

SECOND AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR AUDUBON PLACE HOMEOWNERS ASSOCIATION  
A SUBDIVISION IN BRAZORIA COUNTY, TEXAS

WHEREAS, Declarant has previously filed that certain Declaration of Covenants, Conditions and Restrictions for Audubon Place, Section One recorded in Volume 20, Pages 195 and 196 of the Land Records of Brazoria County, Texas, as well as the following Amendments to the Declaration above described:

First Amendment to Declaration approved and September 12, 2001, at filed for record January 14, 2002 at 11:08 AM by the County Clerk, Brazoria County as document number 02 001991.

WHEREAS, at and Annual Meeting of the Audubon Place Homeowners Association on October 27, 2010, the Members of Audubon Place Homeowners Association approved the following changes to the Declaration; and

WHEREAS, this Second Amendment to the Declaration of Covenants, Conditions and Restrictions has been executed for the purpose of effecting the changes to the Declaration which were approved at the said Annual Meeting.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Article I, Section 6 is hereby amended to read in its entirety as follows:

Section 6. "Conservation Easement" shall mean and refer to an easement that the Declarant has granted to itself for purposes of preservation, maintenance and beautification. This easement is located along the back perimeter of each Perimeter Lot and is twenty-five (25) feet wide. This easement has also been granted by the Declarant to itself over the side ten (10) feet of Lots 1 and 33 of the Property. Both easements are shown on the Audubon Place, Section One plat.

2. Article V, Section 1, paragraph 2 is hereby amended to read in its entirety as follows:

The annual and special assessments, together with penalty, interest, costs, and reasonable attorneys' fees, shall be a charge on the land (including all improvements thereon), and shall be a continuing and contractual lien upon the Property against which each such assessment is made, provided that the Association shall record a memorandum of lien among the land records within six months of the date such assessment became due and payable, or within such period of time as may be required by the laws of the State of Texas. Written notice of such lien shall be sent by certified mail to the owner of any such Lot at his last known address at least ten days before such memorandum of lien shall be recorded. Each such assessment, together with penalty, interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment became due. The personal obligation for delinquent assessments shall pass to his successors in title unless expressly assumed by them.

3. Article V, Section 5, paragraph c is hereby amended to read in its entirety as follows:

c) any other material, irrigation systems, security gates and systems, lighting fixtures and the like, or counsel fees or the fees of other retained experts provided that any such assessment must have the approval of a majority vote of the members attending a meeting of the membership convened in accordance with the by-laws of the Association within sixty days of the receipt of the notice of such assessment.

4. Article V, Section 7 is hereby amended to read in its entirety as follows:

Section 7. Rate of Assessment. All Lots within the Property shall commence to bear their applicable assessments simultaneously, and improved Lots of the Declarant are not exempt from assessment. Lots owned by or transferred to a Builder or which are occupied by residents and Lots with a residential structure owned by the Declarant shall each be subject to an annual assessment as determined by the Board of Directors pursuant to the terms of this Declaration. Vacant Lots owned by the Declarant shall be assessed at the rate of one sixteenth (1/16) of the annual assessment; vacant lots owned by the Declarant shall be assessed one hundred percent (100%) of all Special Assessments for capital improvements. As used herein, the term improved Lot means a Lot on which a residential structure is located and is ready for occupancy as evidenced by the issuance of a Certificate of Occupancy by the City of Pearland, Texas.

If there is a deficit in the annual operating budget of the Association for a given calendar year, after assessment of Declarant's vacant Lots and funds are not available to the Association from prior year budget surpluses, then it is the responsibility of the Board of Directors to make up the difference through a special assessment.

5. Article V, Section 8 is hereby amended to read in its entirety as follows:

Section 8. Date of Commencement of Annual Assessment. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner or a transfer of a Lot by Declarant to a Builder. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. Initial notice of assessment by email (with a read receipt) is allowed at least sixty (60) days in advance; however, each member of the Association may request a written assessment delivered by postal service prior to being subject to late fees or interest. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified Lot have been paid.

6. Article VI, Section 1, paragraphs 2-4 is hereby amended to read in its entirety as follows:

Declarant shall initially appoint an Architectural Review Committee, consisting of not less than three (3) members, who need not be members of the Association, and who by majority vote may designate a representative to act for them. Any vacancy shall be filled by a successor appointed by the Board; until such successor(s) shall have been appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Declarant retains the exclusive right to review and approve or disapprove all plans and specifications for original construction on the Property.

It is accordingly covenanted and agreed that no building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or substantial change or alteration therein be made (including change in color) nor shall any substantial alteration in landscaping, grading or planting on any lot be made, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall be submitted to and approved in writing as to adherence to the overall plan, harmony of external design and location in relation to surrounding structures, topography, and landscape design, by the Board of Directors of the Association, or by the Architectural Review Committee. The Board may determine to provide reasonable compensation to a member of the Architectural Review Committee.

In the event the Board, or its designated Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to the Committee or the Board, approval will not be required and this Article will be deemed to have been fully complied with.

7. Article VI, Section 1, paragraph 6 is hereby amended to read in its entirety as follows:

Declarant hereby reserves and retains the right at its option to assign its rights hereinabove set forth to an Architectural Review Committee appointed by the Board of the Association. In the event Declarant elects to assign such rights of approval in whole or in part, such assignment shall be permanent and shall be evidenced by an instrument in writing and acknowledged by the proper officers of Declarant and placed of record in the Land Records of Brazoria County, Texas.

8. Article VII, Section 2 is hereby amended to read in its entirety as follows:

Section 2: Improvements. No structure shall be erected, altered, placed or permitted to remain on any Lot, other than one detached single family primary dwelling, with private swimming pool, tennis court or other recreational facilities, garden or storage sheds, barn and private garages for not more than five (5) cars. The approval for the construction or alteration of any building or structure, including fences, shall be obtained from the Architectural Review Committee pursuant to Article VI of this Declaration.

9. Article VII, Section 15 is hereby amended to read in its entirety as follows:

Section 15: Signage. Except as defined below, no sign, advertisement or billboard of any kind shall be displayed to the public view on any portion of the Property or any Lot, except one (1) sign for each building site, of not more than twenty-eight (28) inches by thirty-eight (38) inches, advertising property for sale or rent, except signs used by the Declarant or a Participating Builder to advertise the Property during the construction and sales period. In addition, one (1) sign for each Property or Lot, no more than twenty (20) inches by twenty (20) inches, may be displayed to the public view for the purpose of advertising security protection. In addition, one (1) sign for each Property or Lot, no more than twenty-eight (28) inches by thirty-eight (38) inches, may be displayed to the public view for one of the

following purposes: promoting political candidacy, advertising a yard or estate sale, or advertising a child/student/resident accomplishment or special event. In the case of the latter signage, at no time shall this type of sign be on display for more than sixty (60) days in each calendar year. The Declarant and the Association shall have the right to remove any signs, advertisements or billboards or structure which is placed on said Lot or Property in violation of this Section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

10. Article VII, Section 25, paragraph 1 is hereby amended to read in its entirety as follows:

Section 25: Walls, Fences and Hedges. The intent of this section is to minimize the obstruction of overviews within the Property while at the same time providing for the privacy of Owners and Members of the community in areas where such privacy is desired. All walls, fences, planters and hedges shall be controlled strictly for compliance with the general intent and the specific requirements of this Declaration and the architectural standards established by the Declarant or the Architectural Review Committee. Any line fence shall be of an open construction and no more than the specified height and shall not interfere with any easements such as drainage easements granted under section 13 of this Article. Any hedge planted within twenty-five (25) feet of any lot line shall not be allowed to grow to a height over twelve (12) feet. It is the responsibility of the Owner of the Lot to maintain any such hedge at or below the appropriate height of twelve (12) feet.

11. Article VII, Section 28 is hereby amended to read in its entirety as follows:

Section 28: Removal of Soil and Trees and Conservation Easement.

The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lots and then, only according to approved grading and landscaping plans. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting or removal by the Declarant or the Association, given in their sole discretion. The Declarant has expressly reserved a conservation easement across the back twenty-five (25) feet of all Perimeter Lots in the Property. No live plant removal or planting may occur within this easement area without the written approval of the Declarant or the Association, given in their sole discretion.

12. Article VII, Section 31 is hereby amended to read in its entirety as follows:

Section 31: Right of Access. Upon direction by the Board, regarding specific concerns and during reasonable hours, the Declarant, any member of the Architectural Review Committee, or member of the Board of Directors, or any other representative of any of them, shall have the right to enter upon and inspect any Lot for the purpose of ascertaining whether or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

13. Article IX, Section 1, paragraph (a) is hereby amended to read in its entirety as follows:

(a) Own, maintain and otherwise manage all Common Open Areas and all facilities, streets, improvements and landscaping thereon, and all other property acquired by the Association.

14. Article XI, Section 1, paragraph (a) is hereby amended to read in its entirety as follows:

(a) upon request, receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year;

15. General Provisions (following Article XI) Section 5 is hereby amended to read in its entirety as follows:

Section 5: Annexation. Additional property immediately adjacent may be annexed to the property described herein by an instrument executed and acknowledged by two-thirds (2/3) of the votes in the Association.

16. Article XII, Section 10 is hereby amended to read in its entirety as follows:

Section 10: Conservation Easement. A conservation easement has been granted to and reserved by the Declarant along the back twenty-five (25) feet of all Perimeter Lots in the subdivision. No member or builder is allowed to erect any structure or remove any live plantings within this easement area without the express written approval of the Declarant. The Declarant has reserved this easement area to preserve existing plants and vegetation and to establish a buffer or privacy zone for the subdivision.

IN WITNESS WHEREOF, this Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Audubon Place is effective as of the date it is recorded with the County Clerk, Brazoria County, Texas.

EXECUTED the 16 day of June, 2011.

AUDUBON PLACE HOMEOWNERS ASSOCIATION

By: [Signature]

Print Name: GREG RALPH

Title: BOARD MEMBER ~~Assistant Secretary~~

I, the undersigned authority, a Notary Public in and for the State of Texas, do hereby certify that on the 16<sup>th</sup> day of June, 2011, personally appeared Greg Ralph and who being by me duly sworn, declared that he is one of the persons who signed the foregoing instrument as a member of the Board of Directors of Audubon Place HOA, Inc. and that the statements therein are true.

[Signature]

Notary Public  
The State of Texas

My commission expires:

6/25/14

