

INDENTURE OF COVENANTS AND RESTRICTIONS
OF
WINDEMERE PLACE – PLAT ONE
COUNTY OF ST. LOUIS, MISSOURI

THIS INDENTURE, made and entered into this 7th Day of May 1971, by and between L & R DEVELOPMENT CORPORATION, a MISSOURI corporation, Party of the First Part, and MICHAEL M. LEVINSON, FRANK RAISHER, AND MARTHA BEGGS, all of the County of St. Louis, State of Missouri, Parties of the Second Part.

WITNESSETH That:

WHEREAS, The St. Louis County Council, by Ordinance No. 4960- approved the development plan for Windemere Place – Plat One, as described herein, in accordance with the Planned Environmental Developmental Ordinances, so that plat of said tract may now be recorded; and

WHEREAS, Party of the First Part was recorded the Plat of Windemere Place – Plat One on this 11th day of June, 1971, as Daily No. 373 in the St. Louis County Recorder's Office pursuant to and in conformity with the aforesaid ordinance, and contemplates that the remaining property described in said Ordinance will also be subdivided, and the plats thereof designated as Windemere Place Plat Two, etc., will be recorded in the St. Louis County Records, pursuant to and in conformity with the aforesaid ordinance; and

WHEREAS, common land for park and recreational areas has been or will be reserved in certain of the recorded plats of Windemere Place; and

WHEREAS, as each of the plats of Windemere Place is recorded, Party of the First Part will adopt this Indenture of Covenants and Restrictions and all provisions thereof for each of said plats; and

WHEREAS, there may be designated, established and recited on the recorded plats of Windemere Place – Plat One, certain streets, common land and easements which are for the exclusive use and benefit of the residents of Plat One subsequent plats of Windemere Place, except those streets or easements which are or may hereafter be dedicated to public

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bodies and agencies, and which have been provided for the purpose of constructing, maintaining, and operating sewers, pipes, poles, wires, storm water drainage, parks and other facilities and public utilities for the use and benefit of the residents of Plat one and subsequent plats of Windemere Place; and

WHEREAS, it is the purpose and intention of this Indenture to preserve the tract of land described in the aforesaid Ordinance (all of which land included in Plat One and subsequently numbered plats of Windemere Place is hereinafter sometimes collectively called the Subdivision) as a restricted neighborhood and to protect the same against certain uses by the adoption of a sound urban environment plan and scheme of restrictions, and apply that plan and scheme of restrictions to all of said land described herein, including all common land, and mutually to benefit, guard and restrict future residents of the Subdivision, and to foster their health, welfare and safety; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained, and all of which are sometimes hereafter termed "restrictions" are jointly or severally for the benefit of all persons who may purchase, hold or reside upon, any of the lots covered by this instrument; and

WHEREAS, Party of the First Part will convey by deed to the Trustees the common land, if any, shown and designated on any plat of the Subdivision at the time any such plat is recorded; and

WHEREAS, said deed will convey the property described therein to said Trustees for a period of fifty (50) years after which fee simple title to said property will vest in all the then record owners of the lots and dwelling units in the recorded plat of Plat one and subsequent plats of Windemere Place, as tenants in common, but the rights of such tenants in common will only be appurtenant to and in conjunction with their ownership of lots and dwelling units in, Plat one and subsequent plats of Windemere Place, and any conveyance or change of ownership of a lot or dwelling unit in Plat one and subsequent plats of Windemere Place, will carry with it ownership in common property, so that none of the owners of lots or dwelling units in Plat one and subsequent plats of Windemere Place, and none of the owners of the common property will have such rights

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of ownership as well permit them to convey their interest in they common property except as an incident to the ownership of such lot or dwelling unit, and any sale of any lot or dwelling unit in Plat one and subsequent plats of Windemere Place, will carry with it, without specifically mentioning it, all the incidents of ownership of the common property;

PROVIDED, HOWEVER, that all of the rights, powers and authority conferred upon the Trustees of Plat one and subsequent plats of Windemere Place, shall continue to be exercised by the Trustees.

NOW, THEREFORE, in consideration of the promises and of the mutual promises, covenants and agreements made by the parties hereto each to the other, the parties hereto COVENANT and AGREE to and with each other,

collectively and individually, for themselves, their heirs, successors and assigns, and for upon behalf of all persons who may thereafter derive title to or otherwise hold through them, together with their heirs, successors or assigns, any of the lots and parcels of land in Windemere Place – Plat One, all as described herein as follows, to wit:

I

DESIGNATION AND SELECTION OF TRUSTEES

AND

MEETING OF LOT OWNERS

The initial Trustees shall be the persons designated above as Parties of the Second Part, who by their signatures to this instrument do hereby consent to serve in such capacity. Said initial Trustees shall serve until such time as Party of the First Part (or any company or corporation owned or controlled by Party of the First Part) no longer owns any lots in the Subdivision or until they shall sooner resign. Temporary vacancies in the initial Board of Trustees shall be filled by the remaining member or members of the initial Board of Trustees. At the end of their term the initial Trustees shall appoint three Trustees, all of whom must be lot owners in the Subdivisions, and said persons shall serve until the following January 31. During said month of January and annually during the month of January of each year thereafter, an election by lot owners in the Subdivision shall be held at such date and at such place within the County of St. Louis, Missouri, as may be specified by written notice of not less than ten days by the Trustees, at which meeting each lot shall have one vote, said vote to cast in person or by written proxy.

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At the first of such meetings, three Trustees shall be elected to serve terms commencing on February 1 in the year of election; one to serve for three years, one to serve for two years, and one to serve for one year; and at subsequent annual meetings an election shall be held for a Trustee to serve for a term of three years to replace the Trustees whose term is about to expire. Each Trustee to be elected shall have and continue to have an interest in a lot in the Subdivision. Temporary vacancies in the Board of Trustees shall be filled by the remaining member or members of the Board of Trustees. A Trustee shall serve for the term for which he has been elected or appointed and thereafter until his successor is chosen or appointed and shall have qualified, unless he resigns or becomes disqualified in the interim. A Trustee shall serve without pay, but shall be reimbursed for expenses reasonably incurred. Except as herein otherwise stated, actions of the Trustees shall be by majority vote.

Special meetings of the lot owners may be called from time to time by the Trustees upon notice in writing sent by mail to, or personally served upon, all of the record lot owners in the Subdivision at least ten days before the date fixed for the meeting. Any business relative or pertinent to the affairs of the Subdivision may be transacted by any annual or special meeting of lot owners, and the owners of a majority of the lots shall constitute a quorum at any meeting property called.

II.

RESERVATION OF EXPENDITURES

The Party of the First Part reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided by it for joint rain sewers, gas pipes, water pipes, conduits, poles, wires and street lights, roads, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to the creation of the sub-division of the within described tract.

III.

TRUSTEES' DUTIES AND POWERS

The Trustees and their successors shall have the following rights, powers and authorities:

(1) To take and have exclusive control of easements which may hereafter be granted to and accepted by them, for the benefit of the subdivision.

(2) To improve, beautify and maintain the Subdivision (including

entrances and gates) in such manner as they deem appropriate.

(3) To light and clean streets in the Subdivision

(4) To collect, clean up and remove garbage, rubbish and debris, and to cut and remove grass, weeds and other growths, and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers from or on any property in the Subdivision or any lot, vacant or improved; and to pay for such services with funds derived by special assessments against such lots or with the funds derived by general assessment, as determined by the Trustees. Neither the Trustees nor their agents or employees shall be deemed guilty or liable for trespass in acting hereunder.

(5) To enforce compliance with any restrictions, limitations, reservations and conditions herein imposed.

(6) To dedicate to public use any property, easements or rights held by them, provided that an appropriate agency is willing to accept same.

(7) To employ such parties as they deem necessary to exercise the rights, powers and privileges granted to them and the duties imposed upon them, including the right to employ a watchman or watchmen; to employ counsel; to institute and prosecute such suits as they deem necessary and defend any suits brought against them in their capacity as Trustees, and to pay all costs, expenses and awards resulting therefrom: it being expressly understood that the Trustees shall not be held personally liable for any set of commission or omission in their services as Trustees, except for actual fraud or willful misconduct.

(8) To levy assessments as hereinafter provided.

(9) To acquire and hold the common land conveyed to the Trustees by separate instrument on even date herewith, which said common land is set forth and shown on Plat 1 and subsequent plats of Windemere Place, all in accordance with and pursuant to the aforesaid ordinance of the St. Louis County Council and in accordance with and subject to the provisions of this instrument, and to deal with any common lands so acquired under the provisions hereinafter set forth.

(10) To procure insurance against liability or responsibility arising against them in their capacity as Trustees.

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(11) To open and maintain bank accounts as the Trustees shall in their discretion deem necessary.

IV

ASSESSMENTS

The Trustees and their successors are authorized to levy general and special assessments against the lots in the Subdivision in such amount or amounts as they deem appropriate to provide the funds necessary to make all payments and defray all costs which may be incurred by the Trustees in performing their duties, rights, powers and privileges as set forth in this instrument; provided, however, that such general assessments shall not exceed \$50.00 per lot, that has a residence thereon, and shall not exceed \$5.00 per vacant lot with no residence

thereon, in any one calendar year, and provided further that such special assessments provided for in this subsection shall not become effective until approved by the owners of a majority of the lots. Every assessment hereby authorized, or authorized by any other provision of this instrument, shall bear interest at the rate of eight (8%) per cent per annum from and after thirty days from the effective date of levy until paid, and every assessment, from and after the effective date of levy, and with interest thereon, shall constitute a lien or charge against any lot to which it relates and shall be enforceable by the Trustees against such lot in like manner as is or may be provided by law for the enforcement of equitable liens. Notice of assessments shall be given by mail addressed to the last known post office address of the legal title holder or by recording a notice of the assessment in the Office of the Recorder of Deeds in the aforesaid County of St. Louis. In case any assessment is not paid when due, then, in addition to the amount of said assessment and interest thereon, all costs, attorneys' fees and expenses of whatever kind incident to enforcing and collecting said assessment shall also be a lien upon the lot involved and enforceable as such.

V

RESTRICTIONS

Party of the First Part, being the owner of all of the property comprising Windemere Place – Plat One, situated in the County of St. Louis, State of Missouri, by this Indenture does impose upon all the lots in the aforementioned plat the following restrictions and conditions, to-wit:

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(1) No building, fence, wall or other structure shall be commenced, erected or maintained upon any lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing by the Trustees. In the event the Trustees shall fail to approve or disapprove any plans submitted to them hereunder within thirty days, approval will not be required and this provision will be deemed to have been fully complied with.

(2) All lots platted of record may only be improved with houses for residential purposes. Such residential structures may not be used for commercial purposes, and shall otherwise comply in all respects with the applicable Zoning Code. Each residence shall be occupied only by a "single family" as the term is defined in the St. Louis County Zoning Ordinance.

(3) The ground floor area of any main structure to be constructed, exclusive of one-story open porches and garages, shall be not less than 1,200 square feet for a one-story dwelling nor less than 1,000 square feet on 1st floor for a dwelling of more than one story (computed on outside measurements of the residence), it being the intention and purpose of these restrictions to assure that all dwellings shall be of the same quality or better than that which can be produced on the date these restrictions are recorded, such floor space to be space usable for year round living purposes, and to exclude the floor space

contained in the basement (except space finished for all-year occupancy), garage, porches, and unheated breezeways and other unheated rooms.

(4) No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. No building shall be located nearer than eight (8) feet to any side lot line. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building to encroach upon another lot.

(5) Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat

(6) No nuisances or noxious or offensive activity shall be carried on in any residence, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No building or premises shall be used for purposes prohibited by law or ordinance, and nothing shall be done which may be or hereafter become a nuisance to the owners of lots.

(7) No fences or hedges shall be erected or placed on any lot nearer to any street than the minimum building set back lines shown on the recorded plat, except by the builder, who may desire to fence off display home areas in the subdivision.

(8) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence temporarily or permanently, except trailer, shacks or other temporary structures that the builder deems necessary to use during the construction period of the subdivision.

(9) No sign of any kind shall be displayed to the public view on any residential lot except one professional sign of not more than one square foot, or one sign of not more than five square feet advertising the property for sale or rent. Signs used by a builder to advertise the property during the construction and sale period shall be permitted. Such signs used shall be at the sole discretion of the Builder and not the Trustees or other home owners.

(10) Any garage, whether detached from or attached to the residence, may be entered from the front, rear, or side.

(11) No hogs, cows, horses, rabbits, chickens, goats, poultry, birds, livestock or animals of any kind, other than house pets, shall be sheltered or housed on any lot; and no more than two dogs, cats, or other such pets may be kept or maintained on any lot without the approval of the Trustees. The determination of the Trustees in these matters shall be considered final in all disputes which may arise.

(12) No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All garbage, trash and rubbish shall be kept in clean sanitary containers in the rear of the premises

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which shall be appropriately screened and landscaped. Trash shall be collected from the rear of the house and not at the street curb.

(13) No amateur radio stations shall be operated in any residence on any lot except with the approval of the Trustees, which approval shall be obtained annually.

(14) No change of grade of any lot shall be made without the approval of the Trustees after the completion of the initial building constructed hereon.

(15) Nothing herein contained shall be construed to prohibit an owner or contractor from maintaining a field construction or sales office or a parking lot in a residential area during periods of construction or sales.

(16) Nothing herein contained shall preclude the construction or maintenance of any facility or service intended for the benefit of lot owners of said subdivision, which the Trustees in their sole judgment may approve in writing.

VI.

GENERAL PROVISIONS

(1) **ENFORCEMENT:** Enforcement of any of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any such covenant and may be brought to restrain any such violation and/or to recover damages therefore.

(2) **SEVERABILITY:** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

(3) **AMENDMENT:** This Indenture of Covenants and Restrictions and any part thereof may be altered, amended or discontinued by a written agreement signed by the majority of the then record owners of the fee simple title of the lots in the Subdivision then included under the terms of this Indenture. Any such amendment, alteration, change or discontinuance shall, when duly certified and acknowledged by the Trustees and recorded with the Office of the Recorder of Deeds for the County of St. Louis, Missouri, shall become a part of the provisions and restrictions of this Indenture, provided, however, that any such amendment, alteration, change or discontinuation shall require the consent of Party of the First Party

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(or any company or corporation owned by them), so long as they are the owners of more than three lots in said Subdivision.)

(4) **DURATION:** The trusts, restrictions and covenants contained in this Indenture shall run with the land and shall continue and be binding upon all of the parties hereto and all parties claiming under them, and upon their heirs, executors, administrators, successors and assigns, for a period of thirty (30) years from the date on which this Indenture is recorded, after which time the provision of this Indenture shall be automatically extended for continuing successive periods of ten (10) years each unless an instrument signed by the then owners of a majority of the lots has been recorded agreeing to change the provisions hereof in whole or in part.

(5) **COMPLIANCE WITH PUBLIC AGENCIES:** "Notwithstanding any other conditions herein, the trustees shall make suitable provision for compliance with all subdivision and other ordinances, rules and regulations of St. Louis County or any other municipality of which the subdivision may become a part and for such purposes shall not be limited to the maximum assessment provided for herein. Specifically and not by way of limitation, the trustees shall make provision for the maintenance and operation of all street lights, roadways and easements."

(6) AQUISITION BY PUBLIC AGENCIES: “In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the trustees for any public purpose, the trustees, during the period of the trust as well as at all times fixed for the appointment or election of successor trustees, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the trustees need be made parties, and in any event the proceeds received shall be held by the trustees for the benefit of those entitled to the use of the common property, roads or easements.”

IN WITNESS WHEREOF, the said Party of the First Part and Parties of the Second Part have hereunto executed this Indenture the day and year first above written

L & R DEVELOPMENT CORPORATION

By _____
President

Party of the First Part

ATTEST:

Secretary

Michael W. Levinson

Frank Raisher

Martha Beggs

Party of the Second Part

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this 7 day of May, 1971, before me personally appeared MICHAEL M. LEVINSON, FRANK RAISHER, and MARTHA BEGGS, to me known to be the persons described in and who executed the foregoing Instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year First above written.

Notary Public

My term expires:

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this 7 day of May, 1971, before me appeared To me personally known, who, being by me duly sworn, did say that he is the President of L & L DEVELOPMENT CORPORATION, a corporation of the State of Missouri, 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 Frank Raisher acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

February 23, 1978

St. Louis County
Recorder of Deeds
41 S. Central Avenue
St. Louis, MO 63105

Gentlemen:

The purpose of this letter is to record with the Office of the Recorder of Deeds for the County of St. Louis, MO three (3) amendments to the Indenture of Covenants and Restrictions of Windemere Place - County of St Louis, MO. The original Indenture of Covenants and Restrictions is dated May 7, 1971 and was filed on or about June 11, 1971. (Reference Book 6522, page 2053.)

Amendment #1

Reference Article IV, Page 6, :Assessments”.

This amendment increases the maximum general assessments per lot that has a Residence thereon to \$65. (Maximum general assessment was formerly \$50 per lot.

Amendment #2

Reference Article V, Page 8 and 9. Item 12, “Restrictions”.

Restriction #12 is now changed to read as follows:

- (12) No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All garbage, trash and rubbish shall be kept in clean, sanitary containers in the rear of the premises which shall be appropriately screened and landscaped. Trash may be collected from the front of the house at the street curb; however, empty trash containers must be removed from the front within 12 hours after trash has been collected.

Book 7041 page 1655

Recorder of Deeds
Page Two

Amendment #3

Reference Article V, Page 9. "Restrictions".

This amendment adds a new restriction – Restriction #17, which reads as follows:

- (17) Extended parking of trucks, trailers, campers, boats and commercial vehicles on streets, driveways, and other locations in plain public view within Windemere Place is prohibited.

This will certify that the amendments as stated above have been approved in writing by the majority of the record owners of the fee simple title of the lots in the Subdivision. On December 15, 1977 a letter explaining the proposed amendments were sent to all homeowners. One hundred and two (102) out of one hundred and forty two (142) lot owners marked, signed and returned their ballot.

The results are shown below:

Proposal #1

Reference Article IV, Page 6, "Assessments". To increase the maximum general assessments per lot with residence thereon from \$50 to \$65.

73 Approve
29 Disapprove

Proposal #2

Reference Article V, *Item 12*, Page 8 and 9. "Restrictions". Change language as shown on the attached letter dated December 15, 1977, which will permit trash collection at the curb.

95 Approve
7 Disapprove

Book 7041 page 1656

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Page Three

Proposal #3

Reference Article V, Page 9. "Restrictions". Prohibits the parking of trucks, trailers, campers, boats and commercial vehicles on streets, driveways, and other locations in plain public view.

95	Approve
6	Disapprove
1	Abstain

Donald L. Levin

Trustee

Lyle Stone

Trustee

Robert Tegman

Trustee

Subscribed and sworn to me this 6th day of March 1978.

My commission expires: December 20, 1980

Notary Public

Raymond J Rochlage

03/37/2002

St. Louis County
Recorder of Deeds
41 S. Central Avenue
St. Louis, MO 63105

Recorder of Deed:

The purpose of this letter is to record with the Office of the Recorder of Deeds for the County of St. Louis, Missouri an amendment to the Indenture of Covenants and Restrictions of Windemere Place - County of St Louis, MO.

The original Indenture of Covenants and Restrictions is dated May 7, 1971 and was filed on or about June 11, 1971. (Reference Book 6522, page 2053.)

Amendment #1

Reference Article IV, Page 6, :Assessments”.

This amendment increases the maximum general assessments per lot that has a Residence thereon to \$100. (Maximum general assessment was formerly \$65 per lot.

This will certify that the amendment as stated above has been approved in writing by the majority of the record owners of the fee simple title of the lots in the Subdivision. On 4/10/2000 a letter explaining the proposed amendment and a ballot for voting on the proposed amendment was sent to all homeowners. One hundred and one were returned out of one hundred and forty two (142) lot owners marked, signed and returned their ballot. The results are shown below:

73	Approve
27	Disapprove
1	Abstain

Lewis Bernstein, Trustee

Bill Livingston, Trustee

Donald I Pearlina, Trustee

Subscribed and sworn to me this 12th day of April 2002.

My commission expires: 08/30/2003

Notary Public

Leslie Shapiro

Note:

This copy is a retyped copy of the Indentures and Amendments recorded with the St. Louis County Recorder of Deeds.

You can request photocopies by sending a check for \$17 to

**Recorder of Deeds
41 South Central
Clayton, MO 63105**

And requesting

Indentures for the Windemere Place Subdivision

Book 6522 Pages 2053-2064

Book 7041 Pages 1654-1656

Book 13772 page 0169