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GEORGE J. DUCLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

BK	<u>1014</u>	N	<u>Comp</u>	C/O	_____	FEE	<u>31.00</u>
PG	<u>28-28</u>	N	_____	DEL	<u>VK</u>	MS	_____
	<u>MISC</u>		<u>COMP</u>		<u>VP</u>	FIB	<u>61-2620</u>

The space above this line is for Order's use only. 26241

RESTRICTIVE COVENANTS
MONTCLAIR OF WESTWOOD SOUTH REPLAT

The undersigned, being the owner of the hereinafter identified lots, hereby declares that the following covenants are to run with the land and shall be binding on all present and future owners of all or any part of the following described real estate until January 1, 2012, to wit:

Lots One (1) through Twelve (12), inclusive, in MONTCLAIR OF WESTWOOD SOUTH REPLAT, a Subdivision in DOUGLAS COUNTY, NEBRASKA.

If the present or future owners of any of said lots, or their grantees, heirs, or assigns, shall violate or attempt to violate any of these covenants, it shall be lawful for any other person or persons owning any part of said real estate to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation, but this instrument shall in no wise be construed as placing any liability or obligation for its enforcement upon the undersigned.

Invalidation of any one of these covenants by judgement or court order shall in no way effect any of the other provisions hereof, which shall remain in full force and effect.

A. Said lots shall be used only for residential purposes and for accessory structures incidental to residential use, or for park, recreational, church or school purposes. All dwellings constructed on said lots shall be single-family or two family/duplex dwellings.

for the inadequacy, if any, of said construction plans, or for any defects in the construction work based thereon; nor does the undersigned by reason of such approval, assume any responsibility to supervise the performance of the grading and/or construction work in order to insure compliance with said plans and specifications. Once undersigned has approved in writing of construction plans for the first duplex to be constructed, approval of plans for future duplexes is not required if such future duplexes are identical or, in the judgment of undersigned, architecturally compatible with the first approved plan.

All exposed front foundation walls of all structures must be constructed of or faced with brick, stone, or split-faced block, and the remainder is to be painted a compatible color. All driveways must be constructed of concrete, brick, asphalt or laid stone. All curb cuts must be made with clean-cutting cement saws so that the curb will be left smooth; all street pavement cuts for installation and repair of utilities shall be similarly made and such cuts shall be promptly repaired. All excavations, including utility trenches shall be kept filled, compacted and maintained by the then owner of each plot and in no event will the undersigned or its agents and associated entities be or become liable for such work or maintenance or for any claims arising from such excavations.

C. The ground floor enclosed living area of single family residential dwellings, exclusive of open porches, open breezeways, basements, and garages, shall not be less than the following minimum sizes:

- 1) 1,000 square feet for one-story dwellings
- 2) 1,300 square feet for split-level or bi-level dwellings.
This includes all living space except basements.
- 3) 1,500 square feet for one-and one-half or two story dwellings. This includes all living space except basements.

The ground floor enclosed living area of each unit of two family duplex dwellings exclusive of open porches, open breezeways, basements, and garages, shall be not less than 1,000 square feet.

(On split-level or bi-level dwellings, the "ground floor" shall be deemed to include all finished living areas except such areas as are constructed below

shall be located on any residential building plot nearer than Thirty-Five (35) feet to the front lot line, nearer than Twenty-Five (25) feet to the rear lot line, nor shall a street side yard be less than Fifteen (15) feet or any interior side yard be less than Seven (7) feet. Notwithstanding the foregoing, if the Board of Appeals of the City of Omaha shall by resolution permit a lesser setback, side yard, or rear yard on a residential building plot, then as to such plot the determination of said Board shall automatically supersede these covenants. Notwithstanding anything above to the contrary, for duplex and attached homes only, each residential building plot may be divided into a maximum of two sublots and each sublot may be conveyed as an individual lot or parcel.

E. All yards are to be sodded by owner as soon as weather permits following substantial completion of construction of the structure on any building plot. Prior to or immediately following sod installation, the owner must plant and maintain a minimum of one deciduous tree in the front yard and one deciduous tree in the back yard for each dwelling unit. (For duplexes this would result in two trees in the front yard and two in the back yard.)

F. Portland concrete public sidewalks, four (4) feet wide by four (4) inches thick, shall be constructed in front of each built-upon lot and along the street side of each built-upon corner lot. The sidewalk shall be placed four (4) feet back of street curb lines and shall be constructed by the then owner of the lot at the time of completion of the main structure and before occupancy or use thereof. Notwithstanding anything above to the contrary, where the contour of the land is not conducive to placing the sidewalk four (4) feet back from the street curb line, a five (5) foot wide sidewalk may be placed next to the street curb provided such placement complies with all city codes and requirements.

G. No trailer, basement, tent, shack, barn or temporary structure shall be placed or erected on said real estate. Only the main residential structure may be occupied as a dwelling and such occupancy shall not be permitted until all exterior construction is fully completed according to approved plans. No building materials shall be placed on any lot until construction has started on the main residential structure, and once construction of a dwelling has been commenced, outside framing of same must be completed within six (6) months and construction completed within a total of twelve (12) months. A used dwelling structure previously located on another foundation shall not be moved to any residential building plot within this Addition. No junk or non-operating car or car bodies, no unlicensed motor vehicles of any kind, and no tractors or semi-

annoyance or nuisance to the neighborhood. All plots shall be kept free of all types of trash and debris and all weeds and grass shall be kept cut down to a maximum height of eighteen inches above ground level. No posters or advertising signs of any kind except residential "For Sale" or "For Rent" signs not exceeding two feet by two feet in size, shall be erected on any building plot. This restriction as to signs does not apply to signs erected by the undersigned and its agents in the development and sale of the subdivision. No outside above ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any building plot. All tanks must be buried beneath ground level. No downspouts, storm or surface drains shall be connected to sanitary sewers. No animals, livestock or poultry of any kind shall be raised, brought or kept on said lots, except that dogs, cats or other household pets are permitted if they are not kept, bred or maintained for any commercial purpose. Standard residential exterior television antenna shall be allowed, but no other radio or other electronic antenna, aerial or satellite discs shall be erected on any residential building plot without the consent of the undersigned.

I. If construction of the main residential structure on any lot is not commenced within six (6) years from date on the face of the original deed from the undersigned, then the undersigned shall have the exclusive option for sixty (60) days thereafter to repurchase said lot from the then owner for the then current appraised value of said lot. In order for construction to have "commenced", as used in the preceding sentence, Owner must have, at a minimum, completed construction of the foundation for the main dwelling. Said option may be exercised by written notice and tender mailed to the then owner of record at his last known address. This provision and option shall not preclude the right of any bona fide mortgagee to enforce its mortgage, exercise any of its rights, and foreclose and sell the mortgaged parcel free and clear of this option right.

J. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, any company which has been granted a franchise to provide cable television system for the lots, and U.S. West Telephone Company, their successors and assigns, to erect and operate, maintain, repair, replace and renew buried or underground cables, conduits, poles with the necessary supports, sustaining wires, crossarms, guys and anchors and other instrumentalities and to extend thereon wires for the carrying and transmission

within sixty (60) days after their removal, then this side line easement shall automatically terminate and become void as to such unused or abandoned easementways. A perpetual easement is also reserved to the undersigned or its assigns, over the rear and side five (5) foot wide strip of land of each lot for the purpose of laying drain tiles or constructing swales to drain off surface waters.

SELDIN DEVELOPMENT &
MANAGEMENT COMPANY
13057 West Center Road
Omaha, Nebraska 68144
Telephone: 402-333-7373

May 28, 1992
date

Seldin Development &
Management Company

BY: Theodore M. Seldin
Theodore M. Seldin,
Vice President

ACKNOWLEDGEMENT

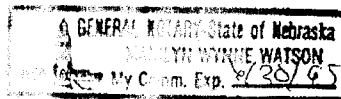
STATE OF NEBRASKA
COUNTY OF DOUGLAS

On this 28th day of May, 1992, before me a Notary Public in and for said county and state, personally appeared Theodore M. Seldin, known to me to be the identical person who subscribed his/her name to the foregoing as Vice President of Seldin Development & Management Company, a Delaware corporation, and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Wendy M. Watson
Notary Public

My Commission Expires:

6/30/95



DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS

WESTWOOD ON THE GREEN TOWNHOMES

THIS DECLARATION, made on the date herinafter set forth by SCHWALB HOMES, INC. through its President, Natan Schwalb, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property legally described as:

Lots One (1) through Twelve (12) inclusive, in MONTCLAIR OF WESTWOOD SOUTH REPLAT, a Subdivision in Douglas County, Nebraska,

NOW, THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding upon all the parties having any right, title or interest thereof, and upon their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple to any lot or part of a lot on which one residence, attached or unattached, is, or may be erected, as approved by the City of Omaha.

Section 2. "Properties" shall mean and refer to that certain real property herinbefore described and such additions thereto as may hereinafter be brought within the scope of this Declaration by the developer or its assigns or successors.

Section 3. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, or a portion of a legally platted lot upon which one residence attached or unattached is or may be erected. The Properties within this Declaration were zoned to allow a maximum of Twenty four (24) residential units by dividing each lot into two parcels. Each of said parcels shall mean and refer to as if it is a full lot.

Section 4. "Declarant" shall mean and refer to SCHWALB HOMES, INC., its successors, assigns and legal representative. Declarant shall also mean and refer to the developer of the Properties.

ARTICLE II

NON-EXISTENCE OF COMMON AREAS

Section 1. In order to minimize monthly assessments and other charges to property owners, to avoid costs of organization and

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4. Maintenance of plumbing fixtures: Water heater, toilets, faucets and pipes.
5. Maintenance of heating and cooling equipment.

Section 3. Any owner who has not entered into a "Maintenance Agreement" with developer assumes the obligation to properly maintain the exterior of said owner's property including lawn care. Any adjoining property owner may initiate arbitration, as set forth in this Declaration, in the event such adjoining property owner deems maintenance of exterior not adequately maintained or otherwise not substantially kept up as other properties covered herein.

Section 4. Notwithstanding the provisions of this Section or any other in this Declaration, the owners of the properties may at anytime they so desire organize and create a Homeowner Association, except that such Association may not be created without developer's written approval as long as developer holds title to any lot included herein.

ARTICLE III

ARCHITECTURAL CONTROL

After the construction of the original structure on each lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to, or change, or alteration therein be made until the plans and specifications showing the nature, kind, shape, light materials, and locations of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the developer. Such right of approval by the developer shall remain until developer will have sold all the Properties. Thereafter, property owners shall be limited by (a) other provisions of this Declaration, (b) City zoning and building ordinances (c) Provisions set forth by the original owner of this Subdivision, namely "Restrictive Covenants MONTCLAIR OF WESTWOOD SOUTH REPLAT" filed in 1992.

ARTICLE IV

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall built as part of the original cost of the homes upon the Properties placed on the dividing line between the Lots shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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possible to original color unless mutually agreed otherwise by the two adjoining owners.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other Owner thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right of Contribution-Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of any dispute arising, between two lot Owners, concerning a party wall or under any provision of this Declaration of Covenants, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator and the decision shall be done by a majority of all arbitrators.

ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. Any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration. Failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of Twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of Ten (10) years. This Declaration may be amended during the first Twenty (20) year period by an instrument signed by not less than Twelve (12) Lot Owners, (on the basis of 24 residential units.) However, any proposed Amendment within the Twenty (20) year term is permitted (A) if developer has sold all Twenty Four (24) units or, (B) in the event Developer has not sold all Twenty Four (24) units, then Amendments may be permitted upon the Twelve (12) property