

**RESTRICTIVE  
AGREEMENT**

**Tan-Tar-A Estates**

# RESTRICTIVE AGREEMENT

OF

## TAN-TAR-A ESTATES

THIS RESTRICTIVE AGREEMENT made and entered into this second day of May, 1966, by and between BURTON W. DUENKE, Trustee under Living Trust of Burton Walter Duenke, of the County of St. Louis, Missouri, Party of the First Part, hereinafter referred to as "Grantor," and BURTON W. DUENKE, VIRGINIA M. DUENKE and RAYMON K. DUENKE, as Trustees, of the County of St. Louis, Missouri, Parties of the Second Part, hereinafter referred to as "Trustees"; WITNESSETH:

WHEREAS, Grantor is the owner of a tract of land in Camden County described as follows:

That part of the South Half of the Northeast quarter of Section 7, Township 39 North, Range 16 West, described as follows: Beginning at the Southwest corner of the Southeast quarter of the Northeast quarter of said Section 7; thence East along the South line of said Southeast quarter of the Northeast quarter 331.9 feet; thence North 1 degree 22 minutes East 781.0 feet to the centerline of present 54-58 road; thence along the road North 76 degrees 30 minutes West 307.6 feet; thence North 44 degrees 30 minutes West 118.9 feet to the intersection of the Christopher-Newhart access road; thence along the Christopher-Newhart access road South 53 degrees 00 minutes West 143.9 feet to and intersecting the centerline of the original 54-58 county road; thence North 62 degrees 04 minutes West 112.8 feet; thence North 73 degrees 34 minutes West 207.0 feet; thence North 69 degrees 34 minutes West 298.9 feet; thence South 86 degrees 56 minutes West 604.9 feet to the West line of the Southwest quarter of the Northeast quarter; thence South 0 degrees 34 minutes East along the West line of the Southwest quarter of the Northeast quarter 1035.5 feet to the Southwest corner of said Southwest quarter of the Northeast quarter; thence East along the South line of the Southwest quarter of the Northeast quarter 1320.0 feet to the beginning point.

Subject to right of way for present 54-58 road and subject to right of way for connecting access road and for the original 54-58 road now known as the Christopher-Newhart road, as recited in the above description.

Also that part of the South Half of the lots 1 and 2 of the Northwest quarter described as follows: Beginning at the Southeast corner of the South half of said Lot 1; thence North 0 degrees 34 minutes West along the East line of said South Half of Lot 1, 559.8 feet to a point on line with the South line of the Christopher-Newhart property; thence South 88 degrees 44 minutes West on line with and along the Christopher-Newhart property 514.1 feet to an Iron Pin at the head of a cove of the Lake of the Ozarks thence down the center of a small cove in a Northwesterly direction 800 feet more or less to the West line of the said South Half of Lot 1 of the Northwest quarter; thence more Northwesterly 650 feet to the center of a large cove; thence South 31 degrees 15 minutes West down said cove 240 feet to the West line of the South Half of Lot 2 of the Northwest quarter of said Section 7; thence South along the West line of said Section 7, 580 feet more or less to the Southwest corner of the Northwest quarter of said Section 7; thence East along the South line of said Northwest quarter 2160 feet more or less to the beginning point.

Also the Southwest quarter of said Section 7, lying on the right bank of the original Osage River.

Also the West Half of the Southeast quarter of said Section 7, and part of the Northeast quarter of the Southeast quarter, described as follows: Beginning at the Northwest corner of said Northeast quarter of the Southeast quarter; thence East along the North line of the Northeast quarter of the Southeast quarter 331.9 feet; thence South 1 degree 06 minutes West 322.8 feet; thence South 22 degrees 20 minutes West 248.5 feet to the head of a cove of the Lake of the Ozarks; thence along the shoreline in a Southwesterly direction 420 feet more or less to and intersecting the West line of the said Northeast quarter of the Southeast quarter; thence North along the said West line 860 feet more or less to the beginning point. Intending to convey all that part of the East Half of the Southeast quarter not previously conveyed by the grantor to the grantees herein.

Subject to Union Electric Light and Power Company easements of record.

Subject to easements for existing roadways, together with any additional land hereafter to be made a part hereof and subject to the terms of this Agreement; and

WHEREAS, Grantor has caused said tract of land to be developed under the name of TAN-TAR-A ESTATES; and

WHEREAS, it is the intent of the Grantor that all of the land in Tan-Tar-A Estates shall be used for residential, social, recreational purposes and further for limited commercial use for the benefit of the surrounding area; and, that Tan-Tar-A Estates shall be and remain a first-class residential area and pursuant to said intent, Grantor desires to restrict all of said land to uses consistent with the general plan of said area; and

WHEREAS, Grantor desires to establish in the Trustees sufficient authority and also sufficient right, title and interest in said tract of land to carry out the purposes of this Restrictive Agreement;

NOW, THEREFORE, in consideration of the premises and of the agreement and consent of the Trustees to act as Trustees hereunder, Grantor, for itself and its successors and assigns, and for and on behalf of all persons who may hereafter claim or derive title to, or otherwise hold through it or its successors or assigns, any of the land in said area, or any part thereof, or any interest therein, covenants and agrees with the Trustees, and for the benefit of the owners and lessees of said lots and each of them, as follows:

1. LAND USE AND BUILDING TYPE.

Lots designated single family residential use shall be used for no other purpose. No building shall be erected, altered, placed or permitted to remain on any single family residential lot other than one detached single family dwelling not to exceed three stories in height and a private garage for not more than three cars on lots designated for single family use.

Lots designated multi-family use are restricted to residential use only.

Land at a later date may be set aside, in the sole discretion of the Grantor, for the establishment of club and recreational facilities and limited commercial use.

2. ARCHITECTURAL CONTROL.

No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Grantor as to quality

of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevations. Approval must be in writing by the Grantor. When plans, specifications, and plot plans have been approved, they must be strictly followed and adhered to in the erection of the building and structures and no building or structure may be changed or altered so as to violate any provision of this agreement.

3. DWELLING COST, QUALITY AND SIZE.

No dwelling that does not meet minimum cost, size and quality standards established by the Grantor shall be erected on any lot. The Grantor shall exercise its judgment in the matter so that homes will be fairly uniform in character.

4. BUILDING LOCATION.

No residential building shall be located outside the perimeter of the lot. No portion of a building shall encroach on the common land surrounding it or on any other lot.

5. BUILDER'S DEPOSIT.

No construction is to begin on any building until the builder has made a deposit with the Trustees to insure the removal from the site and the adjacent lots or common land of any or all debris and the repair of any damage to the improvements that may have developed during construction.

6. EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded road easement plat. Grantor has the right to create such additional easements and release any easement as in Grantor's sole judgment are necessary.

7. NUISANCES.

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Lot owners or lessees or their assigns are obligated to care for their property, including easements on and adjoining said property, and to keep it free from unsightly accumulations of weed, debris, and other waste matter. Failure to comply with this provision shall constitute a nuisance within the meaning of this agreement. The Trustees are hereby empowered to clean up the debris, cut the weeds or grass and to trim, cut back, remove, replace, maintain trees, shrubbery, and flowers on vacant or neglected lots or property. The lot owners or lessees of said property may be charged with reasonable expenses so incurred. The Trustees or officers, agents, or employees shall not be deemed guilty or liable for any such injury, abatement, removal or planting. No animals other than a reasonable number of household pets may be kept by any resident. The Trustees shall have the right and authority to establish what is a reasonable number of pets.

8. Within the perimeter of the lot, owner or lessee may landscape and develop the land as he desires, so long as it is not in conflict with the overall plan for the area. Land owners or lessees must get permission from the Grantor to remove any trees on their lots which are over 4" in diameter, 2 feet from the ground.

9. FENCES, WALLS, DOCKING FACILITIES.

No fence, wall or docking facilities shall be erected, placed or altered on any lot or common area without Grantor's approval. Approval procedure shall be as provided in the section on "Architectural Control."

10. TELEVISION AND RADIO AERIALS.

No television or radio aerial may be erected that projects more than eight feet above the ridge line of the house without written permission from the Grantor.

11. TEMPORARY STRUCTURES.

No structures of a temporary character, including but not limited to the following: trailer, basement, tent, shack, garage, barn, or other outbuildings, shall be used on any lot at any time as a residence either temporarily or permanently. No gas or fuel tanks of any kind shall be installed above ground on any residential lot.

COMMON LANDS

12. All lands lying within the above-mentioned boundaries and not used for any purpose enumerated in paragraph numbered One of this indenture are to be common lands. Common lands are to be left in their natural state and no lot owner or lessee shall encroach on them with buildings, fences, barbecue facilities or other construction or in any manner other than the driveway providing access from the main road to said property.

13. So long as this agreement shall remain in force in accordance with its terms, the common lands shall be used as a scenic area and for such other use as the Grantor in its sole discretion shall determine for the use and enjoyment of the lot owners and residents of Tan-Tar-A Estates, and adjoining area to be made subject to this agreement by Grantor.

GENERAL PROVISIONS

14. TERM.

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from date. These covenants will be automatically extended for successive periods of ten (10) years unless cancelled by an instrument duly recorded by a majority of the owners of the acreage after the original 25-year period.

15. AMENDMENTS.

These restrictions may be amended all or in part at any time in a meeting of the land owners and lessees. Amendment procedures are to be initiated by and at the discretion of the Trustees. Notices setting forth the proposed amendments shall be sent by first-class mail, postage prepaid, to all land owners and lessees to their last known address ten (10) days prior to said meeting. Notices shall also contain date, place and time of meeting. The owner of all said real property shall be entitled to cast one vote for each full one-half acre of land, exclusive of land included in lot leases. The lessee shall be entitled to cast one vote for each leased lot. Voting is to be by secret ballot unless all persons attending the meeting are agreeable to waiving this provision. Subject to the approval of Grantor, two-thirds (2/3) of the land owners and lessees present and voting at any meeting so called may amend these restrictions.

16. ASSESSMENT.

In order to pay necessary expenses of the Trustees in performing their functions hereunder, said Trustees shall from year to year determine the total amount required for special purposes and apportion that

sum among the respective lessees of lots. Lessees are required to pay such apportioned amount, but it shall not exceed the sum of Two Hundred Fifty Dollars (\$250.00) per lot per year; provided however that such maximum assessment shall be increased to reflect the increase, if any, in the cost of living based on the United States Bureau of Labor Statistics Living Standard Index as of January 1, 1966. The maximum assessment shall be increased or decreased by the same percentage as the increase or decrease in said Index, provided further, however, the said maximum assessment shall at no time be decreased to a sum less than \$250.00 per lot per year. If said Index shall no longer be published, then another index generally recognized as authoritative shall be substituted by the Trustees. In the event that two-thirds or more of the Lessees should disagree with the Trustees' selection, then the substituted index shall be selected by the presiding Judge of the Circuit Court of Camden County, Missouri upon the application of either party. Said Trustees are empowered to file notice of assessment in Recorder's Office in Camden County, Missouri. The amount of said assessment as given in said notice shall be and become from the date of such notice, a lien upon and against the property described in said notice as fully and completely as if secured by a deed of trust, and if said amount be not paid within the time stated in said notice, it shall bear interest at the rate of eight percent (8%) per annum from the date payment becomes due. Such lien shall be prior and paramount to all liens against the property, excepting only general and state taxes of the County of Camden and State of Missouri, or any municipal subdivision thereof and any prior deed of trust. Said Trustees are fully authorized and empowered to institute suit in law or equity against any assessment authorized herein, so as to compel payment of the amount in default, with interest, costs of court and an additional amount of \$50.00 as attorney's fees, in each and every case.

17. ENFORCEMENT.

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violations or to recover damages. Proceedings shall be instituted by the Trustees or lot owners.

18. SEVERABILITY.

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

THE TRUSTEES

19. ORIGINAL TRUSTEES AND THEIR SUCCESSORS.

Burton W. Duenke, Virginia M. Duenke and Raymon K. Duenke are the original Trustees. Upon the death, refusal to act, or incapacity of any of them, the surviving Trustees or Trustee shall appoint a successor or successors, who shall continue the term of the original Trustee whom he succeeds. The original Trustees, or their successors as above provided, shall remain Trustees until that time when all of the available lots in Tan-Tar-A Estates are developed and leased, including all additional land made subject to this Restrictive Agreement. Upon the happening of such event, the persons, firms or corporations owning at least twenty percent (20%) of the outstanding leasehold interest, shall call a meeting of all persons, firms, or corporations leasing or owning any lot, tract or parcel, being a part of the tract hereinbefore described, including all additional land made subject to this Restrictive Agreement, said notice to be given by U.S. Mail according to the name and address of the record owner or lessee of any such lot, tract, or parcel, as the same appears on the records of the Office of the Assessor of Camden County, Missouri, stating the time and place of said meeting, which said notice shall be deposited in the U.S. Mail at least 15 days prior to the date of said meeting. At said meeting the record owners and lessees aforesaid shall designate one of the persons present to act as Chairman and one of the persons present to act as Secretary of the meeting, and thereupon, said record owner and lessees shall proceed to elect five Trustees, two of whom shall be a record owner or nominee of a record owner of a lot, tract or parcel in the Tan-Tar-A Estates, three of whom shall be lessees of a lot in Tan-Tar-A Estates. Two of said Trustees shall be elected to serve for a period of three years, two of whom shall be elected to serve for a

period of two years and one of whom shall be elected to serve for a period of one year; and thereafter, all Trustees elected shall serve for a term of three years, and provided further that during the life of this Restrictive Agreement and any extensions thereof that this division of Trustees between the land owners and the lessees will be maintained at all times in the case of vacancies, death, disability, or any other reason. Each record owner and each lessee as aforesaid shall be entitled to cast one vote for each lot owned or leased by said person, and said vote may be cast in person or by proxy upon condition that the proxy has been duly executed by the record owner in the presence of a Notary Public and filed with the Secretary of any meeting of property owners and lessees before the balloting shall take place.

20. DUTIES AND POWERS OF TRUSTEES.

The Trustees have the power to prevent in their own name as Trustees, any infringement on the provisions of this agreement, and have the power to compel the performance of any restrictions set out in this agreement or established by law and also to employ counsel. This power, granted the Trustees, is discretionary and not mandatory.

The Trustees shall have the duty to maintain said common lands, roads, sewers, private utilities, and with the approval of the Grantor, may construct and maintain such other improvements as the Trustees shall determine, in their sole discretion, during the life of this agreement, whether title thereto be in their names or in the names of all lot owners as tenants in common, or lessees.

The Trustees, during the life of this agreement, shall use and expend so much of the assessments provided for herein as they may deem proper for the upkeep and maintenance of said Common Lands so that the same shall be and remain an attractive, well kept, scenic area, and for the payment of real estate taxes assessed against said Common Lands, and for the protection and security of the area, and for such other things as they may deem necessary to accomplish the purposes of this trust indenture.

21. MAJORITY OF TRUSTEES TO ACT: LIABILITY OF TRUSTEES.

All trusts created by this Restrictive Agreement shall vest in and inure to the benefit of and may be fully exercised by the majority of the Trustees, provided that any successor chosen or appointed to fill a vacancy as provided in this Restrictive Agreement shall from and after the date of his or her acceptance of the position of Trustee be included in determining who constitutes a majority of the Trustees. Wherever the word "Trustees" occurs in this Restrictive Agreement, it shall be held and taken to include their successors. Each of the Trustees and their successors duly elected or appointed hereby accepts the trusts upon condition only that each of said Trustees shall be responsible only for his own wrongful acts or willful default and not for those of the other or others, and upon the further condition that no Trustee hereunder shall ever be held personally for acts of commission or of omission by such Trustees respectively or collectively. Any Trustee may at any time resign as such Trustee by instrument in writing signed and acknowledged by him and filed for record in the Recorder's Office of the County of Camden. Thereupon his successor shall be elected as herein provided.

ADDITIONAL PROPERTY AND SUCCESSORS

22. ADDITIONAL PROPERTY.

This Restrictive Agreement shall be applicable to additional property which may be subjected to this Restrictive Agreement by appropriate reference to it.

23. SUCCESSORS.

This Restrictive Agreement shall be binding upon the Grantor, its successors and assigns.

(s) Burton Duenke

(s) Virginia M. Duenke

(s) Raymon K. Duenke

TRUSTEES

(s) Burton Duenke

(s) Virginia M. Duenke

(s) Raymon K. Duenke

GRANTORS

(s) Burton Duenke

Burton W. Duenke

(s) Virginia Duenke

Virginia Duenke

(s) Raymon K. Duenke

Raymon K. Duenke

Trustees under Restrictive Agreement  
of Tan-Tar-A Estates

STATE OF MISSOURI        )  
                                      ) SS  
COUNTY OF CAMDEN        )

On this 22nd day of May, 1966, before me personally appeared Burton W. Duenke, Virginia M. Duenke, and Raymon K. Duenke, to me known to be the persons described in and who executed the foregoing instrument as Grantors, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(s) Louis B. McFarland

My commission expires:  
April 8, 1970

Recorded in book 141, page 116 of the Camden County  
Missouri records.

RESTRICTIVE AGREEMENT of TAN-TAR-A ESTATES dated May 2, 1966, is amended as follows, to-wit:

“1. Paragraph No. 6 at Page 3 is hereby amended to include the additional language, to-wit:

“The term ‘easements’ shall also include that area required for the golf course, fairways, and rough areas as more particularly delineated on preliminary plat and on plat or plats to be recorded of Tan-Tar-A Estates, which are hereby incorporated herein by reference.”

“All owners, lessees and occupants of any lot in Tan-Tar-A Estates Subdivision shall extend to one person, in a group of members or guests playing golf on the golf course more particularly delineated in the preliminary plat and recorded plat or plats of Tan-Tar-A Estates, or their caddy, the courtesy of allowing such person or caddy the privilege of retrieving any and all errant golf balls which may have landed and remained on any lot in Tan-Tar-A Estates. However, care shall be exercised in the retrieving of such ball to prevent damage to any lawn, flowers, shrubbery, or other improvements on the lot.”

“Each and every other provision of said Paragraph No. 6 at Page 3 is hereby ratified and affirmed.”

“2. Paragraph No. 23 at Page 6 is hereby amended to include the additional language, to-wit:

“Whenever the words ‘lessee of lots’ or ‘owner of lots’ are used in this Restrictive Agreement, these words shall be construed to mean and include lessees, owners, successors and assigns of lots.”

“Each and every other provision of said Paragraph No. 23 at Page 6 is hereby ratified and affirmed.”

“Said Restrictive Agreement of Tan-Tar-A Estates, as hereinabove amended, is hereby ratified and affirmed in all particulars.”

Dated October 7, 1970.