

Mary Ann Stukel	08/22/94
Will County Recorder	14:15
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R 94080782	Page 1 of 23

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION**

THIS DECLARATION is made this 22<sup>ND</sup> day of AUGUST, 1994 by WEST SUBURBAN BANK, an Illinois corporation as Trustee under Trust Agreement dated March 11, 1994 and known as Trust Number 10134, hereinafter called "Declarant."

**W I T N E S S E T H:**

**WHEREAS**, Declarant is the owner of the real estate located in the City of Lockport, Will County, Illinois, which property is known as the Broken Arrow, a Planned Mixed Use Development and is legally described in Exhibit "A" attached hereto and made a part hereof; and

**WHEREAS**, HOMER ASSOCIATES, an Illinois Joint Venture, hereinafter referred to as "Homer Associates" is the sole owner of the beneficial interest in the land trust described above; and

**WHEREAS**, Declarant and Homer Associates are desirous of subjecting a portion of said real estate, which portion is legally described in Exhibit "B" attached hereto and made a part hereof (the "Property"), to the Conditions, Covenants and Restrictions hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner (as hereinafter defined) therein and shall inure to the benefit of and pass with the Property, and each and every parcel thereof;

**NOW THEREFORE**, Declarant hereby declares that all of the Property described in Exhibit "B" shall be held, sold and conveyed subject to these Covenants, Conditions and Restrictions which shall run with the land and be binding upon and inure to the benefit of all persons having any right, title or interest in the Property or any part thereof, their heirs, legatees, representatives, successors and assigns, in addition to any easement, covenants or restrictions as may appear on any recorded plat of subdivision of the Property.

**ARTICLE I**

**DEFINITIONS**

1. **Association** shall mean and refer to the LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION, an Illinois not-for-profit corporation, its successors and assigns.

2. **Basement** shall mean that portion of a building located underground, and having 80% or more of its clear floor-to-ceiling height below finish grade of the adjoining grounds.

Such floor-to-ceiling height shall be no less than 6 feet 8 inches. A Basement shall consist of not less than one-half the floor area of the building exclusive of any garage area. A Basement shall have a concrete floor. The remaining area shall have a four foot crawl space with concrete flooring.

3. **Beneficiary** shall mean Homer Associates, a Joint Venture, its successors or assigns.

4. **Building** shall mean any structure having a roof, supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or chattel.

5. **Building Height** shall mean the vertical distance measured from the established curb level to the highest point of the underside of the ceiling beams in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of rafters between eaves and the ridge of a gable, hip or gambrel roof. Chimneys, spires, towers and similar ornamental architectural projections shall not be included in calculating Building Height.

6. **Common Areas** shall mean and refer to any portion of the Property which is not (a) a Dwelling Lot (as hereinafter defined), (b) dedicated to the public, or (c) dedicated to or owned by a governmental or quasi-governmental body or a public or private utility (including cable television companies). Common Areas shall also include any and all improvements thereto.

7. **Declarant** shall mean West Suburban Bank, an Illinois corporation, not individually but solely as Trustee under Trust Agreement dated March 11, 1994 and known as Trust Number 10134, and its successors and assigns, whether such succession or assignment applies to all or any part of the Property.

8. **Dwelling** shall mean a residential building or portion thereof intended and used for housing a single Family (as hereinafter defined).

9. **Dwelling Lot** shall mean a parcel of land which coincides with a lot of record located on the Property, held in fee ownership and improved with or intended to be improved with one Dwelling.

10. **Family** shall mean one or more persons each related to the other by blood, marriage or legal adoption, together with their domestic help, maintaining a common household in a Dwelling.

11. **Member** shall mean any person, individual or entity who holds membership in the Association by virtue of ownership of any Dwelling Lot.

12. **Owner** shall mean the record holder of fee simple title to any Dwelling Lot, whether such Owner be one or more persons or entities, the beneficiary(ies) of a land trust,

shareholder of a corporation, partner of a partnership, but excluding those persons or entities having an interest in a Dwelling Lot merely as security for the performance of an obligation.

13. *Property* shall mean the real property described in Exhibit B (and to which this Declaration applies) and such additions thereto or deletions therefrom which may be made as provided herein and which shall be brought within the jurisdiction of the Association.

14. *Story* shall mean that portion of a Building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A Basement shall not be considered a Story.

15. *Half Story* shall mean a space under a sloping roof which has the line of intersection of roof decking and wall not more than three feet above the top floor level; and, in which space not more than 60% of the floor area is completed for principal or accessory use.

16. *Structure* shall mean anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. A sign or other advertising device, detached or projecting, shall be considered a separate Structure.

## ARTICLE II

### GENERAL PURPOSES

The Property is subject to the Covenants, Conditions and Restrictions hereby declared to insure proper use, appropriate development and improvement of the Property and every part thereof; to protect each Owner therein from such improper use of surrounding Dwelling Lots as may depreciate the value of such Owner's property; to guard against the erection thereon of Buildings built of improper design or unsuitable materials; to encourage original designs and attractive improvements thereon with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to insure desired high standards of maintenance for the benefit and convenience of all Owners and, in general, to provide adequately for a residential subdivision of the highest quality and character and the preservation of natural resources and environment.

## ARTICLE III

### GENERAL RESTRICTIONS

1. *Land Use and Building Type.* All Dwelling Lots on the Property shall be used for single Family residential purposes only and no Building shall be erected or maintained thereon except a single Family residential home designed by a licensed architect and having an attached garage containing not less than two (2) parking spaces for the sole use of the Owner of

the Dwelling Lot. Said garage may have living quarters in connection therewith for the sole use of domestic help of the Owner but shall not be used for rental purposes. Structures may be erected in such manner and upon such location as hereinafter provided, or as approved in writing by Beneficiary. Such approval right shall be assigned to the Association upon the first to occur of: (a) one year following the sale by Declarant of all of the Dwelling Lots owned by it, including any Dwelling Lots which may be added to the Property pursuant to the provisions of this Declaration; or (b) the election by Beneficiary to assign such approval right to the Association by filing of an appropriate amendment to this Declaration.

2. **Quality and Size.** It is the intention and purpose of these Covenants, Conditions and Restrictions to assure that all Dwellings and Structures shall be of a quality of design, workmanship and materials approved by Beneficiary. All Dwellings and Structures shall be constructed in accordance with the applicable governmental building, plumbing, architectural, fire prevention, subdivision control, and all other applicable codes and ordinances and with more restrictive standards that may be required by Beneficiary, as set forth herein.

- (a) The floor area of a Dwelling, exclusive of any Basement, attached garages, open terraces and breezeways, shall be:
  - (i) for one-story Dwellings -- not less than 1,550 square feet; and
  - (ii) for Dwellings of more than one-story -- not less than 1,100 square feet on the first floor and not less than 1,700 square feet in total.
- (b) All Dwellings shall have a Basement consisting of not less than one-half the floor area. The remaining area shall have a four foot crawl space with concrete flooring.
- (c) Not less than 25% of the front elevation of a Building above finished grade shall be of brick, stone, or cement stucco construction; provided, however, that common brick may not be used except with Beneficiary's prior written approval. The remaining area of each exterior side shall be constructed of exterior cedar, exterior redwood or vinyl clad aluminum siding. The use of other materials shall be subject to the approval of Beneficiary; however, the use of aluminum siding, which is not vinyl clad, asbestos and asbestos-type siding are specifically prohibited.
- (d) The Building Height shall not exceed two and one-half Stories or 35 feet, whichever is lower.
- (e) The roofing material used on all Dwellings shall be (i) 280 pound or greater multi-ply asphalt shingle, (ii) cedar shake, (iii) clay tile, or (iv) decorative concrete roof tile. The use of other materials shall be subject to the approval of Beneficiary.

3. **Driveways.** Access drives and other paved areas for vehicular uses on a Dwelling Lot shall have a base of compacted gravel, crushed stone or other approved base material and shall have a wearing surface of asphalt or concrete and shall not be located nearer to any side or rear lot line than eight feet. Except as permitted in writing by Beneficiary, no boat, trailer, truck, house trailer, motorized recreational vehicle, commercial vehicle or snowmobile shall be stored permanently in the open on any Dwelling Lot nor parked in the open between the hours of midnight and 8:00 a.m. whether on a Dwelling Lot or a street. The term "commercial vehicles" shall include all automobiles, station wagons, trucks or vehicular equipment which bear signs referring or have printed on their side reference to any commercial undertaking.

4. **Animals.** The raising, breeding or maintaining of any livestock, poultry or animals on the Property shall be prohibited, except that no more than two dogs or cats or combinations thereof may be kept in a Dwelling.

5. **Business Use.** No business, occupation or profession shall be conducted on any Dwelling Lot or within a Dwelling or Building located on any Dwelling Lot.

6. **Nuisances.** No noxious or offensive activities shall be conducted upon any portion of the Property, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood. Without limiting the foregoing, the following activities are specifically prohibited:

(a) Permitting unsightly plants or underbrush or plants breeding infectious plant diseases or noxious insects to grow.

(b) The burning of refuse outside a Dwelling.

(c) The erection of exterior television or radio antennae, earth station dishes, poles, wire, rods or other devices in connection with the reception or transmission of any television, radio or any other electrical signal.

(d) The construction, operation or maintenance on any Dwelling Lot of an above-ground swimming pool or above-ground water facility having a capacity of more than 50 gallons.

(e) The storage of garbage outside a Dwelling.

(f) The hanging of laundry or other articles, or the erection of laundry drying equipment, including clotheslines, outside a Dwelling.

7. **Fences.** No fences shall be allowed except:

(a) To enclose an in-ground swimming pool in accordance with applicable governmental codes and ordinances.

- (b) To enclose a patio located at the rear of a Dwelling for privacy purposes.

All such fencing shall be landscaped and all such fencing and landscaping shall be subject to the requirements of Articles III(10) and IV hereof. In the event Declarant or Beneficiary shall have constructed a fence inside the lot line of any Dwelling Lot, then such fence shall be repaired, maintained and replaced as necessary as closely as possible to the original appearance thereof at the cost of the Owner of such Dwelling Lot.

8. **Temporary Structures.** No trailer, tent, garage, barn or temporary Building or Structure of any kind shall be used at any time for a residence, either permanent or temporary. Temporary Structures used during the construction of a Dwelling shall be on the same Dwelling Lot as the Dwelling, and such Structures shall be removed promptly upon the completion of construction. No tents or other temporary Structures, except as provided herein, shall be allowed to remain on a Dwelling Lot for more than 48 hours.

9. **Easement for Utilities.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of subdivision for the Property. Within these easements, no Structure, planting or other material shall be placed or permitted to remain which may cause damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each Dwelling Lot and all improvements in it shall be maintained continuously by the Owner of the Dwelling Lot except for those improvements for which a public authority or utility company is responsible.

10. **Landscaping and Drainage.** Landscaping shall not be installed in a manner which may obstruct vehicular or pedestrian traffic along public ways or present visual obstruction creating safety hazards. Landscaping along lot lines shall not interfere with the use or enjoyment by neighboring Owners of their respective Dwelling Lots. No planting, growth or Structure that would have the effect of physically or visually obstructing, defining or delineating any lot line contiguous to any other Dwelling Lot shall be permitted. Each Owner hereby agrees for himself, his successors and assigns, to landscape his Dwelling Lot within three months (excluding November, December, January and February) after receiving title thereto, unless a different time is fixed by Beneficiary. No alteration of drainage patterns or grades and no removal or addition of earth on any Dwelling Lot shall be done in any manner except in accordance with the provisions of Article IV hereof.

11. **Lighting; Flagpoles; Mailboxes.** No flood or bright lights which illuminate adjoining Dwelling Lots shall be permitted. No flagpoles shall be permitted. All mailboxes shall be constructed, maintained, replaced and repaired in accordance with the standards and specifications established by Declarant or Beneficiary.

12. **Underground Wiring.** No above-ground communication, electric or television lines or cables shall be permitted to be placed anywhere on the Property other than within

Buildings or Structures. It is intended that all such necessary and approved conduits and cables will be constructed, placed and maintained underground.

13. *Location on Dwelling Lot.* No Building or Structure shall be located on a Dwelling Lot unless approved in advance in writing by Beneficiary.

14. *No Further Subdivision.* No Dwelling Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof.

15. *Signs.* No sign of any kind shall be displayed to the public view without the prior approval of Beneficiary.

16. *Exterior Maintenance and Repair.* Each Owner, at his sole cost and expense, shall maintain and repair his Dwelling Lot and the Building and Structures located thereon, keeping the same in good condition and repair.

17. *Solar Collectors.* Solar collectors which are visible must be carefully designed to relate to the architectural design of the Building on which they are placed. Solar collectors must be aesthetically integrated into the design forms when exposed to view and must be hidden from view wherever possible. Any solar collector placed on a Building roof must be constructed at the same pitch as the roof of the Building. All solar equipment must be screened from adjacent Dwelling Lots.

#### ARTICLE IV

#### ARCHITECTURAL AND LANDSCAPE CONTROL

1. *Purpose.* Architectural and landscape controls are established by this Declaration for the purpose of insuring that the Dwellings and landscaping of the Dwelling Lots harmonize with the natural beauty of the Property and with each other. It is intended that each Dwelling be attractive and pleasing in design. No Building, fence, wall or other Structure shall be commenced, erected or maintained, nor shall any addition to or change or alteration thereto be made until the construction plans and specifications shall have been submitted to Beneficiary and approved in writing. The plans and specifications shall show the nature, kind, shape, Building Height, materials, color scheme, location on the Dwelling Lot and approximate cost of such Building or Structure. In addition to the construction plans and specifications to be submitted as stated herein, there shall also be submitted for prior written approval by Beneficiary, landscaping and grading and landscaping. Beneficiary shall have the right to refuse to approve any construction plans or specifications, and any landscaping and grading plans and specifications which in its judgment do not comply with the requirements contained in this Declaration in respect of the construction or maintenance of Dwellings and other Structures, or which in Beneficiary's sole judgment for aesthetic or any other reasons are not appropriate to the

residential community developed or to be developed within the Property. Beneficiary has the right, in determining whether to give or withhold approval of plans and specifications submitted to it, to consider the desirability of the proposed construction, landscaping or grading in relation to other Dwellings and other landscaping and grading on the Property.

2. *Procedure for Approval of Plans and Specifications.* All plans, specifications, supporting and related material for which the approval of Beneficiary is required, shall be delivered to Beneficiary together with a fee of \$150.00 which is intended to defray the cost of review. This fee may be increased from time to time by Beneficiary. Beneficiary shall approve or disapprove this submitted material as soon as practicable; however, its written approval or disapproval shall in any event be given within 30 days after its receipt by Beneficiary. If Beneficiary disapproves any submitted material, or if it requires a modification of any kind, it shall, within such 30-day period, inform the Owner by whom the material was submitted of the reasons for disapproval or requirement that changes be made. Notwithstanding said obligation to state the reason for disapproval or for the required modifications, the decision of Beneficiary shall be conclusive and binding on all parties. If Beneficiary does not approve or disapprove or require modifications within the aforesaid 30-day period, then at the expiration of such period, the materials submitted to Beneficiary shall be deemed to have been fully approved, and the Owner who has submitted the materials shall have the right to proceed as if written approval has been procured.

3. *Continuing Approval.* All architectural and landscaping alterations made following approval of original plans shall continue to be subject to the requirements of the foregoing paragraphs 1 and 2 of this Article IV.

## ARTICLE V

### USE, MAINTENANCE AND OWNERSHIP OF COMMON AREAS

The Common Areas are hereby dedicated non-exclusively to the joint and several use, in common, of Declarant and the Owners of all Dwelling Lots that may from time to time constitute a part of the Property. The Common Areas (or appropriate portions thereof) shall, upon the later of completion of the improvements thereon or the date when the last Dwelling Lot within the Property has been conveyed to an Owner (or at any earlier time or, with respect to portions of the Property, from time to time at the sole election of Beneficiary), be conveyed by quit claim deed to the Association, which shall be deemed to have automatically accepted such conveyance. Commencing with the date this Declaration is recorded, the Association shall be responsible for the maintenance, insurance and administration of the Common Areas (whether or not then conveyed or to be conveyed to the Association). Declarant and Beneficiary shall have the following rights with respect to the Common Areas:



- (a) From time to time to enter upon the Common Areas and other portions of the Property (including, without limitation, Dwelling Lots) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas.
- (b) To adopt reasonable rules and regulations for the use of the Common Areas.
- (c) To dedicate or transfer or grant easements in all or any part of the Common Areas to any public agency, authority or utility.
- (d) To erect, maintain, repair or replace billboards, signs and other promotional and advertising displays over and across the Common Areas for so long as Declarant or Beneficiary is engaged in the sale of Dwelling Lots on any portion of the Property.

## ARTICLE VI

### LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION

1. **Association and Purpose.** There has been (or will be formed) an Illinois not-for-profit corporation known as "LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION" whose purpose shall be to insure high standards of maintenance and operation of the Common Areas and to insure high standards of development of the Property and to promote the character thereof. Declarant may in its sole discretion form additional associations for other portions of Broken Arrow, a Planned Mixed Use Development, and such other associations may be called ARROWHEAD OF BROKEN ARROW HOMEOWNER'S ASSOCIATION, DAKOTA GLEN OF BROKEN ARROW HOMEOWNER'S ASSOCIATION, and so forth. Declarant and Beneficiary shall also have the right to determine the relationship, rights and obligations among all such associations with regard to common elements and such other matters as Declarant or Beneficiary may deem appropriate.

2. **Membership.** Every person or entity who is a record Owner of a fee or undivided fee interest in any Dwelling Lot shall be a member of the Association. Notwithstanding anything else to the contrary set forth in this paragraph, any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member of the Association.

3. **Voting Rights.** The Association shall have two classes of voting membership:

**Class A:** Class A Members shall be all those Owners described in paragraph 2 of this Article VI with the exception of Beneficiary (as long as the Class B membership shall exist and thereafter Beneficiary shall be a Class A Member to the extent it would otherwise qualify). Class A Members shall be entitled to one vote for each Dwelling Lot in which they hold the interest required for membership by paragraph 2 of this Article VI. When more than one person holds such interest or interests in any Dwelling Lot, all such persons shall be Members, but the single vote for such Dwelling Lot shall be exercised as they among themselves determine and in no event shall more than one vote be cast with respect to any such Dwelling Lot.

**Class B:** The Class B Member shall be Beneficiary. The Class B Member shall be entitled to one vote, plus two votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. The Class B membership shall cease and terminate one year after the last Dwelling Lot within the Property has been sold and conveyed by Declarant, its successors or assigns, or sooner at the election of Beneficiary.

4. **Beneficiary's Control of the Association.** Notwithstanding any other provision in this Declaration to the contrary, the first and all subsequent boards of directors of the Association shall consist solely of those persons designated by Beneficiary. Any such director appointed by Beneficiary may be, but need not be, a Member of the Association. Beneficiary's rights under this paragraph 4 shall continue until the first to occur of:

(a) The sale by Declarant of 80% of the Dwelling Lots owned by it, including any Dwelling Lots which may be added to the Property pursuant to the provisions of this Declaration; or

(b) December 31, 1996 except that this date may be extended by Declarant or Beneficiary for an additional period not to exceed three years by the affirmative written approval of not less than 80% of Dwelling Lot Owners including those owned by Declarant; or

(c) The election by Beneficiary to terminate its sole control by written notice of such election to the Owners, which notice may also be a call for the election of new directors of the Association.

In the event the Owners fail to elect a new board of directors at the meeting called for that purpose, then Beneficiary shall have the sole right to designate any five of the Owners as such directors of the Association, and if designations are so made by Beneficiary, the board of directors so designated shall be deemed possessed of all the rights, powers and obligations of Beneficiary hereunder.

5. **Governing Law.** In all other respects the Association, its directors, officers and Members shall be governed by the Illinois General Not For Profit Corporation Act of 1986 and

by the By-Laws of the Association, and shall be permitted to take all actions permitted thereby and in accordance therewith not inconsistent with this Declaration.

## ARTICLE VII

### ASSESSMENTS

1. *Allocation of Expenses Among Owners.* All expenses in connection with maintenance, improvement, management and operation of the Common Areas and the carrying out of the duties of the Association shall be borne in equal shares by all Owners who property is subject to this Declaration. Each such Owner agrees to become liable for and to pay all assessments herein provided for.

2. *Payment of Assessments.* Each Owner of a Dwelling Lot by acceptance of a deed therefor, and whether or not expressed in such deed, is deemed to covenant and agree to pay all assessments levied by the Association in accordance with its By-Laws. These assessments together with interest thereon as hereinafter provided and costs of collection shall be a continuing personal obligation of the person who was the Owner of each such Dwelling Lot at the time the assessment fell due.

3. *Enforcement of Assessments.* In the event of a failure of any Owner to pay any assessment on or before 30 days following notice to such Owner of such assessment or the scheduled due date thereof, if later, then such assessment shall become delinquent and shall bear interest at the lesser of (a) two percent in excess of the prime or equivalent rate of interest announced or published from time to time by The First National Bank of Chicago, or (b) the maximum legal rate of interest then in effect, from the due date thereof to the date of payment and the Association shall have a lien on each Dwelling Lot against which such assessment is levied to secure payment thereof plus interest. When an assessment becomes delinquent, payment of both principal and interest and other costs attributable to such delinquency may be enforced against the Owner personally or as a lien on such Owner's Dwelling Lot or both. The Association may, in its discretion, file certificates of non-payment of assessment in the Office of the Recorder of Deeds of Will County, Illinois whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect as an additional sum the amount required to be paid by the Association on account of the recording of such certificate of non-payment.

4. *Subordination of Liens.* The lien herein provided shall be subject and subordinate to the lien of any valid mortgage or trust deed now existing or which may hereafter be placed upon any Dwelling Lot.

**ARTICLE VIII****ADDITION OF PROPERTY  
SUBJECT TO THIS DECLARATION**

Declarant reserves the right at any time or from time to time to add other real estate either within or outside of Broken Arrow, a Planned Mixed Use Development, to the Property, and in such event, the additional property may be subject to this Declaration, as the same may be amended from time to time, and the Owners of Dwelling Lots in such additional property shall have the same rights and obligations as the original Owners.

**ARTICLE IX****DECLARANT'S AND BENEFICIARY'S  
SUCCESSORS AND ASSIGNS**

Declarant's and Beneficiary's respective successors and assigns shall have, without limitation, qualification or exception, all the rights, powers and authority of Declarant and Beneficiary, respectively.

**ARTICLE X****DEVIATIONS BY AGREEMENT WITH DECLARANT,  
BENEFICIARY, THEIR RESPECTIVE SUCCESSORS  
OR ASSIGNS OF THE ASSOCIATION**

1. *Agreement with Declarant or Beneficiary.* Declarant and Beneficiary reserve the right to enter into agreements with the proposed grantee of any Dwelling Lot(s) or any present owner of any Dwelling Lot(s) to deviate from any or all of the Covenants, Conditions and Restrictions set forth in this Declaration provided there are practical difficulties, particular hardships or other reasons which in Declarant's or Beneficiary's sole judgment justify such deviation and any such deviation (which shall be manifested by a separate writing or approval) shall not constitute a waiver of any such Covenants, Conditions and Restrictions as to the remaining Property which is subject to this Declaration. Declarant or Beneficiary's judgment as expressed by its agreement or approval shall be conclusive.

2. *Agreement with Declarant or Beneficiary's Successors or Assigns or the Association.* Successors or assigns of either Declarant or Beneficiary or the Association at such time as Beneficiary's control of the Association terminates, shall have the right to exercise the discretion described in subparagraph 1 of this Article X.