

McLean Hamlet

Fairfax County, Virginia

Covenants, Conditions, and Restrictions of Section 4, McLean Hamlet Subdivision. Recorded in Deed Book 3238, page 391, land records of Fairfax County, VA

Now, therefore, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties, or any part thereof, and shall inure to the benefit of each owner thereof.

Article I, Definitions

Section 1. "Association" shall mean and refer to McLean Hamlet Community Council, Inc., its successors and assigns. Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association. Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association. Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the common area. Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association. Section 6. "Owner" shall mean and refer to the recorded owner, whether one or more persons or entities, of a fee-simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation. Section 7. "Declarant" shall mean and refer to Alger Development Corporation, Inc., a Virginia corporation, its successors and assigns shall acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Article II, Annexation of Additional Properties

Section 1. Annexation of additional property shall require the assent of two thirds of total votes cast by members at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or proxies entitled to cast sixty percent (60%) of the votes shall constitute a quorum. If the required quorum is not forthcoming in any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two thirds (2/3) of total votes of the membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Article III, Membership

Every person or entity who is a recorded owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities to hold an interest merely for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

Article IV, Voting Rights

Each membership shall be entitled to one vote. The Declarant shall be entitled to three votes for each lot it owns.

Article V, Property Rights

Section 1. Member's Easements of Enjoyment. Every member shall have a right of easement and enjoyment in the Common Area and such easement shall be appurtenant to and shall pass with a title to every assessed Lot, subject to the following provision:

- (a) The right of the Association to limit the number of guests of members;
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility to be situated in the common area;
- (c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;
- (d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period not to exceed 90 days for any infraction of its published rules and regulations;
- (e) The right of the Association to dedicate or transfer all or any part Common Area to any public agency, authorities or utilities for such purposes and subject to such conditions as may be agreed to by the members; and this may be done with the approval of two-thirds of the members of the Association, and subject to the approval of the appropriate county authority.

Section 2. Delegation of use. Any member may delegate, in accordance with the bylaws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the common area. The declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common and Parking Areas to the Association, prior to the conveyance of the first lot, free and clear of any liens, subject to only restrictions, conditions, easements, and rights of way of record or to be recorded for orderly development.

Article VI. Covenant for maintenance assessments

Section 1. Creation of the lien of assessments. The declarant, for each lot owned within the properties, hereby covenants an each owner of any lot by acceptance or a deed therefor, whether or not it shall be so expressed if any such deed or other conveyance, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as provided. The annual and special assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien on the property against which each such assessment is made.

Section 2. Purpose of assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, social safety, and welfare of the residents in the properties and in particular for the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and the homes situated upon the properties. In addition, upon failure of the said Community Corporation to maintain open space areas in said subdivision, the County of Fairfax, acting upon any appropriate authority, may effect such maintenance and its charge and costs therefor, including costs of collection of the same, shall become, pro rata, a lien against each lot in the subdivision and enforceable as any other municipal lien such liens shall, however, be inferior to the bona fide first liens.

Section 3. Special assessments for capital improvements. In addition to the annual assessments, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two thirds of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting, setting forth the purpose of the meeting.

Section 4. Uniform Rate Of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected as determined.

Section 5. Quorum for Any Action. The presence at the meeting of members or of proxies entitled to cast 60 percent of all votes of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to notice. No such subsequent meeting shall be held more than 60 days following the preceding meeting and the required meeting at such subsequent meeting shall be one half of the required quorum at the preceding meeting.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as for all lots on the first day of the month following conveyance to an owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The board of directors shall fix the amount of annual assessment against each lot at least thirty days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the board of directors. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Non-Payment of Assessments, Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within 30 days after the due date, the assessment shall bear interest at 7 percent per annum from the date of the delinquency, and the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 8. Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to any first deed of trust, taxes, or sewer liens. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any first deed of trust pursuant to a decree of foreclosure under such mortgage or any proceedings in lieu of foreclosure thereof shall extinguish the lien of such assessments to pay thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 9. Exempt property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- a) All properties dedicated to and accepted by a local public authority;
- b) The Common Areas; and
- c) All Properties owned by a charitable or nonprofit organization

Exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Article VII. Use Regulations

1. No property shall be used except for residential purposes, except for builders construction or sales office during construction or sales period and the Common Areas.
2. No for sale signs or other signs, larger than 12 inches by 12 inches, except those of the Declarant may be displayed during the construction and sales period of this project.
3. No repair work or disassemblage of automobiles will be permitted, except such repair work as is commonly performed by the typical automobile owner.
4. All trash, garbage, other waste or rubbish shall be kept in containers, and shall be kept clean. All containers must be kept at the rear side of the dwelling and not exposed to either the neighbors or common areas so as to be either noxious or offensive.
5. No animals, livestock or poultry of any kind shall be kept on any property except dogs, cats or other household pets, provided they are not kept, bred, or maintained for commercial purposes.

Article VIII. Easements

The Declarant, his successors or assigns, reserve the right to erect and maintain telephone and electric light facilities, conduits and equipment; also television and communication cables; and sewer and water easements; and to grant easements or rights off way therefor, with the right of ingress and egress for the purpose of erection or maintenance of the same, over, on, across, through or under the land herein described prior to conveyance. Any easements or rights of way must be in conformity to the building ordinance in effect in Fairfax County, Virginia. This reservation also includes the right to go on the Common Areas for necessary purposes such as grading, planting and improvement of any nature, after they have been conveyed to the Association.

Article IX. General Provisions

Section 1. Enforcement. The Association, or any owner or their successors or assigns to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended by an instrument signed by Owners of not less than seventy percent (70%) of the Lots. Any amendment must be properly recorded.

Section 4. The lands of the Association shall not be conveyed, denuded, defaced, or otherwise destroyed in any manner at any time without the approval of the county attorney or of the appropriate department of the Fairfax County Government and in concurrence with the Fairfax County Planning