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**DECLARATION ESTABLISHING PARTY WALLS AND CREATING PROTECTIVE AND RESTRICTIVE COVENANTS AND EASEMENTS**  
**SUNSET COVE OF SEDONA**

WITNESSETH THIS DECLARATION, made this day by MARTK HOMES, INC. ("the Declarant").

WHEREAS, Declarant is the owner of the real estate commonly known as 1109-1111 West 87<sup>th</sup> Avenue , Merrillville, Indiana, which real estate is legally described as follows:

Lot 511 in Sunset Cove of Sedona, a Planned Unit Development to the Town of Merrillville, as shown in Plat Book 96, page 81, in the Office of the Recorder of Lake County, Indiana

**PARCEL "A"**

**LEGAL DESCRIPTION:** Part of Lot 511 in Sunset Cove of Sedona, a Planned Unit Development to the Town of Merrillville, as shown in Plat Book 96, Page 81 in the Office of the Recorder of Lake County being more particularly described as follows: Beginning at the Northwest corner of said Lot 511; thence South 66°55'08" East, along the Northerly line of said Lot 511, a distance of 45.00 feet; thence South 23°04'52" West, along the centerline of a party wall and extension thereof, a distance of 160.64 feet, to a point on the Southerly line of said Lot 511; thence South 73°59'37" West, along the Southerly line of said Lot 511, a distance of 57.98 feet, to the Southwest corner of said Lot 511; thence North 23°04'52" East, along the Westerly line of said Lot 511, a distance of 197.21 feet; to the Point of Beginning, containing, 0.185 Acres, more or less, all in the Town of Merrillville, Lake County, Indiana.

**PARCEL "B"**

**LEGAL DESCRIPTION:** Part of Lot 511 in Sunset Cove of Sedona, a Planned Unit Development to the Town of Merrillville, as shown in Plat Book 96, Page 81 in the Office of the Recorder of Lake County being more particularly described as follows: Commencing at the Northwest corner of said Lot 511; thence South 66°55'08" East, along the Northerly line of said Lot 511, a distance of 45.00 feet, to the Point of Beginning; thence continuing South 66°55'08" East, along the Northerly line of said Lot 511, a distance of 92.66 feet, to the Northeast corner of said Lot 511; thence South 23°04'52" West, along the Easterly line of said Lot 511, a distance of 85.38 feet, to the Southeast corner of said Lot 511; thence South 73°59'37" West, along the Southerly line of said Lot 511, a distance of 119.38 feet; thence North 23°04'52" East, along the centerline of a party wall and extension thereof, a distance of 160.64 feet, to the Point of Beginning, containing, 0.202 Acres, more or less, all in the Town of Merrillville, Lake County, Indiana.

See Attached Survey Exhibits

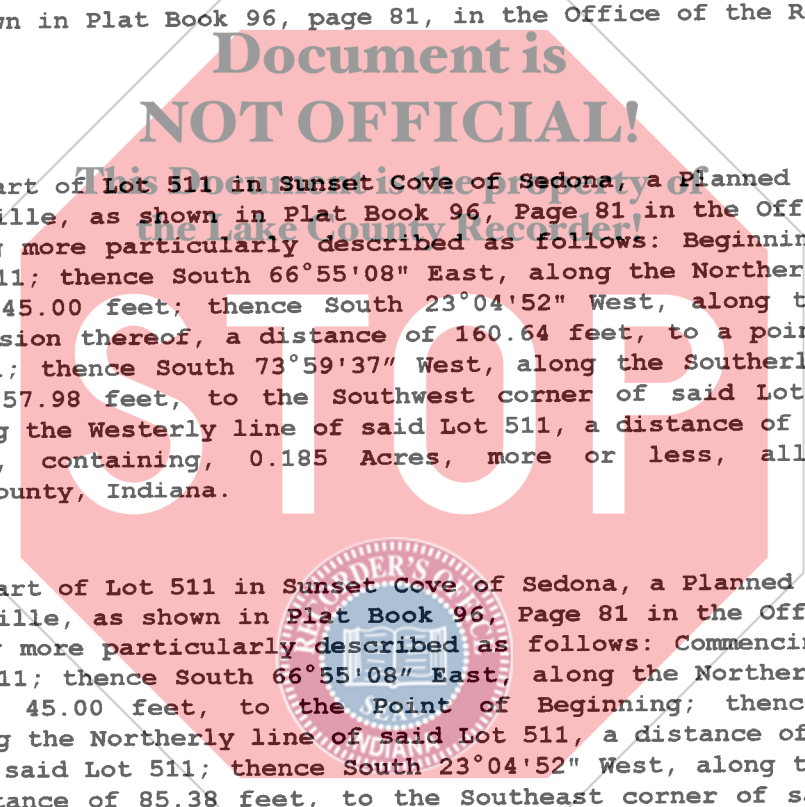
DEC 18 2007

25156 PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

TICOR INC

920077672

Handwritten initials and numbers: 12/18/07



WHEREAS, Declarant desires to establish a party wall, provide for roof reconstruction, 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 each Unit will continue as desirable residential units.

NOW THEREFORE, the undersigned hereby declares 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 each of the two Units 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:

ARTICLE ONE

DURATION

Section 1.01. 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 Nine hereof.

ARTICLE TWO

PARTY RESTRICTIONS AS TO USE

Section 2.01. The Real Estate is presently improved with a Duplex dwelling (2 units) having a common party wall, all as shown on Exhibit "A", attached hereto and made a part hereof. Such existing dwelling shall be protected, preserved and maintained by the owners in accordance with these Restrictions. Further, the use of each unit shall be solely and exclusively limited to that of single family residential use.

ARTICLE THREE

PARTY WALLS AND EASEMENTS

Section 3.01. A portion of the improvements erected on the Real Estate constitutes a common wall ("Wall") and boundaries between units.

**Section 3.02.** The Declarant desires to settle all questions relating to the ownership and use of said common wall and the Declarant does declare such wall to be a party wall as shown on Exhibit "A", and the Owners of each of the abutting units shall have the right to use it jointly. Declarant further declares as to said party wall as follows:

- A. Neither the owner of the Right Unit or the Left Unit (Right and Left shall be defined by the side of the building viewed as facing the front of the Building from the street), without the prior written consent of the other, shall extend, remodel or remove said Wall, or use the same in any manner that would impair the use and support of the same by the adjoining owner.
- B. In the event it becomes necessary or desirable to repair or rebuild the whole or any part of the wall, the expense thereof shall be borne equally by both the Right Unit and Left Unit owners (Right and Left shall be defined by the side of the unit viewed as facing the front of the Building from the street), unless the same shall be necessitated by the negligent or willful acts or omissions of one of those owners, in which event all of the expense thereof shall be borne by such owner.
- C. Any repairing 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.

**Section 3.03.** 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 the 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

Section 4.01. The owner of each Unit 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 agreed in writing upon a different scheme.

ARTICLE FIVE  
OWNER'S OBLIGATION TO REBUILD

Section 5.01. 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. Repair and/or 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.

Section 5.02. In the event the roof (including the support thereof) and/or exterior portions of a Unit are damaged or destroyed by fire or other casualty the provision of Section 5.01 shall apply. In the further event of such a casualty resulting in damage to one or more Units, which the owner (i) is not covered by insurance, (ii) is not financially able to pay and/or (iii) refuses to repair or reconstruct for any other reason whatsoever, and the owner of the Unit with such roof or exterior portion damage does not repair and/or replace the roof and/or exterior portion within said two (2) month period provided for in Section 5.01, then the adjoining owners or any of them may after given fifteen (15) day written notice to said Owner proceed to repair or reconstruct said roof and/or exterior portion and such adjoining Owner or adjoining Owners shall have an equitable lien on the Unit sustaining the damage to the extent of any such payments. This remedy is in addition to any remedies provided by law.

**ARTICLE SIX**  
**INSURANCE**

**Section 6.01.** 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 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 SEVEN**  
**ARBITRATION**

**Section 7.01.** 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 (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 EIGHT**  
**EQUITABLE RELIEF**

**Section 8.01.** 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 the commencing action to the owner allegedly responsible for such violation or threatened violation.

**ARTICLE NINE**  
**TERMINATION AND MODIFICATION**

Section 9.01. 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.

Section 9.02. 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 TEN**

**NOTICES**

Section 10.01. 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.

**ARTICLE ELEVEN**  
**RESERVATION**

Section 11.01. Declarant reserves the right to reasonably amend or modify these Declarations until Declarant has no further interest in any part of the Real Estate.

**IN WITNESS WHEREOF**, the Declarant has executed this Declaration on the 14<sup>th</sup> day of December, 2007.

**MARTK HOMES, INC.**  
an Indiana Corporation

By: \_\_\_\_\_  
Richard C. Wolf, President

