

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

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DECLARATION ESTABLISHING PARTY WALL 9:40
AND CREATING PROTECTIVE AND
RESTRICTIVE COVENANTS AND EASEMENTS

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WITNESSETH THIS DECLARATION, made this day by Richard J. and Sharalynne Pasztor, Sec./Treas. and President of Ability Construction Co.*Beth A. and Aaron B. Pinkus (herein together the "Declarant"). *aka Ability Construction Company, Inc.,

WHEREAS, Declarant is the owner of the real estate commonly known as 4921 93rd Court, Schererville, Indiana, which real estate is legally described as follows:

The Northerly 40.0 feet (by parallel lines and measured at right angles), of Lot 35, Schererville Trace 11, an Addition to Schererville, Indiana, as recorded in Plat Book 81, page 46, in the Office of the Recorder, Lake County, Indiana, and amended by Certificate of Corrections recorded October 30, 1996 as Document No. 96072262 and recorded November 1, 1996 as Document No. 96072971.

WHEREAS, Declarant is the owner of the real estate commonly known as 4923 93rd Court, Schererville, Indiana, which real estate is legally described as follows:

The Southerly 40.0 feet (by parallel lines and measured at right angles), Lot 35, Schererville Trace 11, an Addition to Schererville, Indiana, as recorded in Plat Book 81, page 46, in the Office of the Recorder, Lake County, Indiana,*more particularly described as follows: *and amended by Certificate of Corrections recorded October 30, 1996 as Document No. 96072262 and recorded November 1, 1996 as Document No. 96072971.

WHEREAS, the Declarant desires to establish a party wall and create protective and restrictive covenants and easements (hereinafter the "Restriction") on the Real Estate, for the purpose of maintaining a fair and adequate value of the Real Estate, and to insure that Parcel A and Parcel B will each continue as desirable residential parcels.

NOW, THEREFORE, the undersigned hereby declare that the Real Estate shall be improved, held, used, occupied, leased, sold or conveyed subject to the Restrictions, which Restrictions shall run with the land and inure to and pass with the Real Estate, and will apply to and bind the heirs and successors in interest of the Declarant, and which Restrictions, as applicable to Parcel A and Parcel B are hereby declared to be imposed as mutual equitable servitudes in favor of the Other Parcel, and which Restrictions are set forth in the following Articles:

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ARTICLE 1
DURATION

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AUDITOR LAKE COUNTY

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The Restrictions shall run with the land of the Real Estate and bind the Real Estate for a period of twenty (20) years from the date of recording hereof, after which time the Restrictions shall automatically continue for successive ten (10) year periods, unless, prior to the expiration of any such ten (10) year term, the Declaration is terminated, pursuant to Article Eleven thereof.

ARTICLE TWO
PARTY RESTRICTIONS AS TO USE

The Real Estate is presently improved with a duplex dwelling having a common party wall. Such existing dwelling shall be protected, preserved and maintained by the owners in accordance with these Restrictions. Further, the use of Parcel A and the use of Parcel B shall be solely and exclusively limited to that of single family residential use.

ARTICLE THREE
PARTY WALL AND EASEMENTS

A portion of the improvements erected on the Real Estate constitute a common wall and boundary between the Parcels.

The Declarant desires to settle all questions relating to the ownership and use of said common wall, and the Declarant does declare said wall to be a party wall, and the owner of each Parcel shall have the right to use it jointly. The Declarant does further declare as to said party wall as follows:

- A. No Parcel owner without the prior written consent of the other Parcel owner shall extend the party wall or use the same in any manner that would impair the use of the same by the other Parcel owner.
- B. In the event it becomes necessary or desirable to repair or rebuild the whole or any part of the party wall, the expense thereof shall be borne equally by the Parcel owners, unless same shall be necessitated by the negligent or willful acts or omissions of one owner, in which event all of the expense thereof shall be borne by such owner.
- C. Any repair or rebuilding of the party wall shall be upon the same location, of the same dimensions, of the same or similar materials, of equal quality as that used in the original party wall.

Each Parcel is hereby imposed with a mutual reciprocal easement over or through each Parcel for the benefit of the other Parcel for the following purposes:

A. Any and all utility services facilities now or hereafter in the future existing, including, but not limited to, utility services for gas, electricity, water, sewer, telephone, communications, and security to the extent that any of same are presently located on one Parcel and service the other Parcel.

B. For the structural support of that portion of the building located on each Parcel.

C. For the encroachment of more than one-half (1/2) of the party wall over and upon each Parcel, either presently or in the future for any reason, including but not limited to, any such encroachment arising out of the reconstruction, repair or replacement of the party wall.

ARTICLE FOUR
EXTERIOR BUILDING MAINTENANCE AND PRESERVATION

The owner of each Parcel shall, at his sole cost and expense, repair his residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear. Said owners shall, as to the exterior of the residence (including, but not limited to, windows, doors, siding, roofing and driveway and sidewalk pavement), maintain and preserve the design, color scheme and concept of the original construction. Further, the owners shall, as to the exterior portions of the building that requires painting or staining, repaint or restain the same at least every five (5) years, unless otherwise agreed upon by such owners. The exterior color scheme shall be maintained in its original state unless the owners agree upon a different scheme.

ARTICLE FIVE
OWNER'S OBLIGATION TO REBUILD

If all or any portion of the improvements on the Real Estate are damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence, to rebuild, repair or reconstruct in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurred, and such reconstruction shall be diligently pursued until completed. The proceeds of any casualty insurance payable to the owner or its mortgagee is hereby pledged to be held in trust for the sole purpose of reconstructing the building and shall be used solely for such purpose.

ARTICLE SIX
USE RESTRICTIONS

No sign of any kind shall be displayed to public view except signs advertising the property for sale or rent.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Real Estate, except for ordinary house pets.

No rubbish, trash or garbage, or any other waste materials shall be kept or permitted on the Real Estate except in sanitary containers located in appropriate areas concealed from public view.

No trailers, tents, shacks, boats, or recreational vehicles shall be stored on the Real Estate, unless the same are stored wholly within the confines of the existing garages.

Each residence shall be occupied by not more than four (4) persons.

ARTICLE SEVEN
INSURANCE

Each owner shall hold harmless the other owner from all claims or judgements arising from the use of those areas shared by the owners, unless the claim, demand, or judgement is caused by the negligence of the other owner. Further, each owner shall maintain all risk insurance for the full replacement cost as to the residence owned. Evidence of such insurance in the form of a Certificate of Insurance shall be furnished to the other owner upon written request.

ARTICLE EIGHT
ARBITRATION

Except as provided in Article Ten, any dispute, controversy, or disagreement arising out of or related to this Declaration shall be resolved by the submission of same to arbitration under the rules and regulations of the American Arbitration Association. Any owner of a Parcel may notify the other of its desire to arbitrate, and if within ten (10) days after written notice of such desire to arbitrate is served upon the other owner, the owners have not agreed upon an impartial arbitrator, either or both owners may ask the American Arbitration Association to submit a list of five (5) persons eligible to serve as arbitrators. If within ten (10) days from the receipt of such list, the owners have not agreed on a single arbitrator from such list, such arbitrator shall be appointed by the American Arbitration Association. The arbitrator's decisions shall be final and

binding upon all owners, and there shall be no appeal of said decision except as may be allowed by Indiana law. The costs of such arbitration shall be shared equally by the owners unless the arbitrator shall specifically find that the conduct of the losing owner was arbitrary and unreasonable, in which event the entire cost of the arbitration may be assessed against such owner.

ARTICLE NINE
EQUITABLE RELIEF

In the event of any violation or threatened violation by any person of any of the Restrictions, the result of which would be to cause irreparable damage and is of an emergency nature, the owners of either Parcel, or their respective successors or assigns, will have in addition to the right of arbitration provided in Article Nine, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, written notice of the alleged violation will be given twenty-four (24) hours prior to commencing action to the owner allegedly responsible for such violation or threatened violation.

ARTICLE TEN
TERMINATION AND MODIFICATION

This Declaration and the Restrictions contained hereby may be terminated, extended, modified, or amended only with the unanimous consent of all persons owning an interest in the fee simple title to the Real Estate and all mortgages of record on the title to the Real Estate.

No termination, extension, modification, or amendment will be effective until a written instrument setting forth its terms has been executed, acknowledged, and recorded in the Office of the Recorder of Lake County, Indiana by the foregoing described persons.

ARTICLE ELEVEN
NOTICES

All notices, statements, demands, approvals, or other communications to be given under or pursuant to this Declaration will be in writing, addressed to the respective Parcel addresses set forth above, and will be delivered in person, or by certified mail, return-receipt requested, postage prepaid, or by telegram, or cable charges prepaid.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the 23rd day of December 1997.

Sharalynne Pasztor
Sharalynne Pasztor
President - Ability Construction Co. , aka Ability Construction Company, Inc.

Richard Pasztor
Richard Pasztor
Sec./Treas. Ability Construction Co. , aka Ability Construction Company, Inc.

Aaron B. Pinkus
Aaron B. Pinkus

Beth A. Pinkus
Beth A. Pinkus

STATE OF INDIANA

COUNTY OF LAKE

The undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Richard J. Pasztor, Sharalynne Pasztor, *Beth A. and Aaron B. Pinkus, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument for the uses and purposes therein set forth.

* Sec-Treas and President of Ability Construction Company, Inc.,

Given under my hand and notarial seal this 23rd day of December, 1997.

Jean Henderson
Jean Henderson

My Commission Expires:
12/3/2001

County of Residence
Lake

Prepared by Sharalynne Pasztor