

2002-078862

118-10-2058

Section 10

RESTRICTIONS FOR TIMBERLOCH ESTATES
SECTION II
A SUBDIVISION OUT OF THE BRINGHURST SURVEY, A-86
MONTGOMERY COUNTY, TEXAS

THE STATE OF TEXAS S

THE COUNTY OF MONTGOMERY S

WHEREAS, TIMBERLOCH ESTATES VENTURE, (hereinafter called "Grantor") is the owner of a certain tract or parcel of land containing 49.00 acres of land in the George H. Bringhurst Survey, Abstract 86 of Montgomery County, Texas and being further described as follows, to wit:

BEING 49.00 acres of land and being located in the George H. Bringhurst Survey, Abstract 86 in Montgomery County, Texas; Said 49.00 acre tract being out of a call 167.2530 acre tract consisting of a called 57.8617 acre tract recorded in Volume 872, Page 701 of the Montgomery County Deed Records (M.C.D.R.), a called 50.1110 acre tract recorded in Volume 872, Page 704, M.C.D.R., and a called 59.1171 acre tract recorded in Volume 872, Page 710, M.C.D.R.; Said 49.000 acre tract being more particularly described by metes and bounds as follows (bearings are based on said 167.2530 acre tract);

BEGINNING at a 5/8 inch iron rod found in the west line of Fawnwood Subdivision, recorded in Cabinet B, Sheet 17-B of the Montgomery County Map Records (M.C.M.R.), at the northeast corner of Lot 1, Block 5 of Timberloch Estates, recorded in Cabinet S Sheet 28 M.C.M.R., for the southeast corner of said 49,000 acres;

THENCE, with the north line of said Timberloch Estates, the following nine (9) courses;

THENCE S 90° 00' 00" W, a distance of 240.20 feet to a 5/8 inch iron rod found;

THENCE N 00° 00' 00" E, a distance of 16.26 feet to a 5/8 inch iron rod found;

THENCE S 90° 00' 00" W, a distance of 974.60 feet to a 5/8 inch iron rod found;

THENCE S 00° 00' 00" E, a distance of 44.00 feet to a 5/8 inch iron rod found;

THENCE S 90° 00' 00" W, a distance of 180.00 feet to a 5/8 inch iron rod found;

THENCE N 00° 00' 00" E, a distance of 10.35 feet to a 5/8 inch iron rod found;

THENCE S 90° 00' 00" W, a distance of 60.00 feet to a 5/8 inch rod found.

THENCE 39.27 feet along the arc of a curve to the right, said curve having a central angle of 90° 00' 00", a radius of 25.00 feet and a chord that bears S 45° 00' 00" W, a distance of 35.36 feet to a 5/8 inch rod found;

THENCE S 90° 00' 00" W, a distance of 156.41 feet to a 5/8 inch iron found at an intersect with the east line of Hide Away Estates, a call 31.736 acre unrecorded subdivision, and the north right-of-way (R.O.W.) line of Bayer Lane (60 feet wide), also being the northwest corner of said Timberloch Estates, for the southwest corner of said 49.00 acres;

THENCE with the west line of said 167.2530 acres, N 00° 00' 00" W, a distance of 1392.52 feet to a 5/8 inch rod set for the northwest corner of said 49.000 acres;

THENCE, through and across said 167.2530 acres the following three (3) courses;

THENCE N 89° 31' 59" E, a distance of 570.60 feet to a 5/8 inch iron rod set;

THENCE S 00° 00' 00" E, a distance of 76.50 feet to a 5/8 inch iron rod set;

THENCE N 89° 46' 52" E, a distance of 1066.64 feet to a 5/8 inch iron rod set in the west line of Walnut Springs, Section Two, recorded in Cabinet B, Sheet 45.B, M.C.M.R., for the northeast corner of said 49.00 acres;

THENCE with the west line of said Walnut Springs, Section Two and said Fawnwood, S 00° 02' 33" W, a distance of 1282.35 feet to the Point of Beginning and containing 49.000 acres of land.

WHEREAS, said Section II has been subdivided into a recorded subdivision know as ~~TIMBERLOCH ESTATES SUBDIVISION SECTION II~~, does hereby create the following set of restrictions in order to insure to all purchasers in said subdivision that the properties thereof will be developed and maintained in a uniform manner to the mutual benefit of itself and all future owners; and accordingly, the following conditions, restrictions, and covenants are hereby established to be covenants running with the land binding upon all tracts and future purchasers, or owners, their heirs and assigns, and all parties or persons in ~~TIMBERLOCH ESTATES SUBDIVISION SECTION II~~. Each purchaser of

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future owner, or party holding possession under person, agree that as a part of the consideration for their purchase and deed that they shall be subject to and bound by the conditions, restrictions and covenants as herein set forth.

NOW, KNOW ALL MEN BY THESE PRESENTS, that Grantor, in consideration of the premises set forth above, does herewith place the following restrictions upon said Timberloch Estates Subdivision Section II and each and every part and parcel thereof, to-wit:

The conditions, restrictions, and covenants shall be binding upon the land and the purchasers thereof until September 15, 2022 and may be extended for additional ten (10) year periods thereafter, provided that a majority of the owners of tracts in said subdivision agree in writing properly filed in the office of the County Clerk of Montgomery County, Texas, that the said restrictions shall be continued for such period, and provided that such written agreements shall be made and filed with the last two (2) years of the period during which the restrictions are enforceable. In any instrument of extension, the majority shall be calculated upon the basis of one vote for each lot in said subdivision which is under these restrictions.

It is understood that no act or omission upon the part of any party hereto or any person hereafter acquiring an interest in said property by, through or under same, shall ever be construed as a waiver of the operation or enforcement of these covenants and restrictions and easements. It is further provided that the invalidation of any one or more of these easements, convenience or restrictions, or any part thereof, by a judgment of a Court or any court order or any other fashion, shall not in any way affect the other provisions hereto, which shall remain in full force and effect.

PROPERTY OWNERS ASSOCIATION

GRANTOR has caused to be formed "TIMBERLOCH ESTATES PROPERTY OWNERS ASSOCIATION", a Texas non-profit corporation (hereinafter called "THE ASSOCIATION").

The ASSOCIATION shall have the rights, powers and duties provided for herein and in its Articles of Incorporation and By-laws and shall be governed by its Articles of Incorporation and By-laws. The GRANTOR shall name the directors of the Association until September 15, 2022, or at the GRANTOR'S option, issue memberships in the Association, before this date, to the owners of such lots, within the subdivision, as such owners are shown on its records. The members of the Association shall thereupon and thereafter elect the Directors of the Association in accordance with its Articles and By-laws. Each lot owner shall be entitled to vote for each lot owned by him.

Each residential lot, but not the "reserves" unless the "reserves" are being used for residential purposes, shall be subject to an annual maintenance charge, hereinafter called "MAINTENANCE CHARGE" of \$180.00 per year, due July 1st. The Maintenance Charge for each lot may be increased annually, as determined by the Association, provided that such Maintenance Charge will be uniform as to all lot owners. The Maintenance Charge shall be secured, collected, and expended as follows:

- A. The Maintenance Charge for each lot shall be due and payable yearly in advance, following the sale of such lot by the GRANTOR. Maintenance charges not paid when due shall bear interest at the rate of 10% per annum or such greater rate as may be provided by the laws of the State of Texas. No maintenance charge shall begin to accrue on any lot until the sale thereof by Grantor.
- B. The maintenance fund shall be held, managed, invested, and expended by the Association, at the discretion, for the benefit of the Subdivision and the owners of lots the residential therein. The Association shall, by way of illustration and not by way of limitations, or obligation, expend the maintenance fund for improving and maintenance of common areas, "reserves", vacant lots easements, street lighting, equity, or otherwise, paying court costs as well as reasonable and necessary legal fees out to the maintenance fund; and for all other purposes which are, in the discretion of the Association, desirable in maintaining the character and value of the subdivision and the residential lots therein. The Association shall not be liable to any person with respect to the maintenance fund except for its willful misconduct. It shall not be required to expend funds at any time but shall have the right to advance money to the fund, or borrow on behalf of the fund, paying then current interest rates.
- C. To secure the payment of the Maintenance Charge, a vendor's lien is hereby retained on each lot in favor to the Association and it shall be the same as if a vendor's lien was retained in favor of Grantor and assigned to the Association without recourse in any manner on Grantor for payment of such indebtedness. Said lien shall be enforceable through appropriate proceedings at law; provided, however, that such lien shall be superior to all other liens except tax liens and purchase money liens and valid home improvement liens secured by recorded deed of trust. All Maintenance Charge liens as provided for herein may be enforceable through any appropriate proceeding at law or in equity; provided, however, that such lien be enforceable only by the Association, its successors or assigns; provided further, however, that under no circumstances shall the Association ever be liable to any owner of any lot or any other person or entity for failure or inability to enforce or attempt to enforce any such Maintenance Charge lien.

PROPERTY OWNERS ASSOCIATION - (continued)

The Association shall, as a condition precedent to the foreclosure of any liens securing the payment of the Maintenance Charge, first notify the record owner of notes secured by liens covering residential lots in the Subdivision (excluding "second lien notes" and other indebtedness secondary and inferior to the "first mortgage"), by registered or certified mail, return receipt requested, sent to such record owner at the last address, if any, of such record owner given the Association, of default in the payment of Maintenance Charges. No action shall be taken by way of filing suit or foreclosure of the Maintenance Charge lien by sale with respect of any residential lot until after sixty (60) days have expired after the mailing of such notice.

- A. The provisions of the Section shall remain in effect so long as these Restrictions, or any extensions and/or amendments hereof, are in force.

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1. It is expressly understood that all lots, tracts, and lands in all of said subdivision shall be known and described as residential lots and property and shall not, during the effective dates and periods of this instrument, be used or permitted to be used for any other purpose. No part or parcel of said tract shall be used except for residential purposes; only one building site (as the term "building site" is hereinafter defined), and no one shall be permitted to reside in such residence except the members of a single family, guests, and their domestic servants employed exclusively upon such premises. The term "residential purposes" as used herein shall be held and construed to exclude hospitals, clinics, duplex houses, apartment houses, boarding or rooming houses, hotels, or any other multi-family residential use, and shall exclude any and all commercial or professional uses whether from homes, residences or otherwise, and any commercial or business use of any kind is hereby expressly prohibited, and the renting of even one (1) room is expressly prohibited. The use of any separate living accommodations upon any building site, separate from the main dwelling house situated thereon, is expressly prohibited except by domestic servants employed exclusively upon said premises. No building or structure shall be erected, altered, placed or permitted to remain upon any building site other than the single family dwelling, together with a private garage or carport, servants type quarters, a tool shed or workshop. "Guests" as the term is used in this paragraph shall include any persons not members of the family (which shall include only children, parents, grandparents, brothers, and sisters) occupying the main dwelling house, who shall occupy any part of the premises for not more than thirty days continuously. There shall be no restriction or limitation upon occupancy of any part of the premises by children, parents, grandparents, brothers and sisters of the family occupying the main dwelling house. No house may be built on less than one tract of land.
2. No building shall be located on any lot nearer to the front lot line or nearer to said street line than the minimum building set-back lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than thirty (30) feet to the front lot line or nearer than five (05) feet to any side street line. No building shall be located nearer than five (05) feet to an interior lot line. No building shall be located nearer than thirty (30) feet to the rear lot line. For the purposes of the covenant, eaves, steps and open porches shall not be considered as part of a building, provided, however, that such shall not be construed to permit any portion of a building on a lot to encroach upon another lot. No more than one (1) single family residence per tract will be permitted.
3. A Manufactured Home may be used as a residence, provided that it shall be at least 960 square feet living area for single-wides and 1120 square feet living area for doublewides. It must have a composition roof. It must be of vinyl or wood (or like materials) exterior siding. No metal is allowed. It must have a front deck or porch that is at least 5' X 5'. It must have adequate landscaping. No manufactured home older than the year 2000 shall be placed on any residential lot, without the written consent of Grantor or an elected committee. It is agreed and understood that before a Manufactured Home is moved onto this property, it must be approved by the developer, its successors or assigns, or a committee elected by the majority of the property owners, and said Home must be free of tongue, tires, axles and skirted immediately upon move on. The home must also be tied down and have a foundation of concrete blocks, concrete runners or a concrete slab. No residence other than the Manufactured Homes or new construction homes, shall be erected or placed upon said property which does not contain at least 960 square feet living area for singlewides and 1120 square feet living area for doublewides, and 1200 square feet living area for new construction homes, exclusive of open porches and garages. No building shall be erected or placed on said property that has not been approved in writing by the Architectural and Development Committee. No building material of any kind shall be placed on any property until the owner is ready to commence construction of improvements, and then such materials shall be stored within the property lines of such owner and not in any street right-of-way. No stumps, trees, underbrush, scrap materials, or refuse may be placed upon any adjoining site, or street right-of-way, but must be promptly removed by the owner. Failure of any owner to comply with this covenant within then (10) days of written notice from the Committee shall entitle the

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Committee to have materials removed at the cost of the owner, such costs to constitute an express contract lien upon the property of the owner and may be enforced in accordance with the laws regulating enforcement of liens in the State of Texas.

4. No basement, tent, shack, garage, barn or outbuilding on any tract shall at any time be used as residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence, nor shall any residence be moved onto a building plot in the addition without the written consent of the developer or its designated representative, or shall any such building at any time be located in front of the main residence. No garage or carport shall be placed in front of residence. All boats, RV's large trucks etc. must be placed in back of the residence.
5. Any fence that faces a street must be of wood or steel construction. Barbed-wire fencing is prohibited. Any and all fencing shall be behind the front building set back lines. All fencing must be approved by the Architecture and development Committee.
6. Lot purchasers, and owners, shall at all times maintain such property in conformity with the general plan and scheme of residential development as herein set forth, to the end and purpose that the property herein sold, as well as other properties in the subdivision will maintain uniform conformation development. Any construction on any building site shall not be permitted to remain uncompleted or unfinished longer than one year. Such construction shall be deemed to be unfinished or uncompleted if all the work called for the plans and specifications approved the Architectural and Development Committee has not been completed within one year from the date of commencement. In the event the owner of a building site fails to comply with this covenant, there shall assessed and imposed upon such owners a penalty of \$50.00 per day for each day such dwelling house continues uncompleted beyond the one year limitation. Such figure of \$50.00 per day is agreed to be the reasonable damages, and such damages shall be payable to the Architectural and development Committee to be used as a part of the maintenance fund, and an express contract lien is hereby imposed upon such building site to secure the payment of the total amount of such damages.
7. No tract shall be used or occupied for any vicious or immoral purpose, nor in violation of the laws of the local, State or Federal governments, No animals shall be raised or maintained on the property, other than domesticated pets.
8. No hunting or discharging of firearms or fireworks shall be permitted, and shall be punishable by law.
9. It is specifically agreed that tract or lot owners shall not excavate, remove or sell the soil, nor cut, sell or remove timber other than is necessary for residential and associated improvements upon the property and as may necessary for the reasonable use, upkeep and maintenance of the property which would not in any manner decrease the value of said property. Any timber removal must be approved by the Grantor or elected committee.
10. Whenever a residence, or dwelling of any nature, is established on any tract it shall provide an inside toilet and shall be connected to the central sewer system. No cesspool or septic tanks and field lines shall ever be dug, used, or maintained on any parcel of land in this subdivision. Drainage of sewage into the roads, streets, alleys ditches, ravines, or upon the open ground shall be prohibited and enforceable as any other violation of these restrictions by any resident in the subdivision.
11. No individual water wells can be drilled within the subdivision. There is a central water system.
12. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary. No used building material shall be stored in view. No leaves, brush, timber, debris or trash of any nature shall be placed, disposed of or burned within the road right-of-ways. Anything stored on property must be behind residence and covered.
13. No sign of any kind shall be displayed to the public view on an lot except one professional sign not more than one (1) foot square, one sign of not more than five (5) feet square advertising the property for sale or rent, or signs being used by a builder to advertise the property during the construction and sales period.
14. There is no access to lake. Boating, sailing, etc. of any kind is prohibited. Swimming and playing at lake area is prohibited. The lake is for viewing only.
15. All properties are restricted against industry, pipeline yards, junkyards, including automobile junk part places, or any business that gives off odor, fumes, dust smoke noise or vibrations. No business building shall be erected, placed or altered on the said property covered by this instrument.

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16. No oil drillings, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks tunnels, mineral excavations, or shafts be permitted upon or in any lot. No derrick or structure designed for use in boring for oil or natural gas shall be erected or permitted upon lot.
17. No in-operative motor vehicles will be stored or parked on the premises. All vehicles shall have a current license tag and a current state inspection sticker.
18. All driveways constructed into the tract must be uniform and must be in conformance with the building committee appointed by the Homeowner's Association and the culvert shall be a minimum of the Montgomery County specifications, and a minimum of 12' in length and shall be set to grade required. All driveway material must be of fresh asphalt at least 1 1/2 inches thick with a good solid base material underneath at least 4 inches thick.
19. All tracts are sold subject to easements for public utilities as may already be existing or as may become reasonably necessary for Grantor to create in the future and all of which rights are reserved so as to permit good development of the subdivision and provide necessary utilities and landscaping. In addition to the easements designated, there is hereby designated and dedicated for the use of all public utility companies an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward located adjacent to said easement. All existing roads are hereby dedicated as public road easements to insure to the benefit of the property owners of this subdivision and insure permanent access to their land. All tracts herein sold are subject to prior recorded reservation of all oil, permanent access to their land. All tracts herein sold are subject to prior recorded reservation of all oil, gas and other materials, together with all restrictions herein set forth and as well as any other easements, mineral leases, reservations and restrictions of record. There is a surface waiver on the entire subdivision.
20. It is understood that by the acceptance or execution of any contract, Deed of Trust, or purchase money note, the purchaser or grantee hereof, whether a corporation, partnership, firm or otherwise, agrees and covenants for himself, heirs, and legal representatives, successors or assigns shall be binding upon him and all the parties stated during the effective period hereof. If any of the said parties, their heirs, legal representatives, successors or assigns shall violate or attempt to violate any of the covenants contained it shall be lawful for any other person or persons owning real property interest therein situated in said addition to prosecute such proceedings at law, or in equity against violators, either to prevent any violation or to recover damages for the breach thereof, or for both injunction and damages, or for any other relief obtainable for such violation or attempted violation. These restrictions shall be construed as covenants running with the land and are enforceable by or on behalf of any, one or more, of the owners of land in the subdivision, their heirs or assigns.