

JACOB'S LANDING
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS JACOB'S LANDING ("This Declaration") is made, imposed and declared this ____ day of _____, 2003, by Rodrick E. Smith and Peggy D. Smith, his wife (jointly "Developer"), whose address is P.O. Box 110, Nancy, Kentucky 42544-0110

WITNESSETH:

WHEREAS, Developer is the owner of certain real property located in Pulaski County, Kentucky, and more particularly described in Exhibit A attached hereto and made a part hereof. The tracts and property as described on Exhibit A is hereinafter referred to as the "Property" and

WHEREAS, it is the desire and intention of Developer to develop the Property as a residential subdivision known as "Jacob's Landing" and to develop same subject to and in accordance with the provisions of this Declaration and to subject and impose upon such Property certain rights, privileges, covenants, conditions and restrictions, and to reserve and/or dedicate certain easements, and to impose certain assessments, charges and liens, under a general and common plan and scheme of subdivision, development and improvement for the benefit of such Property, and for the benefit of Developer, their heirs and assigns, and purchasers of portions of such Property in Jacob's Landing, and it is further intended that said rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens, as applicable, and the other provisions of this Declaration, bind and benefit not only said persons and entities, but also their respective heirs, personal representatives, successors and assigns, as applicable, and that all such Property should be owned, held, used, leased, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens set forth in, and the other provisions of, this Declaration; and

WHEREAS, pursuant to such general and common plan and scheme of subdivision, development and improvement for Jacob's Landing, Developer desires to ensure the best use and improvement of the Property subject hereto and each residential Lot developed thereon in an attempt to guard against erection of poorly designed or built structures, and generally to enhance and protect the value, desirability and attractiveness of the Property made subject hereto and all portions thereof conveyed to others to their mutual benefit by subjecting such Property to the rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in, and the other provisions of, this Declaration;

NOW, THEREFORE, in accordance with the foregoing preambles, which are

hereby incorporated herein subject to the following terms hereof, Developer hereby declares that the Property shall be owned, held, used, leased, sold, conveyed, and occupied subject to the rights, privileges, covenants, conditions, restrictions, easements, assessment, charges and liens set forth in, and other provisions of, this Declaration, all of which are declared and agreed to be in furtherance of a common plan and scheme for Jacob's Landing, and the development, sale and improvement of the Property made subject hereto, and which are for the purpose of protecting the value, desirability and attractiveness of such Property and portions thereof hereafter conveyed to others. The rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in, and other provisions of, this Declaration shall run with the Property made subject hereto and be binding upon and inure to the benefit of all parties having any right title or interest therein, their respective heirs, personal representatives, successors and assigns.

(1) Lots.

The Property shall be developed as a single family residential subdivision known as Jacob's Landing (sometimes referred to as the "Subdivision"). The Property has already been subdivided into tracts as shown on the survey plat referred to in Exhibit A ("Plat"). The aforementioned tracts, excepting only tracts 29 and 30 as stated in Exhibit

A, are hereinafter individually referred to as "Lot" and collectively as "Lots". The Lots shall be subject to the rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens as set forth in this Declaration.

(2) Use Restrictions.

Except as otherwise provided in section 19, all Lots shall be residential Lots and shall be used for single family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than (i) one (1) detached single family dwelling with attached two car garage which has been approved in accordance with this Declaration and (ii) any outbuilding which has been approved in accordance with this Declaration and which is accessory to the single family dwelling. Notwithstanding the foregoing, necessary temporary offices and temporary construction facilities of Developer or any other builder may be placed on a Lot, provided said temporary offices and temporary construction facilities are used solely in connection with the construction or land sales in Jacob's Landing.

(3) Building Location.

No building on any Lot shall be located nearer the property lines of any Lot than the building limit lines shown on the Plat and

(4) Minimum Floor Areas.

Any residential structure erected or placed on any Lot, exclusive of porches, basements, garages, terraces and decks, shall contain not less than:

- (i) 1800 square feet for a one-story dwelling;
- (ii) 1100 square feet on the ground floor of a one and one-half story dwelling, with a total of no less than 2000 square feet;
- (iii) 1100 square feet on the ground floor for a two-story dwelling, with a total of no less than 2200 square feet.

(5) Use of Other Structures; Vehicles.

(a) No motor home, tent, shack, or outbuilding placed or erected on the Property at any time shall be used as a residence temporarily or permanently. Mobile homes and tree houses shall not be permitted anywhere on the Property. All outbuildings must be approved by Developer as provided in section 9.

(b) No commercial vehicle or truck shall be parked on any Lot or anywhere else on the Property other than by a business making a delivery or by a builder actively engaged in the construction of a building on the Property or unless fully enclosed within a garage.

(6) Nuisances.

No noxious or offensive trades or activities 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. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of any Lot and no odors shall be permitted to arise or be emitted therefrom so as to render any portion of the Lot unsanitary, unsightly, offensive or detrimental to any of the other Lots or the occupants thereof. No exterior lights, the principal beam of which shines upon portions of the Lots other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of the Property by the occupants thereof, and no speakers, horns, whistles, bells or other sound devices, shall be located, used or placed on any Lot, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

(a) Animals. No chickens, ducks, geese, or other fowl, and no swine, cattle, goats, horses, or other like animal or livestock shall be kept on any Lot. No animals, birds, insects, or poultry of any kind shall be raised or bred on any Lot except dogs, cats and other household pets which are kept for domestic purposes only, and not kept, bred, or maintained for any commercial purpose. No more than two dogs and two cats may be

kept on any Lot except when such dogs or cats in excess of such numbers are less than three months of age.

No kennels or dog houses may be erected on any Lot except as approved by the Developer and placed so as not to be viewed from the adjoining property owners or from the street. All pets must be kept on a leash and not be allowed to stray on any Lot unless under direct control, so as not to create damage or be a nuisance to other property owners. Barking and howling dogs will not be allowed to remain on any Lot if they become a nuisance to other Lot owners.

(7) Tunneling Under Streets.

(a) Anyone cutting or tunneling under a street or road in Jacob's Landing must promptly repair and restore the street or road to the extent affected to its original condition and at such person's own risk and expense, and this shall not create any liability on Developer, expressed or implied.

(8) Compliance With Law.

(a) Every structure erected upon any Lot shall comply strictly with all applicable laws, building codes and regulations as they may now exist or may exist at the time construction is commenced, as the case may be.

(9) Approval of Construction Plans and Related Structures.

(a) No improvement, change, construction, addition, excavation, landscaping, or other work or action shall commence on any Lot until plans and specifications for the same shall have first been approved in writing by the Developer or by any person, committee, or association to whom Developer may assign the right. Approval shall be requested by submission of two sets of plans and specifications, (one set to remain in the possession of the Developer, the other, after approval, to be signed and returned to Lot owner), showing at least the following: (1) existing and proposed land contours, grades, and drainage plans (2) all buildings, access drives, and other improvements and improved areas, and the locations thereof on the site; (3) rear, front and side elevations and floor plans, (4) color of all exterior trim, brick, roof and other components, (5) all landscaping materials planting areas and exterior ornamentation, (6) exterior lighting plans, (7) walls and fences, (8) patios, decks, pools and porches, (9) parking areas, (10) mailboxes, (11) samples of materials to be used to the extent requested by the Developer, and (12) such other information, data and drawings as may be reasonably requested by the Developer. Owners may be required to pay a reasonable fee for review of such plans by Developer not to exceed \$100.

(b) Any dwelling erected, placed, altered or permitted to remain on any Lot in Jacob's Landing shall be predominately brick or other masonry construction, approved by

Developer, provided, however, the Developer does hereby reserve the right, but not the obligation, to waive this restriction at Developer's sole discretion. Finish building materials shall be applied to all sides of the exteriors of buildings and shall extend to the ground. No exposed concrete block will be permitted. Colors shall be harmonious and compatible with colors of the natural surrounding and other adjacent buildings. the Developer shall have the sole right to approve or disapprove materials and colors. Color of exterior paint and other materials is considered a vital factor in achieving the purposes of this Declaration and shall be earth tones.

(c) No outbuilding may be constructed unless first approved in writing by Developer after submission of the plans to Developer as set forth herein. Any approved outbuilding shall be constructed of materials to match the dwelling constructed on the Lot.

(d) No mail boxes or columns shall be placed on any Lot unless approved in advance by Developer. In order to create a look of uniformity throughout, if mail and newspaper delivery is to each address, all U.S. mailboxes and newspaper boxes must be approved and of construction materials similar to materials of the home construction. If a common delivery point is designated then Developer will furnish design plans. Notwithstanding the foregoing, the Developer shall have the right, but not the obligation, to select a standard designed mail box to be used by all Lot owners in the Subdivision. If Developer makes such a selection, then no other mailbox design or columns shall be used or placed on any Lot unless approved in advance by Developer.

(e) No fence of any nature may be extended toward the front property line of a Lot beyond the rear wall of a residence. All fences must conform with the character of Jacob's Landing community as determined by Developer in Developer's sole discretion. The design and placement of all fences must be approved in writing by Developer or by any person or association to whom Developer may assign the right of approval. Fence height, if approved, shall not exceed seventy-two (72) inches in height, except in the case of a privacy wall or fence extending from a main residential structure which shall not exceed a height of eighty-four (84) inches over a distance of twenty (20) feet. Chain link fences or any fences of similar appearance shall not be permitted on any Lot. Fencing material is to be of wood, iron, vinyl or other material approved by the Developer.

(f) Wherever approval of Developer is provided for in this Declaration, construction or placement shall not commence unless said approval is granted.

(g) Building materials cannot be stored on a Lot for more than thirty (30) days unless a structure is under active construction on said Lot.

(h) Any approval required by this Declaration shall be based, among other things, upon conformity and harmony of the proposed improvement with the site and natural features thereon, the effect of the location and use of the improvement on neighboring property, and conformity of any plans and specifications therefore to the purpose and

general intent of this Declaration.

(i) If the Developer fails either to approve or disapprove any requested approval within thirty (30) days after the same has been delivered to the Developer, the applicant shall notify Developer by certified mail of such failure to approve or disapprove, and the Developer shall have fifteen (15) days from date certified mail is received to approve or disapprove the request. If no action is taken on the request by the end of the 15 day period it shall be presumed that the Developer has approved same.

(j) Neither the Developer, nor their heirs or assigns shall be liable to anyone submitting a request for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval of the request. Every person and entity who submits a request for approval to the Developer agrees, by submission thereof, that he or it will not bring any action or suit against the Developer or its representative.

(10) Signs.

(a) No sign for advertising or any other purpose shall be displayed on any Lot or on any building except a sign for advertising the sale or rent thereof, and no sign shall exceed nine (9) square feet in area, except Developer who shall have the right to erect larger signs for purposes of advertising the Property generally. No realty signs shall be permitted at the entrance to Jacob's Landing. All signs shall be professionally prepared.

(11) Septic Drainage Systems.

Each Lot owner shall be responsible for installing a septic drainage system, including a septic tank and drainage fields upon that owner's Lot to service the residence constructed upon the Lot all of which shall be in compliance with the rules and regulations of the Pulaski County and State of Kentucky Health Departments. Each Lot owner shall at all times maintain said septic drainage system in good operating condition.

(12) Mowing of Grass.

(a) In the event a Lot owner does not maintain the height of grass at nine (9) inches or less, Developer reserves the right to mow the Lot at such Lot owner's sole expense. Such Lot owner, upon demand, shall immediately reimburse Developer for all costs and expenses incurred in order to comply herewith, and such costs and expenses shall constitute a lien on the Lot and improvements thereon which lien shall be prior and superior to all other liens or claims against such Lot to the fullest extent permitted by law, except that said lien shall be inferior and subordinate to liens for ad valorem taxes and any lien of any first mortgage holder.

(13) Easements.

(a) Easements are reserved, as shown on the Plat, for the purpose of constructing, maintaining, operating and repairing all utilities, drainage, lake and cemetery access and for other purposes all as shown on said Plat.

(b) Each owner of Lot 22, 23, 24 and 25 shall at all times keep that portion of the lake and cemetery access easement that is located on that owner's Lot free, clear and unobstructed so as to provide pedestrian ingress and egress to Lake Cumberland and the cemetery located on property that adjoins the Subdivision. The aforesaid lake and cemetery access easement is shown on the Plat. The lake and cemetery easement is restricted to pedestrian use only.

(14) Underground Utilities.

All utilities and cable television, if any, servicing any structure on any Lot shall be built underground unless other prior approval is obtained in writing from Developer.

(15) Landscaping; Driveways.

Each Lot owner shall construct a finished paved driveway within three (3) months, weather permitting, after completion of a dwelling. All driveways must be finished concrete or blacktop.

(16) Lawns.

There shall be no artificial surfaces on lawns, such as gravel, astro turf and the like. All lawns shall be grass. Without the Developer's prior approval, there will not be allowed any decorative items scattered throughout the lawn area such as, without limitation, pink flamingoes, plastic or concrete figurines, balls on a pedestal, etc.

(17) Clothes Lines.

(a) No outside clothes lines shall be erected or placed on any Lot.

(18) Antenna.

(a) No antenna shall be erected or placed on any Lot or structure unless its design and placement are approved by Developer.

(b) Notwithstanding the foregoing, a single satellite dish TV antenna shall be permitted on each Lot provided (i) it is eighteen (18) inches or less in diameter and (ii) it is not visible in any respect from the street on which the Lot fronts. Otherwise satellite dishes shall not be permitted on any Lot. Large or unusual antenna shall not be permitted

on any Lot and no two way radio antenna of any kind shall be permitted on any Lot.

(19) Business; Home Occupations.

(a) No trade or business of any kind and no practice of any profession or like endeavors shall be conducted on any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof, there is excepted from the foregoing (i) a new house may be used by the builder thereof as a temporary model home for display, provided said use terminates within one (1) year from the completion of such house and (ii) Home Occupation, as hereinafter defined, provided same does not constitute an annoyance or nuisance to the neighborhood or other Lot owners. HOME OCCUPATION shall mean a gainful occupation carried on in a residence, such as the studio of an artist or sculptor; dressmaking and tailoring; upholstery; handicrafts; tutoring; and individual musical instruction (provided no instrument is amplified); and provided such home occupation is performed under the following conditions:

- (2) The use is clearly incidental and secondary to use for dwelling purposes and occupies no more than twenty-five percent (25%) or three hundred (300) square feet of the dwelling, whichever is less;
- (3) The use is conducted entirely within a dwelling and not in any accessory building;
- (4) The use is carried on only by residents of the dwelling;
- (5) No commodities are sold or stored, except as are produced by the residents on the premises;
- (6) The use does not require external alterations of the dwelling;
- (7) The use does not adversely affect the residential uses permitted in Jacob's Landing by excessive traffic generation or noise;
- (8) No outside signage shall be permitted of any kind;
- (9) No additional blacktop, concrete or gravel parking shall be permitted beyond that normally provided in comparable homes in Jacob's Landing.

Home occupation shall not include barber shops, beauty parlors, offices for escort services, massage or tanning parlors, vehicle or power equipment repair, medical, legal or dental office or other professional offices, photo studios, palm reading or fortune telling, home cooking and catering. Vehicle as used above shall be given a broad interpretation so as to include, without limitation, cars, trucks, boats, ATVs, etc.

(20) Drainage.

(a) Drainage as originally constructed in the Subdivision shall not be changed without Developer's prior written approval. Drainage ditches, cuts, swales, streams, impoundments, mounds, dams or other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns shall not be destroyed, altered or modified by or at the direction or with the consent of any Lot owner without the prior written consent of the Developer.

In the event of any destruction, alteration, modification or improvement made or occurring without such prior consent of the Developer, the Developer or its representative shall have the right to enter upon the property to remedy or repair such destruction, alteration, modification or improvement without being guilty of trespass and without liability to any owner with respect to the same or the consequences thereof. Whenever, because of construction of Improvements on a Lot or the Property or for some other reason, silt would run off of a Lot onto any adjacent property, the owner of such Lot shall be obligated to provide a means of siltation control to prevent silt from running off of such Lot onto such adjacent property.

(b) All construction plans and specifications submitted for approval pursuant to section (9) of this Declaration with regard to any Lot shall specify erosion control precautions to be used during construction of all improvements on such Lot for the entire duration of such construction, and each Lot owner, during such construction, shall be responsible for making certain that any builder who performs any construction on such owner's Lot adheres to and regularly notifies suppliers and subcontractors of their obligation by virtue of this Declaration to adhere to the following erosion and sediment control site standards and guidelines:

- (i) Leave as much vegetation intact as possible on the Lot during construction;
- (ii) Install silt fences or straw bales embedded four (4) inches into grade on the Lot at beginning of construction as needed to prevent sediment from leaving the Lot in any direction, and, if appropriate, divert upstream run-off from the Lot, and in all cases comply with subdivision drainage plans;
- (iii) Install and maintain gravel drive with extra length for a wash-off area for all deliveries and installations coincident with beginning excavation on the job site;
- (iv) Discourage trucks from entering onto the Lot other than on the gravel drive;

- (v) When conditions warrant, pump or convey concrete or plasticizer or other methods to avoid mud on the streets;
- (vi) Backfill and rough grade the Lot as soon as possible in the construction process and establish final grade as soon as practical; and
- (vii) Shovel and sweep the streets as needed in front of the Lot to prevent any buildup of mud or dirt in curb or on the street.

In addition each Lot owner, during construction, shall prevent all construction materials and waste of any kind from blowing or otherwise being present on any other Lot or on any adjoining property.

(c) If any Lot owner fails to comply with the provisions of this section (20) of this Declaration, Developer, their heirs, assigns, agents, employees and contractors, may, without notice, enter upon the Lot and take such actions as they in their sole discretion deem necessary or appropriate to cause such compliance.

Such Lot owner, upon demand, shall immediately reimburse Developer for all costs and expenses incurred in order to comply herewith, and such costs and expenses shall constitute a lien on the Lot and improvements, which lien shall be prior and superior to all other liens and claims against such Lot the fullest extent permitted by law, except liens for ad valorem taxes and of any first mortgage holder.

(21) Disposal of Trash.

(a) No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash or garbage or other waste shall not be kept except in sanitary containers. During construction of a house, a suitable trash container and portable toilet must be on site, and all trash, construction debris, and other waste shall be placed in said trash container. There shall be no burying of building scraps.

(b) Garbage and refuse shall be placed in appropriate sanitary containers, which shall be concealed and contained within a building or shall be concealed by means of a screening wall of material similar to and compatible with that of the residence on the Lot, or sufficient landscaping to provide a permanent screen at all times of the year. These elements shall be integrated with the building plan, be designed so as not to attract attention and shall be located in as reasonably inconspicuous manner as is possible. If refuse containers are set out by the edge of the road for pick up, said containers shall be set out the evening before pick up and shall be removed from the road by evening of the day of pick up. All garbage and refuse shall be disposed of

on a regular basis. No garbage or refuse shall be burned or disposed of on any Lot.

(22) Maintenance of Lots and Residences.

No Lot and no residence or other improvement shall be permitted to become overgrown, unsightly or to fall into disrepair.

(23) Commencement of Construction.

(a) Once construction of a residence on a Lot has commenced, construction shall proceed diligently until completed not to exceed one (1) year from the date construction is commenced. The approval granted to plans and specifications shall be valid and effective only if construction is commenced within one year from the time of said approval. If construction is not commenced within one year from the time of such approval, no building shall be erected, placed, altered or permitted to remain upon such Lot unless the Developer or its representative agrees in writing to extend said one year period. The Developer hereby expressly reserved the right to extend the time periods stated above.

(24) Trucks/Recreational Vehicles.

(a) No owner is permitted to keep trucks (except for pickup trucks), boats, recreational vehicles, trailers and the like where they may be viewed by his neighbors or seen from the street. No inoperable vehicle shall be parked on any street in the Subdivision or allowed to remain on any Lot for a period in excess of 24 hours.

(25) Hobbies.

(a) Hobbies or activities that tend to detract from the aesthetic character of the Lots and improvements used in connection with such hobbies or activities, shall not be permitted unless carried out or conducted as directed by the Developer. This section has reference to, but is not limited to, such activities as any type of automotive and boat repair and sport activities involving equipment placed on the Lots. No basketball goals shall be erected on any Lot that is visible from the road.

(26) Storage Tanks and Pools.

No holding tanks of any sort will be permitted that are visible from adjoining properties without written permission from Developers. Location of holding tanks must be on the site plan approved by Developer pursuant to Section 9. Above ground swimming pools are not permitted, and no swimming pools are permitted in front yards facing roadways. All swimming pools shall be required to have adequate fencing.

(27) Firearms.

(a) There shall be no hunting, discharging of firearms, B.B. guns, bows, crossbows, or other projectile weapons within or upon any Lot or common or public area.

(28) Parking.

(a) There shall be no vehicles of any kind parked on the streets of the Subdivision, except for vehicles belonging to occasional visitors and invitees of a Lot owner.

(29) Mining.

(a) No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of any Lot, nor shall any oil, natural gas, petroleum, asphalt or other mineral, of any kind be produced or extracted therefrom. Further, no commercial mining or quarrying activities of any type or nature whatsoever shall be permitted on any such Lot. No water towers are permitted on any Lot.

(30) Resubdivision.

No Lot in the Subdivision may be subdivided into additional Lots.

(31) Plat Notes.

Each Lot owner shall comply with all "Notes as set forth on the Plat and all amendments to the Plat of record at the time the owner takes deed to the Lot.

(32) Gardens.

No vegetable gardens shall be planted or extended nearer the street than the rear yard of any residence.

(33) Future Road Extensions.

(a) Developer reserves the right, but not the obligation, in the future to eliminate the cul-de-sac and the end of Kiersten Court as shown on the Plat and to extend Kiersten Court in a northwesterly direction as shown on the Plat to an area to the northwest identified on the Plat as "Future Development". After such extension Kiersten Court will provide access to the aforementioned area identified as Future Development.

(b) Developer further reserves the right, but not the obligation, in the future to extend Kimber Drive to the area identified on the Plat at "Russell Simpson Future Development". Such extension shall adjoin the northwest property line of Lot 28

identified as "L88 and L89" on the Plat. After such extension, Kimber Drive will provide access to the aforementioned area identified as Russell Simpson Future Development.

(34) U.S. Army Corp. of Engineers Designation.

The land which lies between the lake side property line of Lots 7 through 22 and Lake Cumberland is owned by the U.S. Army Corp. of Engineers and said property is designed as an area to be undisturbed and shall be left and continued in such condition as complies with the pre-existing condition and no owner, including owners of the aforementioned Lots shall take any action contrary to such preserved status.

(35) Restrictions Run With Land; Power of Attorney/Grant of Proxy; Enforcement.

(a) Unless canceled, altered or amended as provided for herein, this Declaration is to run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument, signed by a majority of the current owners of all Lots in Jacob's Landing, has been recorded, agreeing to change this Declaration in whole or in part.

Prior thereto, this Declaration may be canceled, altered or amended at any time by the affirmative action of the owners of seventy-five percent (75%) of the Lots in Jacob's Landing.

(b) Enforcement of this Declaration shall be by proceeding at law or in equity, brought by Developer, by any Lot owner or against any party violating or attempting to violate any restriction, to restrain violation, to direct restoration and/or to recover damages. Failure of Developer, or any Lot owner to demand or insist upon observance of any provision of, or to proceed for restraint of violations hereof, shall not be deemed a waiver of a violation or of the right to seek enforcement of any provision of this Declaration in the future. Any such Lot owner or the Developer enforcing this Declaration shall be entitled to recover all costs and expenses incurred in connection with such action, including, without limitation, court costs, costs and reasonable attorney's fees. Any award of damages received by such Lot owner or the Developer in connection with any such action, and all costs and expenses incurred by such Lot owners or the Developer in connection therewith, shall constitute a lien upon the Lot, of equal priority to the lien for assessments referred to in section (30) hereinabove.

(c) All liens created and/or imposed against a Lot pursuant to the provisions of this Declaration may be enforced in accordance with the applicable provisions of Kentucky law, including the judicial foreclosure thereof and sale of a Lot encumbered thereby with the Lot owner and any other person

responsible therefore remaining liable for any deficiency.

(36) Assignment by Developer to Successor.

(a) To the extent not prohibited by law or by this Declaration, Developer shall have the right to assign any of its rights and duties as set forth in this Declaration to any other person or entity.

(b) Any such assignee of Developer shall succeed to and shall have the same rights and duties as Developer has as set forth in this Declaration, and, to that extent, wherever the term "Developer" is used in this Declaration, such term shall also refer to the heirs or assigns of Developer.

(37) Non-Liability of the Developer.

Neither Developer or their heirs or assigns, shall be personally liable to any of the Lot owners for any mistake of judgment or fact or for any other acts or omissions of any nature whatsoever while acting or failing to act pursuant to the provisions of this Declaration.

(38) Binding Determination.

In the event of any dispute or disagreement with or between any Lot owner(s) relating to, or of any other disputes, disagreements or questions regarding, the interpretation or application of the provisions of this Declaration the determination thereof by Developer for so long as Developer owns any Lot or any portion of the Property shall be final and binding on each and all such Lot owners.

(39) Incorporation by Reference on Resale.

(a) Upon the sale or other transfer of any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, conditions, restrictions, charges, liens, assessments and other provisions set forth in this Declaration; provided, however, that the failure of any such deed to so incorporate by reference this Declaration shall not affect the validity of such deed nor shall it be deemed to release the Lot conveyed thereby from the effect of this Declaration.

(40) Exhibits.

(a) All exhibits attached to this Declaration and referred to herein as designated Exhibits are hereby incorporated herein above the signature line hereof.

(41) Captions and Headings.

131 Prosperous Place, Suite 20-B
Lexington, Kentucky 40509
(859) 543-9133

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EXHIBIT A

All Tracts and property included in and shown on that certain survey plat of Jacob's Landing Revision I, excepting only Tract 29 and Tract 30. Said Plat is dated March 19, 2003, was prepared by Bobby Hudson Land Surveying, Inc., 99 Tandy Avenue, Somerset, Kentucky 42501 and appears of record in Plat Cabinet D, Slide 56 in the Pulaski County Clerk's office. The above-described property was conveyed to Developer by deeds of record in the aforesaid office in Deed Book 688 page 135, Deed Book 688 Page 139, Deed Book 688 Page 143 and Deed Book 695 Page 279.