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LIBER 4459 PAGE 67

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RESTRICTIONS ON KIMBERLEY NORTH #3 SUBDIVISION

THIS DECLARATION, made this 1st day of August, 1963, by Orchard Lane Land Company, a Michigan corporation, of 19426 Grand River Avenue, Detroit, Michigan, hereinafter referred to as the Grantor,

WITNESSETH:

WHEREAS, Orchard Lane Land Company is the purchaser under a certain land contract of the premises hereinafter described, and

WHEREAS, Colwell Homes, Inc., a Michigan corporation, is the Vendor under such above mentioned land contract, and

WHEREAS, the said parties have joined together as proprietors in a plat of said lands known as "Kimberley North No. 3" a subdivision of part of the South 1/2 of Section 35, Town 2 North, Range 9 East, West Bloomfield Township, Oakland County, Michigan, and

WHEREAS, the said plat of said subdivision, having been duly approved by proper governmental authorities, has been recorded in the Office of the Register of Deeds for Oakland County in Liber 108 Pages 29 and 30

WHEREAS, said recorded plat covers Lots numbered 162 to 255 inclusive, and

WHEREAS, it is the purpose and intention of this agreement that all of the lots in said subdivision, except as hereinafter provided, shall be conveyed by the Grantor subject to reservations, easements, use and building restrictions provided to establish a general plan of uniform restrictions in respect to said subdivision, and to insure the purchasers of lots therein use of the property for attractive residential purposes, and to secure to each lot owner full benefit and enjoyment of his home, and to preserve the general character of the neighborhood, and

IT IS HEREBY DECLARED that the following general restrictions are covenants running with the land, binding on the heirs, personal representatives, successors and assigns of the Grantor, and the Grantees of all individual lots in said subdivision, for the time limited in this instrument:

1. USE OF PROPERTY

(a) Each lot shall be used for providing residence purposes only and no building of any kind whatsoever shall be erected, reerected, moved or maintained thereon except a private dwelling house and appurtenant buildings as hereinafter provided. Such dwelling house shall be designed and erected for occupation by a single private family and a private attached garage for the sole use of the respective owner or occupant of the lot upon which such garage is erected. Such garage may have living quarters in connection therewith for use and occupancy by servants of the owner of the respective lot. Other buildings may be erected only if approved by the Grantor or the Architectural Control Committee in such manner and location as the Grantor or the Architectural Control Committee may in its sole discretion permit in writing, subject always to the provisions of Paragraph 2.

Thompson, P. L. & Co  
19426 Grand River  
-87 23

RECORDS SECTION  
OAKLAND COUNTY RECORDS  
REGISTER OF DEEDS  
1963 AUG 1 AM 9 17  
James M. [Signature]

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1. Use of Property (cont.)

(b) Notwithstanding that which is contained herein to the contrary, the Grantor, his agents or sales representatives may occupy and use any house built in the subdivision as a sales office for handling sales of lots and/or houses until all of the lots and/or houses built in this subdivision shall have been sold.

2. CHARACTER AND SIZE OF BUILDING

(a) No building or other structure shall be commenced, erected or maintained, nor shall any addition to or change or alteration to any structure be made, except interior alterations, until the plans and specifications, prepared by a competent architect showing the nature, kind, shape, height and materials, color scheme, location on lot and approximate cost of such structure and the grading plan of the lot to be built upon shall have been submitted to and approved in writing by the Grantor or the Architectural Control Committee, and a copy of said plans and specifications as finally approved, lodged permanently with said Grantor, or said Committee.

(b) Fences, garden walls, and other devices used from time to time in separating properties, may be constructed or erected only after plans, details and materials of such proposed fence, wall or other device shall have first been submitted in writing to the Grantor or Architectural Control Committee, and the same shall have been approved by it or them. In any event, no fence separating properties shall extend on either side of the lot toward the front of the lot farther than the rear line of the house.

(c) The Grantor or the Architectural Control Committee shall have the right to refuse to approve any such plans or specifications or grading plan, which are not suitable or desirable in its opinion for aesthetic or other reasons; and in so passing upon such plans, specifications and grading, it shall have the right to take into consideration the suitability of the proposed building or other structure to be built to the site upon which it is proposed to erect the same, and the harmony as planned in view of the outlook from the adjacent or neighboring properties. It is understood and agreed that the purpose of this paragraph is to cause the platted lands to develop into a beautiful harmonious private residence section, and if a disagreement on the points set forth in this paragraph should arise, the decision of the Grantor, or the Architectural Control Committee shall control.

(d) However, in the event the Grantor or the Architectural Control Committee shall have failed to approve or disapprove such plans and location within 30 days after the same shall have been delivered to the Grantor, or to such committee, then such approval will not be required provided the plans and location on the lot conform to, or are in harmony with, existing structures in the subdivision, these restrictions, and any zoning law applicable thereto.

(e) In any case, with or without the approval of the Grantor, or the Architectural Control Committee, no dwelling shall be permitted on any lot in the subdivision unless, in the case of a one story building, the ground floor living area

shall be not less than 1000 square feet; in the case of a one and a half story building, the ground floor living area shall not be less than 840 square feet; in the case of a multi-level building the first and second level living area shall not be less than 840 square feet; in the case of a two story building, the ground floor living area shall be not less than 700 square feet. The cubical content of any dwelling, exclusive of garage or car-port, when constructed, shall be not less than 11,500 cubic feet. All garages and/or car-ports, when constructed must be attached to the dwelling, either directly or by use of a covered breezeway or covered porch. The area of garages, car-ports and open porches shall not be included in computing the above areas.

### 3. BUILDING LINES

No building on any of said lots shall be erected nearer than 25 feet to the front lot line or side line of any corner; nearer than 10 feet to the side lot line or 20 feet to the rear lot line, except by written consent of the Grantor, which consent the Grantor is empowered to give.

### 4. ANIMALS

No chickens, other fowl or live stock shall be kept or harbored on any of the said lots. No animals shall be kept or maintained on any lot excepting household pets for use by the owner and members of his family. No animals shall be kept on the premises for any commercial purpose. Household pets shall have such care as not to be objectionable or offensive on account of noise, odor or unsanitary conditions. Animals may be declared nuisances by Grantor, and must be disposed of within 30 days if so requested in writing by the Grantor or its authorized representative. At no time shall any horses be kept on the land.

### 5. SIGNS

No sign or billboard shall be placed or maintained on any lot except one sign advertising the lot or house and lot for sale or lease, and having not more than three square feet of surface and the top of which shall be three feet or less above the ground; provided, however, such other signs may be erected and maintained on lots as are permitted in writing by the Grantor.

### 6. EASEMENTS

Easements and rights of way are hereby reserved as shown on the recorded plat. In addition to the above, easements and rights of way are reserved in and over a strip of land six feet in width along all rear and side lot lines, wherever it may be deemed necessary for the installation or maintenance of telephone or electric poles, lines, or conduits, or sewer, gas lines or water mains, for drainage purposes, for road maintenance, or for the use of any other public utility deemed necessary or advisable by Grantor. The use of all or a part of such easements and rights of way may be granted or assigned at any times hereafter by the Grantor to any person, firm, governmental unit or agency, or corporation furnishing any such services.

**7. REFUSE**

No refuse pile or other unsightly or objectionable materials shall be allowed on any of said lots unless the same shall be properly concealed. Refuse, ashes, building materials, garbage and debris of any kind shall be cared for in such a manner as not to be offensive to neighboring property owners. The parking or storage of commercial vehicles, except while making normal deliveries, shall not be permitted on any lot in this subdivision.

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

**8. ARCHITECTURAL CONTROL COMMITTEE**

The Grantor hereby names and constitutes the following persons as members of the Architectural Control Committee: William W. Bowman, Ross S. Campbell, Jr. and Robert H. Carey, whose methods and procedure shall be as follows:

(a) A majority of the Architectural Control Committee may designate a representative from among its members to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

(b) The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans have been submitted to it, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with, except as provided in Paragraph 2, sub-section (d).

**9. MAINTENANCE FUND**

(a) All the land included in said plat, whether owned by the Grantor, or by others, except streets and parks maintained for the general use of the owners of land included in said tract, and except land taken or sold for public improvements or uses, shall be subject to an annual maintenance charge at the rate of \$5.00 per lot commencing January 1, 1965, and at such a rate as may be determined by the Grantor or the Kimberley North Improvement Association which may hereafter be formed as provided herein for each year thereafter for the purpose of creating a fund, to be known as the Maintenance Fund, to be paid by the respective owners of the land included in said tract to the Grantor annually, in advance, on the first day of January in each year, commencing with January 1, 1965.

(b) Said annual charge may be adjusted from year to year, after 1965, by the Grantor, or the Kimberley North Improvement Association, as the needs of the property may in their judgment require, but in no event shall such a charge be raised above \$20.00 per lot, except by the approval and consent in writing of the owners of 75% of the lots in said plat which approval and consent shall make any such additional assessment binding upon all of the owners of property in said plat.

9. Maintenance Fund (cont.)

(c) Said maintenance fund shall be used for such of the following purposes as the Grantor hereto or the Association shall determine necessary and advisable: for improving and maintaining roadways of said property; for planting trees and shrubbery and the care thereof; for collecting and disposing of garbage, ashes and rubbish; for employing night watchmen; for caring for vacant property; for removing grass or weeds; for constructing, purchasing, maintaining or operating any community service, or for doing any other things necessary or advisable in the opinion of the Grantor hereto for keeping the property neat or in good order; for those purposes incidental to the health or general welfare of the property owners; for expenses incident to the examination of plans as herein provided and to the enforcement of these building restrictions, conditions, obligations, reservations, right, powers and charges.

(d) It is expressly agreed that the Maintenance Fund charge referred to herein, including any expenses incurred in removing or completing any building in accordance with the preceding paragraph, shall be a lien and encumbrance on the land with respect to which said charges are made, and it is expressly agreed that by the acceptance of title of any of said lots, the owner (not including thereby the mortgagee as long as he is not the owner) from the time of acquiring title thereto shall be held to have covenanted and agreed to pay to the first party hereto all charges provided for herein which were then due and unpaid to the time of his acquiring the title, and all such charges thereafter falling due during the ownership thereof. A certificate in writing signed by the Grantor hereto or its agent shall be given on demand to any owner liable for said charges, which shall set forth the status of such charges. This certificate shall be binding on the said parties hereto.

(e) By his acceptance of title, each owner shall be held to vest in the Grantor the right and power in its own name to take and prosecute all suits, legal, equitable or otherwise, which may in the opinion of the Grantor be necessary or advisable for the collection of such charges.

10. LOT OWNERS ASSOCIATION

At any time after the sale by Grantor of nine-tenths of number of the lots in the said subdivision (execution of a land contract constituting a sale for the purposes of this section) the Grantor or the Architectural Control Committee may assign or transfer all or any part of its or their rights, privileges and duties of supervision and control in connection with these restrictions which are reserved herein to the Grantor and the Architectural Control Committee, to the Kimberley North Improvement Association, and upon the execution and recording of appropriate instruments of appointment by the Grantor and the Architectural Control Committee, the said Association shall thereupon have and exercise all rights reserved to the Grantor and the Architectural Control Committee, and the Grantor and the Architectural Control Committee shall be fully released and discharged from further obligations and responsibilities in connection therewith.

Restrictions on Kimberley North No. 3 Sub.

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**11. VIOLATIONS**

Violation of any restriction or condition or breach of any covenant or agreement herein contained shall give the Grantor, in addition to all other remedies provided by law, the right to enter upon the land as to which such violation or breach exists, and summarily to abate and remove, at the expense of the owner thereof, any erection, sign, thing or condition that may be or exist contrary to the intent and meaning of the provisions hereof, and the Grantor shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

**12. TERM OF RESTRICTIONS**

All the restrictions, conditions, covenants, charges and agreements contained herein shall continue in force until December 31, 1987 and shall automatically be continued thereafter for successive periods of 10 years each, provided, however, that after December 31, 1972 the owners of the fee of two-thirds or more of the lots in said subdivision may release all or part of said lots from all or any portion of these restrictions by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and recording the same in the Office of the Register of Deeds for Oakland County.

**13. SEVERABILITY**

Each restriction herein is intended to be severable and in the event that any one covenant is for any reason held void, it shall not affect the validity of the remaining covenants and restrictions.

IN WITNESS WHEREOF the Grantor herein has set its hand and seal on the day and year first above written.

In presence of:

Florence M. Adair  
Florence M. Adair

Gladys A. Cooper  
Gladys A. Cooper

ORCHARD LANE LAND COMPANY

By Ross S. Campbell, Jr.  
Ross S. Campbell, Jr., Its Pres.

By William W. Bowman  
William W. Bowman, Its Sec.

IN THE STATE OF MICHIGAN, COUNTY OF WAYNE

On this 1st day of August, 1963 A.D. before me personally appeared Ross S. Campbell, Jr. and William W. Bowman, to me personally known, who being by me sworn did each for himself say that they are respectively the President and Secretary of Orchard Lane Land Company, the corporation named in and which executed the within instrument and that the seal affixed to said 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 Ross S. Campbell, Jr. and William W. Bowman acknowledged said instrument to be the free act and deed of said corporation.

My commission expires  
July 9, 1965

Gladys A. Cooper  
Gladys A. Cooper  
Notary Public, Wayne County, Michigan

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In presence of:

*[Signature]*  
Roy J. Russell  
*[Signature]*  
Jessie Mueller

COLWELL HOMES, INC.

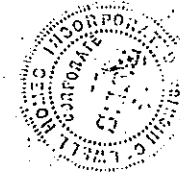
By *[Signature]*  
Harold D. Colwell, Pres.  
By *[Signature]*  
Douglas A. Colwell, Sec.

IN THE STATE OF MICHIGAN, COUNTY OF WAYNE

On this 1st day of August, 1963 A.D. before me personally appeared Harold D. Colwell and Douglas A. Colwell, to me personally known, who being by me sworn did each for himself say that they are respectively the President and Secretary of Colwell Homes, Inc., the corporation named in and which executed the within instrument and that the seal affixed to said 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 Harold D. Colwell and Douglas A. Colwell acknowledged said instrument to be the free act and deed of said corporation.

My commission expires  
July 19, 1966

*[Signature]*  
Harold Rosenbaum  
Notary Public, Wayne County,  
Michigan



*[Faint, illegible text at the bottom of the page]*

Proposed Amendments to Covenants and Restrictions as Contained in Liber  
4279, Page 581, Recorded March 2, 1962, Oakland County Records

Proposed Amendment #1

A proposal to add Paragraph 2(f) to read as follows:

- 2.
- (f) No shed, overhead cover, tent or other structure or device used for the storage of machinery, materials, equipment or tools shall be erected or permitted on any lot in the subdivision. Any prohibited structure described above which existed on or before January 1, 1984 shall be excluded from this restriction.

Proposed Amendments to Covenants and Restrictions as Contained in Liber  
4279, Page 581, Recorded March 2, 1962, Oakland County Records

Proposed Amendment #2

A proposal to revise Paragraph 7 to read as follows:

7. Refuse and Parking and Storage

- (a) No refuse pile or other unsightly or objectionable materials shall be allowed on any of said lots unless the same shall be properly concealed. Refuse, ashes, building materials, garbage and debris of any kind shall be cared for in such a manner as not to be offensive to neighboring property owners. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- (b) The storage of any type of vehicle, truck, van, automobile, recreational home, camper, trailer, boat, snowmobile, motorcycle or the like, on any street, driveway or lot (including back lot) for more than three (3) weeks shall be prohibited. Such vehicles or other prohibited objects described in this paragraph may be stored in homes or garages (as permitted by law), however, if stored in garages, the garage door shall be kept closed other than during times of entrance to and exit from the garage.
- (c) The parking of commercial vehicles, except while making normal deliveries, shall not be permitted on any street, driveway or lot in this subdivision. Commercial vehicles shall be parked in the particular homeowner's garage, and the garage door shall be kept closed other than during times of entrance to and exit from the garage.



AMENDMENT TO KIMBERLEY NORTH IMPROVEMENT ASSOCIATION COVENANTS & RESTRICTIONS as contained in Liber 4279, Page 581, Recorded March 2, 1962, Oakland County Records

Approved and adopted April 11, 1994

The following is an addendum to the existing section

9. Maintenance Fund

Insert after existing paragraph (d) . . .

If it becomes necessary for the Kimberley North Improvement Association to pursue legal action against a homeowner for the purpose of enforcing the Kimberley North Covenants & Restrictions, or the Association's By-Laws, the violating homeowner will be assessed the cost expended. In accordance with Article IV., Section 1. of the By-Laws and Paragraph 9(d) of the Covenants & Restrictions, any unpaid assessments will result in the filing of a lien with the Oakland County Records Office.

Jim Kohler, President Kimberley North Improvement Association

1-14-95 Date

James Standish Witness James Standish

1-14-95 Date

Elizabeth Skomra Witness Elizabeth Skomra 1-14-95 Date

17.00 MISCELLANEOUS RECORDING 2.00 REMONUMENTATION 6 MAR 95 11:40 A.M. RECEIPT# 41A PAID RECORDED - OAKLAND COUNTY LYNN D. ALLEN, CLERK/REGISTER OF DEEDS

Subscribed and sworn to before me this 14th day of January, 1995 Cindy M. Gonwicha, by Jim Kohler

CINDY M. GONWICHA Notary Public, Oakland County, MI My Comm. Expires April 22, 1996

Drafted by & returned to: Sanford Mall 5546 Northcote Ln. W Bloomfield, MI 48322

THE ENTIRE KIMBERLEY NORTH #1 18-35-376-000 AND KIMBERLEY NORTH #2 18-35-380-000 AND KIMBERLEY NORTH #3 18-35-401-000 105015 107019 108029

O.K. -S.R.

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