

THE BLEND LAW FIRM



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January 7, 2010

Pine Tree Estates, No. 2
Landowners Association, Inc.
c/o L & R Systems, Inc.
P.O. Box 472864
Garland, Texas 75047-2864

Re: Governing Documents
Pine Tree Estates No. 2
(Our File No. 7748-002)

Dear Lois:

Per your request on January 6, 2010, please see the enclosed copy of the documents we have for the Association.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

Deanna Garrison
Legal Assistant

DG/gd
Enclosures

39000
We hereby certify that this is a true and correct
copy of the original hereof, as filed for record.
FIRST AMERICAN TITLE CO.

DECLARATION OF DIMINUS

By *Condy Life*
PLANNED URBAN DEVELOPMENT

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WHEREAS, Pine Tree Development Corporation, hereinafter called "Declarant," is the owner of all that certain real property, including the land, all improvements and structures thereon, and all easements, rights, and appurtenances belonging thereon, located in the County of Tarrant, State of Texas, more particularly described in Exhibit "A," attached hereto and incorporated herein by reference.

WHEREAS, Declarant hereby submits said real property to a system of management to govern a planned community.

WHEREAS, said property constitutes a planned community project.

WHEREAS, it is the intention and desire of Declarant to herein establish a plan of ownership for the community project, hereinafter called "Project," said plan to consist of individual ownership of lots and the improvements thereon other areas as more particularly in Exhibit "A," attached hereto and incorporated herein by reference, and coownership of the remaining property, referred to hereinafter as the "Common Elements," and more particularly described in Exhibit "A," attached hereto and incorporated herein by reference.

WHEREAS, it is Declarant's intention to impose on said Project mutually beneficial restrictions for the benefit of all the community and the owners thereof.

NOW, THEREFORE, Declarant hereby declares that the Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into individual lots and improvements thereon, and all of which are established and agreed on for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project and every part thereof. All of the covenants, conditions, and restrictions shall run with the real property and shall be binding on all parties having or acquiring any right, title, or interest therein or any part thereof, and shall be for the benefit of each co-owner of said Project or any interest therein and shall inure to the benefit of and be binding on each successor in interest of the co-owners thereof.

ARTICLE I

DEFINITIONS

1.01. "Council of Co-Owners" shall mean all of the co-owners within the Project.

1.02. "Council" shall mean the Pine Tree Estates #2 Landowners Association, a corporation organized under the Texas Non-Profit Corporation Act for the management of the Project, the membership of which consists of all the Co-Owners within the Project.

1.03. "Co-Owner" or "Owner" shall mean any person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who or which owns a lot and improvements thereon within the project.

1.04. "Person" shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

1.05. "Articles" shall mean the Articles of Incorporation of the Council which are or shall be filed in the Office of the Secretary of State of the State of Texas.

1.06. "Board" shall mean the Board of Directors of the Council.

1.07. "Bylaws" shall mean the Bylaws of the Council and amendments thereto which are or shall be adopted by the Board.

1.08. "Project" shall mean the entire parcel or real property described in Exhibit A hereto, including the land, all improvements and structures thereon, and all easements, rights, and appurtenances thereto, which is divided or is to be divided into separate lots with improvements thereon and the remainder of the entire parcel or real property to be operated and managed as a planned community.

1.09. "Lot" shall mean the separate ownership of single units with improvements constructed thereon which has provided to it a direct access to a given common area leading to a thoroughfare.

1.10. "Common Elements" shall mean all elements of the project which are subject to undivided co-ownership, that is, the entire Project except the separately owned lots and improvements thereon.

1.11. "Declarant" shall mean Pine Tree Development Corporation, its successors and assigns.

1.12. "Declaration" shall mean the within Declaration.

1.13. "Governing Instruments" shall mean the Declaration for the Project and the Articles and Bylaws of the Council.

1.14. "Manager" shall mean the person or corporation, if any, appointed by the Board to manage the Project.

1.15. "Member" shall mean every person or entity entitled to membership in the Council or Association as provided herein.

1.16. "Rules" shall mean and refer to the Rules and Regulations for the Project adopted by the Council pursuant to Paragraph 3.05(b) of this Declaration.

1.17. "Landowners Association" shall mean and be the same as "Council" and both or either terms may be used together or interchangeably.

ARTICLE II

THE PROPERTY

2.01. All the real property described in Exhibit "A" hereto, including the land, all improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto, shall be subject to this Declaration.

2.02. Each Co-Owner shall be entitled to exclusive ownership and possession of his Lot and the improvements thereon. Any Lot may be jointly or commonly owned by more than one person.

2.03. Each Co-Owner shall be entitled to an undivided interest in the Common Elements set forth in Exhibit "A". The percentage of the undivided interest of each Co-Owner in the Common Elements shall have a permanent character and shall not be altered without the consent of all Co-Owners, expressed in an amended Declaration duly recorded. The percentage of the undivided interest in the Common Elements shall not be separated from the Lot to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Lot even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Co-Owner may use the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching on the lawful rights of the other Co-Owners.

2.04. The Common Elements shall not be the object of an action or partition or division of the Co-Ownership as long as the property remains a planned community. In any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained.

2.05. Each Co-Owner shall have a nonexclusive easement for use and enjoyment of the common elements and for ingress, egress, and support over and through the Common Elements. These easements shall be appurtenant to, and shall pass with the title to, each Lot and shall be subordinate to the exclusive easements granted elsewhere in this Declaration, as well as to any rights reserved to the Council to regulate time and manner of use, to charge reasonable admission fees, and to perform its obligations under this Declaration.

2.06. The Council may grant to third parties easements in, on, and over the Common Elements for the purpose of constructing, installing, or maintaining necessary utilities and services, and each Co-Owner, in accepting his deed to his Lot, expressly consents to such easements. No such easement can be granted, however, if it would interfere with any exclusive easement, or with any Co-Owner's use, occupancy, or enjoyment of his lot.

2.07. None of the rights and obligations of the Co-Owners created herein, or by the deeds granting the Lots, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of any Co-Owner if said encroachment occurred due to the willful conduct of said Co-Owner.

ARTICLE III

COUNCIL OF CO-OWNERS

3.01. The Council of Co-Owners, also referred to as the Landowners Association, organized as a non-profit corporation under the Texas Non-Profit Corporation Act, operating under the name Pine Tree Estates #2 Landowners Association, Inc., is charged with the duties and invested with the powers prescribed by law and set forth herein and in its Articles of Incorporation and Bylaws.

3.02. Membership in the Council or Association is automatically granted to the owner or owners of each lot in the project. On the transfer of title to any Lot, the membership of the transferor automatically ceases and each new owner becomes a member.

3.03. Voting shall be on a percentage basis. The owner of each Lot is entitled to one vote per lot owned. If a lot has more than one owner, the aggregate vote of the co-owners of the lot may not exceed one vote total for that lot.

3.04. Meetings of the members shall be called, held, and conducted in accordance with the requirements and procedures set forth in the Bylaws.

3.05. The Council shall have all the powers of a nonprofit corporation established under Texas law, subject only to the limitations contained in this Declaration and in the other Governing Instruments. The Council may perform all acts which may be necessary for, or incidental to, the performance of the obligations and duties imposed on it by this Declaration and the other Governing Instruments. The powers of the Council shall include, but are not limited to the following:

- (a) The power to establish, fix, and levy assessments against the owners in accordance with the procedures set forth in Article 4 of this Declaration and subject to the limitations therein.
- (b) The power to adopt reasonable operating rules governing the use of the Common Elements and any facilities located thereon, as well as the use of any other Council property.
- (c) The right to institute and maintain actions for damages or to restrain any actual or threatened breach of any of the provisions of the Governing Instruments or Council Rules either in its own name or on its own behalf or on behalf of any consenting Co-Owner.
- (d) The right to discipline Members for violation of any of the provisions of the Governing Instruments or Council Rules by suspension of the violator's voting rights, privileges for use of the Common Elements, or by imposition of monetary penalties, subject to the following limitations.
 - (i) The accused Member must be given an opportunity to be heard with respect to the alleged violation.
 - (ii) Any suspension of privileges or imposition of monetary penalties shall be reasonably related to the Member's violation.
- (e) The power to delegate its authority, duties, and responsibilities, through the Board of Directors, to such committees, officers, or employees as are permitted to be retained under the Governing Instruments.
- (f) The right, through its agents or employees, to enter upon any lot when necessary in connection with any maintenance, landscaping, or construction for which the Council is responsible. Such entry shall be made with as little inconvenience to the owner as is practicable, and any damage caused thereby shall be repaired by the Council at its own expense.

3.06. In addition to the duties delegated to the Council or its agents and employees elsewhere in these Governing Instruments, the Council shall be responsible for the following:

- (a) Operation and maintenance of the Common Elements and the facilities located thereon. Such duty shall include, but shall not be limited to maintenance, repair, and landscaping of the Common Elements, and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper.
- (b) Acquisition of, and payment from the maintenance fund for, the following:
 - (i) Water, sewer, garbage, electrical, telephone, gas, and other necessary utility service for the Common Elements and, to the extent not separately metered and charged, for the lots;
 - (ii) A policy or policies of hazard insurance with extended coverage endorsement for the full insurable replacement value of the Common Elements with any improvements thereon payable as provided in Article 6 herein, or such hazard insurance as the Board shall determine gives substantially equal or greater protection to the owners, and their

mortgagees as their respective interests may appear;

- (iii) The policy or policies of hazard insurance must cover all of the Common Areas and improvements thereon, including, fixtures and building service equipment that are considered part of the Common Areas as well as common personal property and supplies. The amount of insurance should cover 100% of the current replacement cost of the project facilities, coverage need not include land, foundations, excavations or other items that are usually excluded from insurance coverage. Additionally, the policy should include special endorsements such as an inflation guard endorsement, demolition cost endorsement, contingent liability from operation of building loss endorsement, and increase cost of construction endorsement.
- (iv) The named insured shall be the Pine Tree Estates #2 Landowners Association, Inc., for the use and benefit of the individual owners or their successors and assigns.
- (v) The insurance policy shall require the insurer to notify in writing the owners association or insurance trustee and each first mortgage holder named in the mortgage clause at least ten days before it cancels or substantially changes the planned communities coverage.
- (vi) The owners association must maintain a comprehensive general liability insurance policy covering all common areas, public waste and any other areas that are under its supervision. The Insurance should also cover commercial spaces that are owned by the owners association, even if they are leased to others. The policy shall provide coverage of at least one million dollars for bodily injury and property damage for any single occurrence. The liability insurance should provide coverage for bodily injury and property damage that results from the operation, maintenance or use of the projects common areas; and any legal liability that results from lawsuits related to employment contracts in which the owners association is a party. Such policies shall be reviewed annually by the board and increased at its discretion. The policy shall provide cross liability endorsement with the rights of named insureds under the policy or policies shall not be prejudice as respects his, her, or their action against another named insured. The policy must provide for at least ten days written notice to the owners association before the insurer can cancel or substantially modify the policies.
- (vii) The owners association must have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the owners association, whether or not they receive compensation for their services. The bonds should name the owners association as an obligee. The fidelity bond shall cover the maximum funds that will be in custody of the owners association or its management agent at any time while the bond is in force. The fidelity bond coverage must at least equal the sum of three months assessments on all

units in the project. The fidelity bonds must include a provision that calls for ten (10) days written notice to the owners association before the bond can be cancelled or substantially modified for any reason.

- (viii) The services of such personnel as the board shall determine necessary or proper for the operation of the Common Elements;
- (ix) Legal and accounting services necessary or proper in the operation of the Common Elements or the enforcement of this Declaration.
- (c) Preparation and distribution, on a regular basis, of financial statements to the Members in accordance with the following:
 - (i) A pro forma operating statement for each fiscal year shall be distributed not less than sixty (60) days before the beginning of the fiscal year.
 - (ii) A balance sheet, as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Lot in the project and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the numbers of the Lot and the names of the persons assessed.
 - (iii) A balance sheet as of the last day of the Council's fiscal year and an operating statement for said fiscal year shall be distributed with ninety (90) days after the close of the fiscal year.
- (d) Maintenance of the following books and records, such books and records to be kept in accordance with generally accepted accounting procedures:
 - (i) Financial records with a detailed account of the receipts and expenditures affecting the Project and its administration and specifying the maintenance and regular expenses of the common elements and any other expenses incurred by or on behalf of the Project.
 - (ii) Minutes of proceedings of Members, Board of Directors, and Committees having any authority of the Board of Directors.
 - (iii) Record of the names and addresses of all Members with voting rights.
- (e) Arrangement for an annual independent audit of all books and records of the Council.

3.07. The affairs of the Council shall be managed, and its duties and obligations performed, by an elected Board of Directors. Provisions regulating the number, term, qualifications, manner of elections, and conduct of meetings, of the members of the Board of Directors shall be set forth in the Bylaws of the Association.

3.08. The Board's powers and duties shall include, but shall not be limited to, the following:

- (a) Enforcement of the applicable provisions of this Declaration, the Articles, Bylaws, and any Rules of the Council.
- (b) Payment of taxes and assessments which are, or could become a lien on the Common Elements or a portion thereof.
- (c) Contracting for casualty, liability, and other insurance on behalf of the Council.
- (d) Contracting for goods and services for the Common Elements, facilities, and interest of the Council.
- (e) Delegation of its powers to such committees, officers, or employees of the Council as are expressly authorized by the Governing Instruments.
- (f) Preparation of budgets and financial statements for the Council as prescribed in the Governing Instruments.
- (g) Formulation of rules of operation for the Common Elements and facilities owned or controlled by the Council.
- (h) Initiation and execution of disciplinary proceedings against Members of the Council for violations of provisions of the Governing Instruments in accordance with procedures set forth in the Governing Instruments.
- (i) Entering any Lot as necessary in connection with construction, maintenance, or emergency repair for the benefit of the Common Element or the Co-Owners in the aggregate.

3.09. Notwithstanding the powers set forth in Paragraph 3.08, above, the Board shall be prohibited from taking any of the following actions except with the approval of a majority of the voting power of the Council residing in the Members:

- (a) Entering into a contract with a third person wherein the third person will furnish goods or services for a term longer than one (1) year, except for a management contract approved by the Federal Housing Administration or Veterans Administration; a contract with a public utility if the rates charges are regulated by the Public Utilities Commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate; or prepaid casualty and/or liability insurance of not more than three (3) years duration, provided that the policy provides for short-rate cancellation by the insured.
- (b) Incurring aggregate expenditures for capital improvements to the Common Elements in any fiscal year in excess of five (5) percent of the budgeted gross expenses of the Council for that fiscal year.
- (c) Selling during any fiscal year property of the Council having an aggregate fair market value in excess of five (5) percent of the budgeted gross expenses of the Council for that fiscal year.
- (d) Paying compensation to Directors or to officers of the Council for services rendered in the conduct of the Council's business provided, however, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying on the business of the Council.