

THIRD AMENDMENT TO THE FONN VILLAS RESTRICTIONS

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, by instrument recorded in Volume 4305, Page 266, et seq. of the Deed Records of Harris County, Texas, Kickerillo Development Company, as declarant, imposed various covenants, conditions and restrictions on the following real property:

Lots 8 through 15, inclusive, in Block Three (3); Lots 21 through 25, inclusive, in Block Four (4); Lots 1 through 29, inclusive, in Block Five (5); and Lots 1 and 2 in Block Six (6); Fonn Villas Subdivision, Section I, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 77, Page 8, of the Map Records of Harris County, Texas.

and,

WHEREAS, by instrument recorded in Volume 4468, Page 171, et seq. of the Deed Records of Harris County, Texas, Kickerillo Development Company, as declarant, imposed various covenants, conditions and restrictions on the following real property:

Lots 30 through 57, inclusive, in Block Five (5); Lots 3 through 32, inclusive, in Block Six (6); and Lots 1 through 13, inclusive, in Block Seven (7); Fonn Villas Subdivision, Section II, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 82, Page 1, of the Map Records of Harris County, Texas.

and,

WHEREAS, by instrument recorded in Volume 4683, Page 238, et seq. of the Deed Records of Harris County, Texas, Kickerillo Development Company, as declarant, imposed various covenants, conditions and restrictions on the following real property:

Lots 58 through 98, inclusive, in Block Five (5), Fonn Villas Subdivision, Section III, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 88, Page 11, of the Map Records of Harris County, Texas.

and,

WHEREAS, by instrument recorded in Volume 5055, page 336, et seq. of the Deed Records of Harris County, Texas, Fonn Villas Development Company, as declarant, imposed various covenants, conditions, and restrictions on the following real property:

Lots 23 through 71, inclusive, in Block Six (6), Fonn Villas Subdivision, Section IV, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 88, Page 15, of the Map Records of Harris County, Texas, SAVE AND EXCEPT Reserve "A" in Block Six (6).

and,

WHEREAS, by instrument recorded in Volume 5484, Page 546, et seq. of the Deed Records of Harris County, Texas, Kickerillo Development Company, as declarant, imposed various covenants, conditions, and restrictions on the following real property:

Lot 67 in Block Six (6); Lots 6 through 10, inclusive, in Block Eight (8); Lots 1 through 28, inclusive, in Block Nine (9); Lots 1 through 45, inclusive, in Block Ten (10); and Lots 1 through 40, inclusive, in Block Eleven (11); Fonn Villas Subdivision, Section V, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 106, Page 19, of the Map Records of Harris County, Texas.

and,

WHEREAS, by instrument recorded in Volume 5922, Page 128, et seq. of the Deed Records of Harris County, Texas, Kickerillo Development Company, as declarant, imposed various covenants, conditions, and restrictions on the following real property:

Lots 46 through 63, inclusive, in Block Ten (10); and Lots 41 through 56, inclusive, in Block Eleven (11); Fonn Villas Subdivision, Section VI, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 127, Page 59, of the Map Records of Harris County, Texas.

and,

WHEREAS, the covenants, conditions, and restrictions imposed on the designated lots in Fonn Villas Subdivision, Sections I through VI, as set forth above, were amended and restated, in their entireties, by that certain instrument entitled "Fonn Villas Restrictions" (the "**Fonn Villas Restrictions**") recorded in the Official Public Records of Real Property of Harris County, Texas on October 26, 1973 under Clerk's File No. E007868; and

WHEREAS, by instrument entitled "First Amendment to Fonn Villas Restrictions" and recorded in the Official Public Records of Real Property of Harris County, Texas on October 1, 1984 under Clerk's File No. J717131, the Fonn Villas Restrictions were amended; and

WHEREAS, by instrument entitled "2005 Amendment to Fonn Villas Restrictions" and recorded in the Official Public Records of Real Property of Harris County, Texas on May 5, 2005 under Clerk's File No. Y446554, the Fonn Villas Restrictions were further amended; and

WHEREAS, the Fonn Villas Restrictions, as amended, provide for amendment by an instrument signed by a majority of the owners of land situated in Fonn Villas Subdivision; and

WHEREAS, the undersigned, being not less than a majority of the owners of the lots within Fonn Villas Subdivision desire to further amend the Fonn Villas Restrictions;

NOW, THEREFORE, the undersigned, being not less than a majority of the owners of the lots within Fonn Villas Subdivision, hereby amend the Fonn Villas Restrictions as follows:

1. The definition of “**Private Community Club**” set forth in the 2005 Amendment to Fonn Villas Restrictions reads as follows:

12. “**Private Community Club**” shall mean a community club, encompassing the entire property as indicated in Reserve A in Section III and Reserve A in Section IV of the Fonn Villas Subdivision, “organized to exclusively promote the public interest of the Fonn Villas area of Harris County, Texas by owning and operating a swimming pool for its members”, as defined in the Fonn Villas Swim Club, Inc. Articles of Incorporation dated 3/21/1962.

The term “Private Community Club” is changed to “**Community Facilities**” and the term is defined as follows:

12. “**Community Facilities**” shall mean the entire property comprised of Reserve A in Section III and Reserve A in Section IV of the Fonn Villas Subdivision.

2. Paragraph (a) in the Fonn Villas Restrictions, as amended, reads as follows:

(a) Subject to the exception specified below, no Lot shall be used except for Residential Purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Single Family Detached dwelling not to exceed two stories in height. However, Lot 25 in Block 4, Section I of the FONN VILLAS SUBDIVISION may be used as a site for a realty sales office using the existing building. If the existing building is replaced, the plans for the new building must be approved by the Architectural Control Committee.

As long as the following properties are used for the purpose stated below, such properties shall be permitted as an exception to the restricted use only for Residential Purposes, but if such properties are no longer used as below stated, such properties shall thereafter be used only for Residential Purposes.

Reserve A in Section III of FONN VILLAS SUBDIVISION and Reserve A in Section IV of FONN VILLAS SUBDIVISION, shall be used only as a Private Community Club as indicated on the respective maps of said Sections III and IV; and in the event the property ceases to be used as a Private Community Club then the property is restricted to Single Family Detached dwellings with the same restrictions for Single Family Detached dwellings with Lots as shown in this document.

The disapproval of a Lot owners (i) application for an Improvement or (ii) unauthorized Improvement, by the ACC or its designated representative, may be appealed to the Board of Directors.

Paragraph (a) in the Fonn Villas Restrictions is amended to read:

(a) Subject to the exception specified below, no Lot shall be used except for Residential Purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Single Family Detached dwelling not to exceed two stories in height. However, Lot 25 in Block 4, Section I of the FONN VILLAS SUBDIVISION may be used as a site for a realty sales office using the existing building. If the existing building is replaced, the plans for the new building must be approved by the Architectural Control Committee.

As long as the Community Facilities are used for the purpose stated below, the Community Facilities shall be permitted as an exception to the restricted use only for Residential Purposes, but if the Community Facilities are no longer used as below stated, the Community Facilities shall thereafter be used only for Residential Purposes.

The Community Facilities shall be used only as a swimming pool and related recreational purposes by members who are owners of lots in Fonn Villas Subdivision and other persons who do not own a lot in Fonn Villas Subdivision but who are admitted as members by paying an annual membership fee to the Association; in the event Community Facilities cease to be used as a swimming pool and related recreational purposes, the property is restricted to Single Family Detached dwellings with the same restrictions for Single Family Detached dwellings with Lots as shown in this document.

The disapproval of a Lot owners (i) application for an Improvement or (ii) unauthorized Improvement, by the ACC or its designated representative, may be appealed to the Board of Directors.

3. Paragraph (t) in the Fonn Villas Restrictions, as amended, reads as follows:

(t) Each Lot shall be subject to an annual maintenance charge based upon the number of square feet of Lot area, for the purpose of creating a fund to be known as the Fonn Villas Maintenance Fund, to be paid by the then owner of each lot in conjunction with the charges to be paid by owners of other Lots in Fonn Villas. Such annual charge may be adjusted by the Fonn Villas Civic Association from year to year as the needs of the Subdivision may, in its judgment require, but shall in no event be increased for any calendar year by more than two (2) mills per square foot of Lot area over the maintenance charge set for the previous calendar year. An

annual balance sheet and income and expense statement of this fund will be mailed or delivered to each lot owner in FONN VILLAS SUBDIVISION. This maintenance charge shall be payable to Fonn Villas Civic Association, its successor and assigns, annually in advance of January 1, of each year and shall commence from the date of the conveyance of Lot by a seller. An unpaid maintenance charge, plus interest, late charges, collection costs and attorney's fees are secured by a lien filed of record by the FVCA. Said lien securing said maintenance charge shall be subordinate and inferior to all valid purchase and Improvement liens. All past due charges to bear interest from its due date until paid at the rate of six percent (6%) per annum or at such rate as the Fonn Villas Civic Association may set from time to time.

Fonn Villas Civic Association shall apply the total of the funds so collected, so far as they may be sufficient, toward the payment for maintenance or installation of streets, paths, parks, parkways, esplanades, vacant lots, lighting, fogging, security measures and doing any other thing necessary or desirable in the opinion of said Fonn Villas Civic Association to maintain or improve the Subdivision, or which it considers to be of general benefit to the owners or occupants of FONN VILLAS SUBDIVISION. It is agreed that the decisions of said Fonn Villas Civic Association shall be final so long as such expenditures are made in good faith.

These annual maintenance charges shall continue as aforesaid until a majority of the then Lot owners shall file an instrument with the County Clerk of Harris County agreeing to the abandonment or amendment of such charges.

The following provisions are added at the end of the existing paragraph (t) in the Fonn Villas Restrictions:

In addition to the annual maintenance charge set forth above, each Lot shall be subject to an additional annual assessment for the operation, maintenance and repair of the Community Facilities (the "**Facilities Assessment**"). The Facilities Assessment shall be due on January 1 of each year commencing in 2015. There shall be three (3) rates of Facilities Assessments, as follows:

(a) **Full Rate:** The Full Rate of the annual Facilities Assessment shall be applicable to all Lots owned by an entity or person(s) under the age of sixty-five (65) years as of the effective date of this instrument. The amount of the Full Rate of the annual Facilities Assessment in effect as of the effective date of this instrument is \$375.00. After the 2017 assessment year, the Full Rate of the annual Facilities Assessment may be increased each year by the Board of Directors of the Association by not more than eight percent (8%) of the Full Rate of the annual Facilities Assessment in effect the preceding year.

(b) Fixed Senior Rate: The Fixed Senior Rate of the annual Facilities Assessment is applicable to all Lots owned and occupied by a person who is sixty-five (65) years of age or older as of the effective date of this instrument. The amount of the Fixed Senior Rate of the annual Facilities Assessment is \$100.00. The Fixed Senior Rate of the annual Facilities Assessment shall be fixed at \$100.00 per year so long as a Lot initially subject to the Fixed Senior Rate continues to be owned and occupied by at least one (1) person who was the owner or co-owner of the Lot as of the effective date of this instrument. If title to the Lot is conveyed to another person or entity, the Lot shall then be subject to either the Full Rate of the annual Facilities Assessment or the Adjusted Senior Rate of the annual Facilities Assessment, as applicable. If title to the Lot does not change but the Lot ceases to be occupied by an owner or co-owner who was sixty-five (65) years of age or older as of the effective date of this instrument, the Lot shall then be subject to the Full Rate of the annual Facilities Assessment or the Adjusted Senior Rate of the annual Facilities Assessment, as applicable, based on who is occupying the Lot.

(c) Adjustable Senior Rate: The Adjustable Senior Rate of the annual Facilities Assessment is applicable to all Lots owned and occupied by a person who becomes sixty-five (65) years of age after the effective date of this instrument and all Lots owned and occupied by a person who is over the age of sixty-five (65) years of age and purchases the Lot after the effective date of this instrument. The amount of the Adjustable Senior Rate of the annual Facilities Assessment in effect as of the effective date of this instrument is \$250.00. After the 2017 assessment year, the Adjustable Senior Rate of the annual Facilities Assessment may be increased in the same manner as the Full Rate of the annual Facilities Assessment; provided that, the percentage increase in the Adjustable Senior Rate of the annual Facilities Assessment in any given year must be equal to the percentage increase in the Full Rate of the annual Facilities Assessment in the same year. If title to the Lot is conveyed to another person or entity, the Lot shall either then be subject to the Full Rate of the annual Facilities Assessment or continue to be subject to the Adjustable Senior Rate of the annual Facilities Assessment, as applicable. If title to the Lot does not change but the Lot ceases to be occupied by an owner or co-owner who is sixty-five (65) years of age or older, the Lot shall then be subject to the Full Rate of the annual Facilities Assessment.

As used herein, "occupied" means residing in the dwelling on the Lot. Payment of each Facilities Assessment shall be secured by a lien filed of record by FVCA and, if not received by FVCA by January 31st of the year in which the Facilities Assessment becomes due, shall bear interest from the due date at the rate of six percent (6%) per annum until paid and shall be subject to late charges, collection costs and attorney's fees in the same manner as annual

maintenance charges. Facilities Assessments shall be used exclusively for the operation, maintenance and repair of the Community Facilities; expenses for the operation of the Community Facilities may include, by way of example and not in limitation, insurance costs and contributions to a reserve account for future improvements and renovations to the Community Facilities.

4. The Fonn Villas Restrictions recorded on October 26, 1973 include the following provision relating to amendment:

...unless by duly recorded instrument signed by a majority of the owners of lands situated in FONN VILLAS SUBDIVISION, it is agreed to modify or terminate said covenants, conditions and restrictions in whole or in part.

The foregoing provision is deleted and paragraph (v) is added to the Fonn Villas Restrictions to read as follows:

(v) The Fonn Villas Restrictions may be amended at any time by an instrument in writing signed by owners representing not less than a majority of the total votes allocated to owners in the Association, setting forth in amendments and duly recorded in the Official Public Records of Real Property of Harris County, Texas. In the event there are multiple owners of a Lot, the written approval of an amendment to the Fonn Villas Restrictions may be reflected by the signature of a single co-owner, there being only one (1) vote per Lot.

Capitalized terms used herein have the same meanings as that ascribed to them in the 2005 Amendment to Fonn Villas Restrictions.

Except as amended herein, all provisions in the Fonn Villa Restrictions, as previously amended, remain in full force and effect.

CERTIFICATE

THE STATE OF TEXAS
COUNTY OF HARRIS

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BEFORE ME, the undersigned authority, on this day personally appeared James Egger, President of Fonn Villas Civic Association, Inc., known to me to be the person whose name is subscribed below, who, upon oath, did depose and state as follows:

My name is James Egger. I am the President of Fonn Villas Civic Association, Inc. (the "Association"). I am over the age of twenty-one (21) years, I have never been convicted of a crime and I am fully competent to make this affidavit. Attached hereto are consents signed by owners of lots in Fonn Villas Subdivision. I certify that the attached consents constitute the approval by not less than a majority of the owners of lots in Fonn Villas Subdivision of the Third Amendment to the Fonn Villas Restrictions. This certification is based upon the ownership records of the Association.

FONN VILLAS CIVIC ASSOCIATION, INC.

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By: [Signature]
Print Name: JAMES M. EGGER
President

Given under my hand and seal of office this 12th day of March, 2015.



[Signature]
Notary Public, State of Texas

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