

PETITION MODIFYING
WIMBLEDON ESTATES AND RACQUET CLUB, SECTION 5
RESERVATIONS, RESTRICTIONS AND COVENANTS
applicable to
WIMBLEDON ESTATES AND RACQUET CLUB, SECTION FIVE
A HARRIS COUNTY SUBDIVISION
in accordance with
TEXAS PROPERTY CODE, CHAPTER 204

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
 COUNTY OF HARRIS §

WHEREAS, WIMBLEDON VENTURE, a venture of McCrory-Hallbeck Development Company, Inc., a Texas corporation (the "Declarant") was the sole owner of that certain property known as Wimbledon Estates and Racquet Club, Section Five, a Harris County subdivision according to the map or plat thereof recorded in Volume 290, Page 48 of the Map Records of Harris County, Texas (the "Subdivision"); and

WHEREAS, Declarant by that certain instrument entitled "WIMBLEDON ESTATES AND RACQUET CLUB, SECTION 5, RESERVATIONS, RESTRICTIONS AND COVENANTS" filed of record in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File No. G607978 and Film Code No. 162-87-2517, et seq. (the "Restrictions"), imposed on all Lots in the Subdivision all those certain covenants, conditions, restrictions, and easements therein set forth; and

WHEREAS, Article I, Section 4 of the Restrictions entitled "Duration" provides the terms of the Restrictions can be amended during the thirty five (35) years after the date of the Restrictions' execution by an instrument signed by the owners of a majority of the lots within the Subdivision, which said amendment shall not become effective until the end of the first thirty five (35) year term; and

WHEREAS, Texas Property Code, Section 204.005(a) provides a property owners' association has authority to approve and circulate a petition relating to the extension, addition to and modification of existing restrictions; and

WHEREAS, the Subdivision is under the jurisdiction of Wimbledon Estates Homeowners Association, Inc. (the "Association"), a property owners' association; and

WHEREAS, this Petition has been proposed by the Association as approved by the Board of Directors of the Association, which is evidenced by the signature of the President of the Association set forth below; and

WHEREAS, Texas Property Code, Section 204.005(b) further provides a "petition to extend, add to, or modify existing restrictions approved and circulated by a property owners' association is effective if:

- (1) the petition is approved by the owners, excluding lienholders, contract purchasers, and the owners of mineral interests, of at least 75 percent of the real property in the subdivision or a smaller percentage required by the original dedicatory instrument; and
- (2) the petition is filed as a dedicatory instrument with the county clerk of the county in which the subdivision is located"; and

WHEREAS, the terms of the Restrictions do not provide a mechanism for modifying the Restrictions at this time, which such modification would be immediately effective; and

WHEREAS, the Association and the owners of lots in the Subdivision approving this Petition are of the opinion that due to the changed circumstances of the property surrounding the Subdivision this modification of the Restrictions is necessary at this time; and

WHEREAS, the Association and the owners of lots in the Subdivision approving this Petition have opted to utilize Texas Property Code, Section 204.005(b) to effect an immediate modification to the Restrictions, which modification shall be effective upon the approval of the owners of seventy five percent (75%) of the real property in the Subdivision and the filing of record of this Petition; and

WHEREAS, Texas Property Code, Section 204.008(1) provides that a modification of restrictions proposed by a property owners' association may be adopted by a written ballot that states the substance of the amendment and specifies the date by which the ballot must be received to be counted; (the "Ballot(s)"); and

WHEREAS, the Ballot(s) attached hereto as Exhibit "A" reflect the signatures of the owners of at least seventy five percent (75%) of real property in the Subdivision, which owners wish to amend the Restrictions as set forth below.

NOW, THEREFORE, at least seventy five percent (75%) of the owners of real property within the Subdivision hereby modify the Restrictions as follows:

Article III, Section 8 of the Restrictions is hereby modified to add the following provision:

Notwithstanding anything contained in the Restrictions to the contrary, the Association may construct and maintain a perimeter fence up to ten feet (10') in height on those portions of the following lots that form a part of the perimeter boundary of the Subdivision:

Lot 1, 7, 8, 10 and 11 in Block Seven; and
 Lots 4, 5, 6, and 13 in Block Eight (the "Perimeter Lots").

The right to construct a fence in excess of six feet (6') on the Perimeter Lots, as otherwise provided by Article III, Section 8 of the Restrictions, applies only to i) the Association, and ii) those portions of the Perimeter Lots that form a part of the perimeter boundary of the Subdivision.

The modification of the Restrictions set forth in this Petition shall be deemed to be a part of and shall be interpreted in accordance with the Restrictions. All provisions of the Restrictions not modified hereby are hereby ratified and confirmed in each and every particular, and shall continue in full force and effect pursuant to the terms of the Restrictions.

IN WITNESS WHEREOF, the President of the Association hereby executes this Petition evidencing i) the Association's approval of this Petition, and ii) that the Ballots attached hereto as Exhibit "A" and incorporated herein represent the approval of this modification to the Restrictions by at least seventy five percent (75%) of the owners of real property in the Subdivision to be effective upon its filing of record in the Official Public Records of Real Property of Harris County, Texas.

DATED this 27 day of December, 1996.

ATTEST:

WIMBLEDON ESTATES
HOMEOWNERS ASSOCIATION, INC.

By: Paul B. Fellencer

Paul B. Fellencer, Secretary

By: Dennis T. Stanczuk

Dennis T. Stanczuk, President

STATE OF TEXAS §

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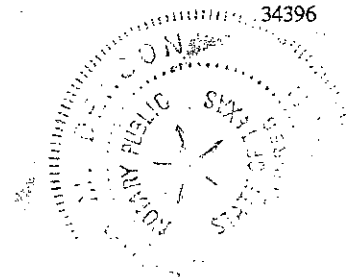
COUNTY OF HARRIS §

Before me, a notary public, on this day personally appeared Dennis T. Stanczuk, President of Wimbledon Estates Homeowners Association, Inc. known to me to be the person whose name is subscribed to the foregoing instrument and, being by me first duly sworn and declared that he/she executed same in the capacity and consideration therein expressed. Given under my hand and seal of office this the 27th day of December, 1996.

Lana M. Ellison

NOTARY PUBLIC - STATE OF TEXAS

34396



Return to:
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