

HLS/HOA - Section 1  
Map Drawings 2/2  
3rd Building Phase - 2 Homes

DELAWARE COUNTY, OHIO  
 FILED FOR RECORD OCT 1 1993  
 8:57 O'CLOCK A.M.  
 RECORDED 1076 19 93  
 VOL. 563 PAGE 265  
 Kay & Conklin  
 COUNTY RECORDER  
 FEE \$ 46.00

19684

**GENERAL WARRANTY DEED**

**KNOW ALL MEN BY THESE PRESENTS**, that M/I SCHOTTENSTEIN HOMES, INC., a Delaware corporation, with offices at 41 South High Street, Columbus, Ohio 43215 (hereinafter referred to as "Grantor"), for valuable consideration paid, grants with general warranty covenants to MERCURY AGENT COMPANY, an Ohio corporation, TRUSTEE (hereinafter referred to as "Grantee"), whose tax mailing address is 41 S. High Street, Columbus, Ohio, 43215 the following REAL PROPERTY:

41 S High St  
 Suite 2600  
 Columbus, OH 43215  
 M/I Schottenstein, Inc.

Situated in the State of Ohio, County of Delaware and Township of Genoa:

Being Lots Numbered One Thousand Five Hundred Eighty-seven (1587) and One Thousand Five Hundred Eighty-eight (1588) of Highland Lakes South Section 1, as the same are numbered and delineated on the recorded plat thereof, of record in Plat Book 23, Pages 101 and 102, Recorder's Office, Delaware County, Ohio.

APPROVED  
 FOR TRANSFER  
 FRED L. STULTS  
 Delaware County Engineer

Prior Instrument Reference: Deed Record Volume 506, Page 34 and Deed Record Volume 530, Page 841, Recorder's Office, Delaware County, Ohio.

This conveyance is made subject to all previous easements, conditions and restrictions of record.

This deed is executed and delivered by Grantor and accepted by the Grantee herein subject to and upon the following reservations, restrictions, rights, uses and provisions:

In pursuance of a general plan for the protection and benefit and the mutual advantage of all the property in said subdivision hereinabove described, and all of the persons who may now or hereafter become owners of any part of said Subdivision, and as a part of the consideration for this conveyance, the Grantor executes and delivers this deed of conveyance, and Grantee accepts the same, subject to all and each of the following restrictions, conditions, easements, charges, agreements, covenants, obligations, rights, uses and provisions, hereinafter referred to as "restrictions" which are for the mutual benefit and protection of and shall be enforceable by the Grantor and by all and any of the owners of the lots described above. The Grantee, for himself and his successors and assigns, covenants and agrees to keep and perform each of said restrictions, conditions, easements, charges, agreements, covenants, obligations, rights, uses and provisions and fully and punctually to observe, comply with, perform and carry out the same, to wit:

ARTICLE I

(A) LAND USE: All of the platted lots in Highland Lakes South shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot that would exceed two and one-half stories in height and in no event shall any building be erected to a height exceeding thirty-five (35) feet from the finish grade of the building, together with necessary accessory buildings including a garage.

(B) LOT SPLIT: No lot shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise so as to create a new lot within the Subdivision.

(C) TRADE, BUSINESS OR COMMERCIAL ACTIVITY BARRED: No trade, business or commercial activity shall be conducted upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to any of the owners of any lot in Highland Lakes South, provided, however, the construction upon or the sale of a lot or a house by any property owner shall not be considered to be

Provisions contained in any deed or other instrument for the conveyance of a dwelling which restrict the sale, rental or use of the property because of race or color are invalid under federal law and are unenforceable.

Delaware County  
 The Grantor has complied with  
 Section 319.202 of the R.C.  
 Date of Recording: 10/1/93  
 TRANSFERRED OR RECORDED AND RECEIVED  
 Jon M. Pearson, Auditor of

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a commercial activity as defined herein.

(D) PLAN APPROVAL: For the purpose of maintaining specific architectural guidelines and standards for the development of all lots within Highland Lakes South, each owner of a lot shall be required to submit to the Grantor or its successor or assign two (2) sets of complete building and site plans with specifications for the buildings and other permitted structures intended to be erected thereon, setting forth the general arrangements of the interior and exterior of the structure, including the color and texture of the building materials, the type and character of all windows, doors, exterior light fixtures, and appurtenant elements such as decorative walls, chimneys, driveways and walk-ways and detailing the location of the structure on the lot including setbacks, drive-way locations, garage openings and orientation of the structure on the lot. Houses shall be constructed with facade materials being natural materials, including but not limited to, stone, brick, cedar, stucco and wood and excluding any vinyl or aluminum siding. Each owner covenants that no excavation shall be made, no building or other structure shall be erected and no materials shall be stored upon the premises by said owner or his agents, heirs, successors or assigns until the Grantor shall have approved said plans and specifications in writing. If the Grantor fails within thirty (30) days after receipt of said plans and specifications to either approve or disapprove said plans and specifications they shall be deemed to have been approved and the requirements herein fulfilled. If the Grantor disapproves said plans and specifications, the owner may revise and resubmit said plans and specifications until approval is received. If satisfactory plans and specifications are not received and approved by Grantor within sixty (60) days following conveyance of title to said owner (or such extension of time as Grantor may, at its sole option extend) Grantor reserves and Grantee and each owner hereby acknowledge the right of Grantor, at its option, to repurchase the lot at the original purchase price thereof as evidenced by the closing statement executed at time of purchase.

Each lot owner further acknowledges that in considering plans and specifications submitted, Grantor will take into consideration plans and specifications already approved or in the process of being reviewed for approval of proposed improvements on adjacent lots and the effect of said proposed improvement on the lot with reference to its effect upon the neighboring properties and the overall development of Highland Lakes South, and acknowledges that the Grantor may require submission of samples of materials to be used in the construction of said single family residence as a condition of the approval of said plans and specifications. Grantor will attempt to prevent the construction of houses with the identical front elevation from being located on lots adjacent on either side. Each lot owner further acknowledges that the Grantor shall not be responsible or liable to said owner or to any other owner of lots in the subdivision by reasons of the exercise of its judgment in approving or disapproving plans submitted nor shall it be liable for any expenses entailed to any lot owner in the preparation, submission and, if necessary, resubmission of proposed plans and specifications.

Each lot owner further agrees that no tree removal, excavation, construction or other site work which would in any way alter the lot from its present state shall be commenced until the plans and specifications shall first have been approved in writing by Grantor in accordance herewith; provided, however, Grantor or a developer may perform any work upon the lots or do any excavation, construction, site work or tree removal for the purpose of improving the lots including, but not limited to, the construction of utility services to service the subdivision and other work deemed necessary or appropriate by a developer in completing the preparation of the subdivision for sale of single family lots.

Within the easement areas designated on the recorded plat of Highland Lakes South, no structure, planting or other material

shall be placed or permitted to remain which may damage or interfere with the installation and the direction of the flow of the drainage swales, ditches or channels or water over said easement areas. The easement area of each lot and all surface improvements thereon shall be maintained continuously by the owner of said lot, except for those improvements for which a public authority or public utility company is responsible.

(E) BUILDING LOCATION: No building shall be located on any lot nearer to the lot lines than the minimum building front, rear and side lines as shown on the recorded plat; provided, however, if the appropriate governmental authority shall grant a variance to such set backs, then the requirements hereof shall be so modified. For the purposes of this covenant, eaves and steps shall not be considered as a part of a building provided, however, that this shall not be construed to permit any portion of the building on a lot to encroach upon any other lot. No portion of any lot nearer to any street than the building setback lines shall be used for any purposes other than that of a lawn nor shall any fence or wall of any kind, for any purpose be erected, placed or suffered to remain on any lot nearer to any street now existing, or any hereafter created, than the front building lines of the building thereon, excepting ornamental railings, or fences not exceeding three (3) feet in height located on or adjacent to entrance platforms or steps. Nothing herein contained, however, shall be construed as preventing the use of such portion of the lots for walks, drives, the planting of trees or shrubbery, the growing of flowers or other ornamental plants, or for small statuary entrance ways, fountains or similar ornamentations for the purpose of beautifying said premises. No vegetable, or grains of the ordinary or field variety shall be grown on such portions of said lots, and no weed, underbrush or other unsightly growths shall be permitted to grow or remain anywhere on said lots and no unsightly object shall be allowed to be placed or suffered to remain anywhere thereon. Nothing herein contained shall be construed so as to permit a violation of any applicable law, ordinance or governmental regulations.

(F) TEMPORARY RESIDENCE: No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

(G) TEMPORARY STRUCTURE: No temporary building, trailer, garage, storage building or structure shall be placed upon any lot for storage purposes without the express written consent of Grantor.

(H) ANIMALS: No animals, birds, insects, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats and other household pets which are kept for domestic purposes only, and are not kept, bred or maintained for any commercial purpose. No kennels or enclosures for animals shall be erected or maintained on any lot.

(I) WASTE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and removed from view from the street and abutting properties.

(J) MAILBOX: Grantor shall provide each lot with a curb side mailbox with a design approved by Grantor and giving uniformity to the subdivision. Such mailbox shall have the street numbers for the lot on each side of such box. If the mailbox is damaged, destroyed or deteriorates, then each lot owner, at such lot owner's expense, shall repair or replace such mailbox with another of a like kind, design, pattern and color as the initial mailboxes provided by Grantor.

(K) CLOTHES LINE: No clothing or any other household fabrics shall be hung in the open on any lot and no outside clothes drying or airing facilities shall be permitted.

(L) VEHICLES NOT IN USE: No automobile or motor driven vehicle shall be left upon any lot for a period longer than seven (7) days in a condition wherein it is not able to be operated upon the public highway. After such period the vehicle shall be considered a nuisance and detrimental to the welfare of the above-described real estate and shall be removed therefrom.

(M) HOBBIES: Hobbies or other activities which tend to detract from the aesthetic character of Highland Lakes South and any improvements used in connection with such hobbies or activities shall not be permitted unless carried out or conducted within the building erected upon the lot and not viewable from either the street or adjoining properties. This restriction refers specifically but not exclusively to such activities as automotive, bicycle, moped, motor boat and sail boat repair.

(N) BOAT, TRAILER AND VEHICLE PARKING AND STORAGE: No truck, trailer, boat, camper, recreational vehicle or commercial vehicle shall be parked or stored on any lot unless it is in a garage or other vehicle enclosure out of view from the street and abutting properties; provided, however, that nothing herein shall prohibit the occasional nonrecurring temporary parking of such truck, trailer, boat, camper, recreational vehicle or commercial vehicle on the premises for a period not to exceed forty-eight (48) hours in any period of thirty (30) days.

(O) GARAGE: No dwelling may be constructed on any lot unless an enclosed garage for at least two (2) automobiles is also constructed thereon.

(P) SIGNS: Other than the entrance features and street signs, no signs of any kind shall be displayed to the public view on any lot, except one temporary sign of not more than six (6) square feet advertising the property for sale or rent, or signs used by the builder to advertise the property during the construction sales period as may be allowed under the zoning code.

(Q) ANTENNAS: Television, radio antennas and dish-type satellite signal receiving stations, whether roof-top or ground mounted, shall be prohibited on the exterior of any house or lot.

(R) GRADING AND DRAINAGE: No construction, grading or other improvements shall be made to any lot if such improvement would interfere with or otherwise alter the general grading and draining plan of the subdivision or any existing swales, floodways or other drainage configurations.

(S) FENCING: Except as specifically provided herein, no chain link, metal or plastic fencing shall be permitted upon any of the lots within Highland Lakes South. Further, prior to construction of fencing upon any lot in the subdivision, the lot owner shall submit the plans and specifications for fencing upon such lot and shall have received from Grantor or its successor or assign approval for construction thereof. As long as Grantor owns a lot in Highland Lakes, including lots to be developed in addition to the lots described herein, Grantor shall retain such right of approval, provided that at any time, Grantor may assign such right of approval to the Homeowners Association as hereinafter described, which right of approval shall continue. It is the intent hereof that fencing shall be of good quality, aesthetically pleasing and may be used to enhance the quality of the subdivision.

(T) DEVELOPMENT OFFICE: Notwithstanding any other provision of this instrument, Grantor or its successor or assign may perform within the subdivision development activities of any nature by showing lots in the subdivision and by maintaining a temporary



development location, whether trailer or other structure.

(U) NO BUILD ZONE: The recorded plat for Highland Lakes South provides No Build Zones on many lots. Nothing shall be permitted to occur on any of the lots which would contribute to the erosion of the land and no commercial lumbering operation shall be permitted on any of the lots. From the No Build Zone no trees shall be cut or removed except for the removal of such dead, diseased or decayed trees or vegetation which may be required for conservation or scenic purposes or for reasons of public safety. Within the No Build Zone no private encroachment shall be permitted such as, but not limited to, dumping of trash or debris, or the installation of any type of recreation or other facility or convenience. No fencing may be constructed without prior approval of Grantor as described in Paragraph (S) to this Article I and if fencing is approved within the No Build Zone only decorative split-rail fencing will be allowed. The No Build Zone is not intended to interfere or detract from the use of said Premises by the owner of the lot for all purposes, present and future, not inconsistent with this restriction, including such forest management practices envisioned by and consistent with the provisions of Ohio Revised Code §5713.22 et. seq. Further, the owner of the lot may use such area for landscaping or gardening (of the flower or vegetable variety) and for other purposes of like manner or nature. Notwithstanding the foregoing provisions, the provisions hereof shall not limit the construction of drainage structures, or necessary sanitary or storm sewer facilities by or on behalf of Grantor, the Township of Genoa or the County of Delaware as deemed necessary by such persons or governmental entities. There shall be no hunting or trapping permitted in the No Build Zone.

(V) STREET TREE: Grantor shall provide one or more trees as deemed necessary by Grantor along the street in front of each lot. Grantor has determined and the lot owners agree to uniform street trees which Grantor shall designate and each lot owner agrees to allow Grantor, or its agent, to plant. Each lot owner shall care for and, if necessary, replace such tree or trees at the lot owner's expense with a like type of tree.

(W) ACCESS EASEMENT: The recorded plat of Highland Lakes South provides for storm water drainage areas as deemed necessary by the Delaware County Engineer. Grantor hereby reserves unto the County of Delaware and the Township of Genoa their successors, agents, assigns, employees and contractors as deemed necessary by the County of Delaware or the Township of Genoa, the right and easement to go upon the area identified on said recorded plat as the No Build Zone, to construct, repair, reconstruct, operate and maintain any of the structures or property in, on or upon the No Build Zone a part of the drainage system constructed thereon.

(X) ENTRANCEWAY EASEMENT: An easement is hereby reserved in favor of Grantor over and upon the cross-hatched area identified on Exhibit "A", attached hereto as the "Easement Area" being a portion of lot 1587 of Highland Lakes South Section 1, to construct, repair, reconstruct and maintain an entranceway feature (hereinafter referred to as the "Easement"). The Easement shall run with the land and shall be binding on all future owners of the lot described herein, except as hereinafter set forth. Grantor shall construct an entranceway feature within the Easement Area and shall repair, reconstruct and maintain such entranceway feature as is reasonably deemed necessary by Grantor. At such time as a written instrument of conveyance executed by Grantor referencing this General Warranty Deed is recorded at the Recorder's Office, Delaware County, Ohio, the Easement, along with the obligation to repair, reconstruct and maintain the entranceway feature, shall be conveyed to a homeowners' association ("Association") formed by a majority of the then owners of lots of Highland Lakes South Section 1 and 2, if the Association affirms to Grantor in writing that it will accept such conveyance. If any such Association either does not exist, does not indicate its

acceptance of said conveyance, or fails to repair, reconstruct and maintain the entranceway feature as is reasonably necessary, the Easement and the obligation to repair, reconstruct and maintain the entranceway feature shall be conveyed by a written instrument executed by Grantor referencing this General Warranty Deed and recorded at the Recorder's Office, Delaware County, Ohio, to the then owner of the lot above-described. If such conveyance to the then owner of said lot does not occur, Grantor may, at its option, remove the entranceway feature, leaving intact any landscaping and Grantor shall have no further obligation or liability under this General Warranty Deed or in any way relating to the Easement or entranceway feature.

#### ARTICLE II

(A) HOMEOWNER'S ASSOCIATION: In order to provide for the maintenance and landscaping of Reserves and entrance features within the subdivision, to contribute to the enjoyment of the owners of the common areas of the subdivision and to provide for other matters of concern to the owners of lots ("Lots"), Grantor has or will organize a Homeowner's Association (the "Association"). The purpose of the Association shall be to maintain and landscape entrance areas within the subdivision; to own and to maintain aesthetically and functionally the reserve areas within the subdivision; if necessary, to establish rules and regulations pertaining to the maintenance and use of the reserves and the entrance features; and to take other action as the Association is authorized to take pursuant to its Articles of Incorporation and By-laws or this Deed. The Association membership shall be comprised of the record owners of all lot owners in Highland Lakes South, including additional lots and phases or sections in said subdivision to be added hereto at a later time. The owners of each Lot shall have one (1) vote for each Lot owned in all elections and in all matters requiring a vote as set forth herein or in the Articles of Incorporation or By-Laws of the Association. Grantor shall be a member of the Association so long as it owns one or more of said Lots. The actions of the Association shall be subject to the consent of sixty percent (60%) of the votes allotted herein, subject to the quorum provisions set forth in the Association's Articles of Incorporation or this Deed. Joint, common or other multiple ownership of any of the Lots shall not entitle the owners thereof to more than the number of votes which would be authorized if such Lot was held under one name.

(B) ASSESSMENTS: Each owner of any Lot, by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association an annual assessment for Common Expenses (as hereinafter defined) and special assessments (as hereinafter provided). For the purposes hereof, the term "Common Expenses" shall mean the expenses and costs incurred by the Association in performing the rights, duties and obligations set forth herein and in its Articles of Incorporation or By-Laws.

(1) Maximum Annual Assessment for Common Expenses:

(a) Initial Assessment: Until January 1, 1991, the maximum annual Common Expense assessment per Lot shall be One Hundred Dollars (\$100.00). There shall be no Common Expense assessment for the year 1990.

(b) Standard Increases: From and after January 1, 1992, the maximum annual assessment for Common Expenses as stated above may be increased each year by the Association not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of sixty percent (60%) of the total votes of all owners of Lots.

(c) Special Increases: From and after January 1 of the year immediately following the conveyance by the Grantor of

the first Lot to an owner, the maximum annual assessment for Common Expenses may be increased above the increase permitted by paragraph (B)(1)(b) above by a vote of sixty percent (60%) of the total votes of all owners of Lots present at a meeting duly called for this purpose.

(d) Duty of Association to Fix Amount: The Association may fix the annual assessment for Common Expenses at an amount not in excess of the maximum annual assessment rate established in paragraph (B)(1).

(2) Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, 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, reconstruction, repair or major maintenance related to the Reserves or Association property, provided that any such assessment shall have the assent of sixty percent (60%) of the total votes of all owners of Lots at a meeting duly called for this purpose.

(3) Notice of Meeting and Quorum for Any Action Authorized Under Paragraph (B)(1) and (B)(2) Above: Written notice or any member's meeting called for the purpose of taking any action authorized under paragraph (B)(1) and (B)(2) of this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast a majority of all the votes shall constitute a quorum.

(4) Date of Commencement of Annual Assessments; Due Dates: The annual assessments for Common Expenses shall commence as to Lots on January 1 next following the filing of Articles of Incorporation for the Association. The Association shall fix the amount of the annual assessment for Common Expenses against each Lot not later than December 1 of each calendar year for the following calendar year. Written notice of the annual assessment for Common Expenses shall be sent to every owner subject hereto. Unless otherwise established by the Association, annual assessments for Common Expenses shall be collected on an annual basis. The due date for special assessments shall be as established by the Association.

(5) Lien for Assessments: All sums assessed to any Lot pursuant hereto, including those owned by the Grantor, together with interest and all costs and expenses of collection, including reasonable attorney fees, shall be secured by a continuing lien on such Lot in favor of the Association.

(6) Effect of Nonpayment of Assessments; Remedies of the Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Reserves or Association property, or abandonment of the Lot.

(7) Foreclosure: The lien for sums assessed pursuant hereto may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio. In any such foreclosure, the owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorney fees. All such costs and expenses shall be secured by the lien being foreclosed. The owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date the owner's title is divested by foreclosure. The Association shall have the right and power to bid at the

foreclosure or other legal sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with the same as the owner thereof.

(8) Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage which is given to or held by a bank, savings and loan association, FNMA, GNMA, insurance company, mortgage company or other lender, or which is guaranteed or insured by the FHA or VA. The sale or transfer of any Lot pursuant to foreclosure of such a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments which thereafter become due or from the lien thereof. The Association shall, upon written request, report to any such first mortgagee of a Lot any assessments remaining unpaid for a period longer than thirty (30) days after the same shall have become due, and shall give such first mortgagee a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the Lot; provided, however, that such first mortgagee shall have furnished to the Association written notice of the existence of its mortgage, which notice shall designate the lot encumbered by a proper legal description and shall state the address to which notices pursuant to this paragraph are to be given. Any such first mortgagee holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Article.

(D) Easement Rights: Every owner of a lot shall have a right and nonexclusive easement of enjoyment in and to the Association owned property or other Association assets which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(1) The right of the Association from time to time in accordance with its By-Laws to establish, modify, amend and rescind reasonable rules and regulations regarding use of the property and assets;

(2) The right of the Association to suspend the voting rights and right to use of the property and assets by an owner for any period during which any assessment levied under this deed against such owner's Lot remains unpaid, and, for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(3) The right of the Association to otherwise deal with the property or assets as provided by its Articles of Incorporation.

Any owner may delegate, in accordance with the By-Laws, the owner's right of enjoyment to the property or assets to the members of such owner's family, tenants, or contract purchasers provided the foregoing actually reside at the owner's Lot. No damage to, or waste of, Association property or any part thereof, shall be committed by any owner or any tenant or invitee of any owner. No noxious, destructive or offensive activity shall be permitted on or in the Association property or any part thereof, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to any other owner. No owner may erect any improvement or structure of any kind on the Association property without prior written approval of the Association.

#### ARTICLE III

(A) ADDITIONAL LOTS OR SECTIONS: If desired by Grantor, additional lots in Section 1 or other sections or phases of Highland Lakes South shall be subject to restrictions similar to the covenants described in this instrument. Such Lots in





# EXHIBIT A

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