

Zoning Case No. C14-2014-0117

RESTRICTIVE COVENANT

OWNER OF
TRACTS 1a:

Peyton Riley No. 2, L.P., a Texas limited partnership

ADDRESS:

315 Lavaca Street, Austin, Texas 78701

OWNERS OF
TRACT 1b:

Matthew Lynaugh and Gloria J. Lee

ADDRESS:

110 Academy Drive, 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:

Tracts 1a:

1.037 acre tract of land, more or less, being all of Block 75 and a portion of Block 76, Fairview Park Subdivision the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant; and,

Tracts 1b:

0.1654 acre tract of land, more or less, out of the Isaac Decker Survey No. 20, Abstract no. 8, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant, (cumulatively referred to as the "Property"),

WHEREAS, the Owner (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. Outdoor amplified sound is prohibited on the Property, including as a temporary use.
2. 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.
3. 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.
4. 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.
5. 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 _____, 2014.

OWNERS:

By: _____
Matthew Lynaugh

By: _____
Gloria J. Lee

PEYTON RILEY NO. 2, L.P., a Texas limited partnership

Carter-Elliott No. 2, LLC, a Texas limited liability company, its general partner

By: _____
Clark E. Lyda
Manager

By: _____
Sam Pfiester
Manager

By: _____
Austin Pfiester
Manager

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 _____, 2014, by Matthew Lynaugh.

Notary Public, State of Texas

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 _____, 2014, by Gloria J. Lee.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2014, by Clark E. Lyda, Manager of Carter-Elliott No. 2, LLC, a Texas limited liability company, general partner of Peyton Riley No. 2, LP, a Texas limited partnership, on behalf of the partnership.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2014, by Sam Pfiester, Manager of Carter-Elliott No. 2, LLC, a Texas limited liability company, general partner of Peyton Riley No. 2, LP, a Texas limited partnership, on behalf of the partnership.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2014, by Austin Pfiester, Manager of Carter-Elliott No. 2, LLC, a Texas limited liability company, general partner of Peyton Riley No. 2, LP, a Texas limited partnership, on behalf of the partnership.

Notary Public, State of Texas

**LEGAL DESCRIPTION FOR TRACT 1A
1.037 acres (1101 Music Lane)**

**CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.
1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084**

MAY 12, 2004

FIELD NOTE DESCRIPTION OF 1.037 ACRES OF LAND BEING ALL OF BLOCK 75 AND A PORTION OF BLOCK 76, FAIRVIEW PARK, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 1 PAGE 40 AND VOLUME 1 PAGE 46 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN (1.430 ACRE) TRACT OF LAND DESIGNATED AS "TRACT ONE-A" CONVEYED TO TERRACE HOLDINGS, L.P. BY DEED RECORDED IN VOLUME 13387 PAGE 1297 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/4" iron pipe found at the point of intersection of the North right-of-way line of Academy Drive and the East right-of-way line of Music Lane for the Southwest corner of Block 76, Fairview Park, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 1 Page 40 and Volume 1 Page 46 of the Plat Records of Travis County, Texas, and being the Southwest corner of that certain tract of land designated as "Tract One-A" conveyed to Terrace Holdings, L.P. by deed recorded in Volume 13387 Page 1297 of the Real Property Records of Travis County, Texas, and being the Southwest corner and **PLACE OF BEGINNING** of the herein described tract;

THENCE with the East right-of-way line of Music Lane and the West line of Blocks 76 and 75 of said Fairview Park, respectively, the following two (2) courses;

- 1) N 19 deg. 21' 38" E 211.05 ft. to an "X" found in concrete;
- 2) N 46 deg. 49' 00" E 178.28 ft. to a point for the Northwest corner of said Block 75, and being an angle point of said Terrace Holdings (1.430 Acre) tract, and being the Northwest corner of this tract;

THENCE crossing the interior of said (1.430 Acre) tract with the north line of said Block 75, S 79 deg. 00' 04" E 50.75 ft. to a concrete nail set at the common north corner of Blocks 73 and 75 of said Fairview Park, and being an angle point of said (1.430 Acre) tract and being the northwest corner of that certain (1.783 Acre) "Tract Four" conveyed to Terrace Holdings, L.P. by Volume 13387 Page 1297 of the Travis County Real Property Records, and being the northeast corner of this tract, and from which a 60 D nail found at the Southeast corner of that certain (2,184 sq. ft.) "Tract Two" conveyed to Terrace Holdings, L.P., by deed recorded in volume 13387 Page 1297 of the Real Property Records of Travis County, Texas, bears S 79 deg. 00' 04" E 264.70 ft.;

THENCE with the common line of said Block 73 and said Block 75, being a common line of said (1.430 Acre) and said (1.783 Acre) tracts, S 11 deg. 20' 08" W 212.55 ft. to a 1/2" iron rod found for the common corner of Blocks 72, 73, 75, and 76 of said Fairview Park, and being the northeast corner of that certain tract conveyed to Matthew Lynaugh and Gloria Lee by deed recorded in Volume 12188 Page 1730 of the Travis County Real Property Records, and being an angle point of said (1.430 Acre) tract and being an angle point of this tract;

THENCE with the common line of said Block 75 and Block 76, being a common line of said (1.430 Acre) tract and said Lynaugh tract, N 78 deg. 18' 00" W 30.76 ft. to a chiseled "X" found in concrete for an angle point of said (1.430 Acre) tract and being the northwest corner of said Lynaugh tract, and being an angle point of this tract;

THENCE over and across the interior of said Block 76, with common lines of said (1.430 Acre) tract and said Lynaugh tract, the following three (3) courses;

- 1) S 11 deg. 05' 26" W 46.58 ft. to a 3/4" iron pipe found;
- 2) N 78 deg. 43' 34" W 19.30 ft. to a 3/4" iron pipe found;
- 3) S 11 deg. 13' 09" W 113.01 ft. to a 1" iron pipe found in the North right-of-way of Academy Drive and the South line of said Block 76 for the southeast corner of said (1.430 Acre) tract, and being the southwest corner of said Lynaugh tract, and being the southeast corner of this tract, and from which a 1/2 inch iron rod found at the southeast corner of said Lynaugh tract and the south common corner of said Blocks 73 and 76 bears S 71 deg. 26' 08" E 50.03 ft.

THENCE with the North right-of-way line of Academy Drive, N 71 deg. 13' 22" W 135.20 ft. to the PLACE OF BEGINNING, containing 1.037 acres of land.

SURVEYED: May 12, 2004.



Holt Carson
Registered Professional Land Surveyor NO. 5166

see survey plat B 30096



LEGAL DESCRIPTION FOR TRACT 1B
0.1654 acres, 110 Academy Drive



PO Box 90876
Austin, TX 78709
512.554.3371
jward@4wards.com
www.4wards.com

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.1654 ACRE (7,206 SQUARE FEET), MORE OR LESS, SITUATED WITHIN THE ISAAC DECKER SURVEY NO. 20, ABSTRACT NO. 8, IN TRAVIS COUNTY, TEXAS, AND BEING ALL OF THE CALLED 7,206 SQUARE FOOT TRACT CONVEYED TO MATTHEW LYNAUGH AND GLORIA J. LEE IN VOLUME 12188, PAGE 1730 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS (R.P.R.T.C.T.), AND BEING A PORTION OF BLOCK 76 OF FAIRVIEW PARK, RECORDED IN VOLUME 1, PAGE 46 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS (P.R.T.C.T.), SAID 0.1654 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, GRID NORTH, CENTRAL ZONE (4203), ALL DISTANCES WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.000057035622):

COMMENCING, at a calculated point in the north right-of-way line of Academy Drive (60' Right-of-way) and being in the east right-of-way line of Music Lane (aka The Circle), (60' Right-of-way), and being the southeast corner of a called 1.037 acre tract conveyed to Lyda Family Trust & Thomas C. Calhoon, recorded in Document #201002902 of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.), from which a 1/2-inch iron pipe found bears S16°46'54"W, a distance of 0.32 feet;

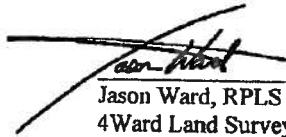
THENCE, with the north right-of-way line of said Academy Drive, and the south line of said Lyda Family Trust & Thomas C. Calhoon tract, S73°47'59"E, a distance of 135.29 feet to a 1/2-inch iron rod with "Ward-5811" cap set for the southwest corner and **POINT OF BEGINNING** hereof, said point being the southeast corner of said Lyda Family Trust & Thomas C. Calhoon tract and being the southwest corner of said Matthew Lynaugh & Gloria J. Lee tract;

THENCE, with the common line between said Matthew Lynaugh & Gloria J. Lee tract and said Lyda Family Trust & Thomas C. Calhoon tract the following four (4) courses and distances:

- 1) **N08°41'29"E**, a distance of 113.01 feet to a 1/2-inch iron pipe found for an exterior ell corner hereof,
- 2) **S81°23'37"E**, a distance of 19.31 feet to a 1/2-inch iron pipe found for an interior ell corner hereof,
- 3) **N08°33'45"E**, a distance of 46.50 feet to an "X" cut found in concrete for an exterior ell corner hereof, and
- 4) **S80°50'47"E**, a distance of 30.76 feet to a calculated point for the northeast corner hereof, said point being the northeast corner of said Matthew Lynaugh & Gloria J. Lee tract and being an exterior ell corner of said Lyda Family Trust & Thomas C. Calhoon tract and being the southwest corner of a called 2.226 acre tract conveyed to Spearhead Academy, Ltd., recorded in Document #201222395 (O.P.R.T.C.T.), and being the northwest corner of a tract conveyed to 112 Academy, LLC, recorded in Document #2006197905 (O.P.R.T.C.T.), from which a concrete nail found at a northeast corner of said Lyda Family Trust & Thomas C. Calhoon tract bears, N08°40'51"E, a distance of 212.55 feet, also from said calculate point, a 60d Nail found at the northeast corner of said 112 Academy LLC tract bears S80°50'00"E, a distance of 250.14 feet;

THENCE, with the east line of said Matthew Lynaugh and Gloria J. Lee tract and the west line of said 112 Academy LLC tract, **S08°49'05"W**, a distance of **165.83** feet to a 1/2-inch iron rod with "Ward-5811" cap set for the southeast corner hereof, said point being the southeast corner of said Matthew Lynaugh and Gloria J. Lee tract and being the southwest corner of said 112 Academy LLC tract, and being a point in the north right-of-way line of said Academy Drive;

THENCE, with the north right-of-way line of said Academy Drive and the south line of said Matthew Lynaugh and Gloria J. Lee tract, **N73°47'59"W**, a distance of **50.03** feet to the **POINT OF BEGINNING** and containing 0.1654 Acre (7,206 Square Feet) of land, more or less.


Jason Ward, RPLS #5811
4Ward Land Surveying, LLC

4/15/14



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