

Zoning Case No. C14-2013-0031RC
Zoning Case No. C14-2013-0032RC

RESTRICTIVE COVENANT

OWNER: Dean Chen

ADDRESS: 209 Brandon Way, Austin, Texas 78733

OWNER: Glen R. Crouse

ADDRESS: 3903 Clawson Road, Austin, Texas 78704

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: 0.82 acre tract of land being a portion of Lot G Thirty-One of Banister Heights Subdivision, said 0.82 acre tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant; and,

Lot30A, Resubdivision of Lots 29 & 30, Banister Heights Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 13, Page 91, of the Plat Records of Travis County, Texas.

WHEREAS, the Owners (the "Owner", whether one or more), of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Prior to approval of a site plan on the Property, Owner shall dedicate to the City of Austin right-of-way along Clawson Road of a width as necessary to measure 35 feet from the existing centerline of Clawson Road. A building or structure may not be erected nor may improvements be made within the reserved right-of-way as determined by the Planning and Development Review Department, except as otherwise authorized by the City of Austin.

2. The Owner shall enter into and develop the Property under a Unified Development Agreement. The agreement shall be filed with the Planning and Development Review Department at the time of site planning.
3. Development of the Property may not exceed an average of 9 residential units per acre.
4. Development of the Property may not exceed 15 residential units.
5. Gated roadways and driveways are prohibited.
6. Prior to the issuance of the first Certificate of Occupancy, Owner shall construct a sidewalk along Clawson Road. If fee-in-lieu is required by the Transportation or Public Works Departments, the fee is due at the time of site planning.
7. During site development and building construction, the Owner shall protect and preserve at least 5 trees that measure 19 inches or more in diameter.
8. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
9. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
10. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
11. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2013.

OWNER:

Dean Chen

Glen R. Crouse

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS

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§

COUNTY OF TRAVIS

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This instrument was acknowledged before me on this the ____ day of _____,
2013, by Dean Chen.

Notary Public, State of Texas

THE STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

This instrument was acknowledged before me on this the ____ day of _____,
2013, by Glen R. Crouse.

Notary Public, State of Texas

PROPERTY DESCRIPTION

FIELD NOTES

0.8236 ACRE OF LAND, MORE OR LESS, BEING ALL OF THAT CERTAIN 0.83 ACRE OF LAND BEING A PORTION OF LOTG THIRTY-ONE (31) OF BANISTER HEIGHTS, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 3, PAGE 256, PLAT RECORDS, TRAVIS COUNTY, TEXAS AS CONVEYED TO GLEN R. ROUSE AS RECORDED IN VOLUME 10904, PAGE 588, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS; FOR WHICH A MORE PARTICULAR DESCRIPTION BY METES AND BOUNDS IS AS FOLLOWS:

BEGINNING at a ½" Iron Rod found on the east R.O.W. of Glawson Road at the common N.W. corner of RESUBDIVISION OF LOTSW 29 & 30, BANISTER HEIGHTS, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 13, Page 91, Plat Records, Travis County, Texas and being the S.W. corner of that certain 0.83 acre of land conveyed to Glenn R. Crouse as recorded in Volume 10904, Page 588, Real Property Records, Travis County, Texas, from which a ½" Iron Rod found on the east R.O.W. of Glawson Road bears S30°45'00"W at a distance of 93.51 feet;

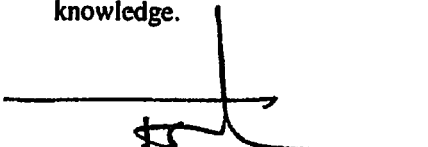
THENCE N30°45'08"E along the east R.O.W. of Glawson Road for a distance of 133.13 feet to a ½" Iron Rod found at the N.W. corner of Lot 31, BANISTER HEIGHTS, for the N.W. corner hereof;

THENCE S60°38'00"E along the north line of Lot 31 for a distance of 248.26 feet to a ½" Iron Rod found for the N.E. corner hereof;

THENCE S19°29'23"W, crossing Lot 31 for a distance of 143.08 feet to a 1/2" iron rod found on the south line of Lot 31 for the S.E. corner hereof;

THENCE N59°00'02"W along the south line of Lot 31 for a distance of 276.13 feet to the **POINT OF BEGINNING**, containing 0.8236 acre of land.

I, the undersigned do hereby certify that the field notes hereon were prepared from an actual on-the-ground survey under my direct supervision and that they are true and correct to the best of my knowledge.


Thomas P. Dixon R.P.L.S. 4324



P.O. Box 160176
Austin, Texas 78716

Exhibit A

Lot 30A
Lots 29 & 30, Bonister Heights

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After Recording, Please Return to:
City of Austin
Law Department
P. O. Box 1088
Austin, Texas 78767
Attention: J. Collins, Paralegal