of a lot acknowledges and consents to the right and power of the Town of Sandwich to assess and tax to the owner thereof such owner's undivided 1/135 interest in and to the Common Areas, in conjunction and together with taxes assessed on such lot.

1.4 The Developer has caused to be created Great Hills Homeowners Association, Inc., a non-profit corporation duly organized and existing under Chapter 180 of Massachusetts General Laws, hereinafter referred to as the Association. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. The term "owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title. Each lot shall be entitled to one vote. When more than one person holds such title to a lot, all such persons shall be members, but the vote for such lot shall be exercised as they determine among themselves, and only one vote shall ever be cast with respect to any lot.

1.5 Every owner shall have the right to use and enjoy the Common Areas, which right shall be appurtenant to and shall pass with the title to every lot, subject to:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(b) The right of the Association to establish and publish, at any time and from time to time, reasonable rules and regulations governing the use and enjoyment of the ways and the Common Areas;

(c) The right of the Association to suspend such owner's voting rights and right to use the recreational facilities for any period during which any assessment against such lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

1.6 Each owner shall pay to the Association annual assessments or charges, and special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The assessments levied by the Association shall be used exclusively:

(a) to pay taxes and other charges assessed by the Town of Sand-

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wich on property of the Association;

(b) to improve and maintain the Common Areas, and to maintain the ways;

(c) to pay expenses, if any, incidental to the enforcement of the easements, covenants, restrictions, agreements and charges contained in this Declaration;

(d) to pay the cost of making and maintaining recreational facilities, including structures, in the Common Areas; and

(e) to otherwise promote the recreation, health, safety and welfare of the residents of the Great Hills subdivision.

The Board of Directors of the Association may fix the annual assessment at an amount not greater than the maximum hereinafter stated without vote of the membership. The annual assessment may exceed the maximum hereinafter stated if such higher amount is authorized or ratified by vote of the membership.

The maximum annual assessment shall be an amount equal to the sum of taxes and other municipal charges imposed upon the Association or its property and payable within the calendar year for which such assessment is made, plus an incremental sum, in an amount not to exceed one thousand dollars , to be applied to other expenses and obligations of the Association.

In addition to the annual assessment authorized above, the Association may levy, in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, recontruction, repair or replacement of a capital improvement in or upon the Common Areas and ways, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members voting in person or by proxy at a meeting duly called for this purpose.

Both annual and special assessments shall be assessed against the owners of all of the numbered lots on the aforementioned plan, in equal shares for each lot. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, enforceable in the manner provided by law for the foreclosure of mortgages con-

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taining a power of sale, and 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 assessments shall not pass to his successors in title unless expressly assumed by such successor.

1.7 Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) 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 property, or both. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his lot.

1.8 The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any first mortgage held by a bank, or other commercial lender, or any person not related to the owner of such lot. The sale or transfer of any lot shall not affect the assessment lien, but a sale or transfer pursuant to the foreclosure (or any proceeding in lieu thereof) of such a first mortgage 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 lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association as to the amounts and due dates of any outstanding assessments, and any purchaser or mortgage lender shall be entitled to rely on the correctness of such certificate as of its date.

ARTICLE II

2.1 The restrictions and covenants set forth in Article II shall be deemed common scheme restrictions, enforceable by the owner of any lot in the Subdivision, including the Developer, or by the Association.

2.2 No lot shall be subdivided except that two or more lots may be combined and redivided into the same or a lesser number of lots, no one of which shall contain fewer square feet or less frontage than any one of the lots so combined and redivided, and each of the lots produced by such combination and redivision shall constitute a lot within the meaning of this Declaration.

2.3 Two or more contiguous lots used in combination as a single build-

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ing site shall be deemed one lot for the purpose of determining the number of dwelling houses which may be erected thereon. Only one single-family dwelling not more than two stories high with a garage for use of its residents accomodating not more than three motor vehicles shall be constructed or maintained on any lot.

2.4 No lot shall be used for any purpose other than for a residence for a single family. No business, trade or calling shall be conducted on any lot other than the practice of a profession, and then only within the dwelling house thereon. No separate professional or office building shall be permitted and no social organization, clubs or similar organizations shall occupy any lot or building. This restriction shall not prevent the renting of a lot and all structures thereon as a unit, from time to time, for use as a private residence by the tenant, his family, servants and non-paying guests.

2.5 Clothes lines or drying yards shall be located within fifteen feet of the dwelling and shall be enclosed. All facilities for the temporary storage and disposal of garbage and rubbish shall be suitably covered and enclosed. No refuse pile or unsightly objects shall be placed or suffered to remain on the premises.

2.6 No house trailers, portable houses, tents or other temporary shelters shall be parked, stored or used on the premises. No boats over 19 feet long and no unregistered vehicles shall be kept or stored in the open, and no commercial vehicles of any kind shall be parked in the open overnight. No structures shall be occupied prior to completion.

2.7 Sewerage disposal shall be provided only by septic tank, cesspool or other method approved by the Board of Health of the Town of Sandwich.

2.8 No fowl or animals other than a usual and reasonable number of common household pets shall be kept on any building lot, except that horses for personal use may be maintained in suitable stables, the construction of which has been approved as provided in Article III.

2.9 Exterior lighting on any building lot shall be of such controlled focus and intensity as not to be offensive to residents of neighboring property.

2.10 The use of trail bikes, mini-bikes, motorcycles, and snowmobiles and similar vechicles shall not be permitted anywhere within the Subdivision ex-

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cept that motor vehicles registered as such and actually used for transportation may be used for such purpose only upon the public and private vehicular ways laid out on said plan.

2.11 No structure or other improvement shall be constructed or made within any of the Common Areas except structures and improvements designed for common use constructed or made with the approval of, or by, the Association.

ARTICLE III

3.1 The rights, restrictions and reservations set forth in this Article III shall be enforceable by the Developer or, subject to Section 5.1, by the Association.

3.2 No residence, accessory building, swimming pool, tennis court or other structure shall be constructed, placed or maintained upon any building lot, and no alteration to the exterior of any structure shall be made unless complete plans and specifications have been submitted to and approved by the Developer. The ground floor area of every dwelling in the Subdivision shall contain a living area of not less than 750 square feet exclusive of garage, terrace, porch, deck or the like. All buildings shall be erected on a continuous foundation of poured concrete or cement block. All dwellings shall have a separate or attached garage for at least one vehicle and no open-side or open-end carport shall be permitted. Such plans and specifications shall disclose the location of sewerage disposal systems, walks, and driveways, the location of all structures plotted vertically and horizontally and the exterior design, dimensions, color scheme, materials, grading and general plan of landscaping to be employed. Approval of such plans may be denied, in the sole discretion of the Developer, for any reason including purely aesthetic reasons, or insufficiently detailed plans and specifications, or that the proposed structure would unreasonably interfere with the view of another lot.

If no suit shall have been commenced, and notice thereof recorded in said Registry of Deeds within three months after the completion of any structure, alteration, addition or landscaping, the same shall be deemed to have been approved.

3.3 No building materials, of any kind shall be placed upon any building lot except in connection with construction approved as above provided. As

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soon as building materials are placed on any building lot, such construction shall be promptly commenced, and the exterior of any structure and related grading and landscaping shall be completed within six months after construction is begun.

3.4 No live trees exceeding four inches in diamter at a point two feet above grade shall be destroyed or removed, except as may be necessary for building construction, site development, grading or landscaping which has been approved in accordance with these restrictions. No fences, hedges, walls, foliage screens and other obstructions of view shall be used on any building lot without the prior approval of the Developer, and shall in no event exceed forty-two inches in height at any distance greater than fifteen feet from any building; provided, however, that approval shall be given on reasonable and appropriate conditions for swimming pool enclosures required by local building ordinances.

3.5 No signs of any kind shall be placed or maintained in or upon the Common Areas, ways or any lot without the written consent of the Developer, except that one sign of reasonable size bearing the name of the owner or occupant may be placed on any lot. The Developer shall have the right to enter upon any land for the purpose of removing any non-conforming sign.

ARTICLE IV

4.1 Deeds of lots by the Developer shall not convey the fee in any part of the ways abutting such lots unless otherwise specifically stated in such deed, it being the intention of the Developer to retain the fee in such ways.

4.2 The Developer reserves the right at any time and from time to time to grant easements, for the benefit of any land shown on said plan, over, on and under that portion of any lot which lies within fifteen feet of any way, for the installation, maintenance and repair of poles, wires, pipes, mains, drains, conduits and other facilities for the transmission of sewerage, run-off, water, gas, electricity, telephone communications and other utilities and service, so long as the exercise of such right does not unreasonably hinder or limit the use and enjoyment of the premises hereby granted for residential purposes.

4.3 The Developer reserves the right at any time and from time to time to grant rights and easements in the ways shown on said plan appurtenant to land not within the Subdivision.

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5.1 Any or all of the rights, powers, duties and reservations held by or reserved to the Developer pursuant to Articles III and IV may be assigned, in whole or in part, at any time and from time to time to the Association; and all of such rights, powers, duties and reservations shall be assigned in full to the Association not later than eighteen months after the date of recording of the first deed of the Developer conveying the fee to any lot to a purchaser, and upon the recording of any such assignment, the Association shall to the extent of such assignment, assume and have all the rights, powers and duties held by and reserved to the Developer under Articles IV and V.

5.2 Nothing in this Declaration shall operate to inhibit or restrict any person, firm or corporation, while acting on behalf of the Developer, during the course of development of Great Hills. Without limiting the generality of the foregoing, the Developer shall have the right to erect, place and maintain in the Subdivision, signs, billboards, temporary structures, including trailers, and vehicles of every description, and to do all things which in the Developer's sole discretion are in the best interest of Great Hills.

ARTICLE VI

6.1 If any easement, covenant, restriction, agreement or charge herein contained should be held invalid by any court, such invalidity shall in no way affect any other covenant, restriction, agreement or charge herein contained.

6.2 The Developer may waive any of the covenants, restrictions, agreements or charges herein contained but such waiver in any instance shall not constitute a waiver of the right to enforce any of such covenants, restrictions, agreements or charges thereafter.

6.3 Any provision contained in this Declaration may be amended or revoked and new provisions may be added, by an agreement duly executed and recorded by the record owners of not less than ninety (90) lots.

6.4 All the covenants, restrictions, agreements and charges set forth in this Declaration shall continue until the first day of July, 1999, and may be extended or modified and extended as to all or part of Great Hills for a period not exceeding twenty-five (25) years, by an agreement duly executed and recorded by the record owners of not less than ninety (90) lots. Easements shall continue in perpetuity.

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6.4 All notices and requests directed to the Developer shall be addressed to:

Cranberry Trail
East Sandwich, Mass. 02537

and notices directed to a lot owner shall be addressed to the lot.

IN WITNESS WHEREOF, the said Richard W. Leydon, has executed these presents as a sealed instrument this 14 day of August, 1974.

Richard W. Leydon
RICHARD W. LEYDON

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS. August 26, 1974

Personally appeared the above named Richard W. Leydon, and acknowledged the foregoing instrument to be his free act and deed, before me

John S. Jillson
Notary Public
John S Jillson

My commission expires: June 27, 1980

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