



Bobbie Holsclaw
Jefferson County Clerk's Office

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INST # 2017124713

BATCH # 78786

JEFFERSON CO, KY FEE \$37.00

PRESENTED ON: 06-01-2017 7 03:20:30 PM

LODGED BY: MULTI STATE TITLE AGENCY

RECORDED: 06-01-2017 03:20:30 PM

BOBBIE HOLSCRAW
CLERK

BY: YOLANDA LOGAN
RECORDING CLERK

BK: D 10900

PG: 729-740

Mail Returns
 Return to: LWH
 Multi-State Title Agency
 3300 Great American Tower
 301 East Fourth St.
 Cincinnati, Ohio 45202
 (513) 651-6170

USE AND ESTOPPEL AGREEMENT FOR INDIAN SPRINGS COMMUNITY

Reference is hereby made to the following:

②

Title of Document: Indian Springs, Section 1, Declaration of Covenants, Conditions, and Restrictions

Date of Document: May 26, 1993

Recording Information: Deed Book 6313, Page 250

Recorder's Office: Jefferson County, Kentucky

List Any Amendments: Indian Springs Section 1 First Amendment to Declaration of Covenants, Conditions, and Restrictions dated December 1, 1993, of record in Deed Book 6389, Page 436 in the Office aforesaid; Declaration of Annexation Indian Springs Section 1, Jefferson County, Kentucky, dated January 23, 2002, of record in Deed Book 7811, Page 889 in the Office aforesaid (the "Annexation"); Amended and Restated Declaration of Covenants, Conditions and Restrictions for Indian Springs Golf Community (All Sections) dated January 25, 2008, of record in Deed Book 9179, Page 888; Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Indian Springs Golf Community (All Sections) dated September 6, 2011, of record in Deed Book 9768, Page 841 in the Office aforesaid; Third Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Indian Springs Community (All Sections) dated May 9, 2015, of record in Deed Book 10409, Page 363 (the "Third Amendment"); and Agreement Regarding Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Indian Springs dated May 26, 2015, of record in Deed Book 10410, Page 185, in the Office aforesaid;

The foregoing documents shall collectively be hereinafter referred to as (the "Agreement"). This Use and Estoppel Agreement (the "Estoppel") for Indian Springs is hereby executed and delivered by Indian Springs Community Association, Inc., a Kentucky non-profit corporation ("ISCA"), Indian Springs Green Space, LLC, a Kentucky limited liability company ("Green Space Owner"), and MA Legends at Indian Springs LLC, a Delaware limited liability company ("Apartment Owner") as of May 31, 2017.

1. ISCA and Green Space Owner hereby certify that the Agreement is in full force and effect and to the best knowledge of the undersigned, there are no uncured defaults, events of default or breach by any party to the Agreement that currently exists. There are no other agreements in effect affecting the Apartment Property with ISCA or Green Space Owner other than the Agreement and this document, other than that certain Agreement for Use of Real Property and Indemnity and Hold Harmless which is hereby terminated and replaced by this Estoppel.

2. ISCA and Green Space Owner hereby further certify that the Agreement has not been amended or modified except as provided herein.

3. ISCA and Green Space Owner acknowledge that Apartment Owner owns that certain real property located within the Indian Springs Subdivision, as more particularly described on Exhibit A attached hereto and incorporated herein (the "Apartment Property");

4. ISCA and Green Space Owner acknowledge and agree that the Apartment Property shall not be subject to the restrictions set forth in Sections 2(a), 4, 5(b), 9, 10, 16, 18, and 41 of the Agreement, which concept was detailed originally in the Annexation.

5. ISCA and Green Space Owner further acknowledge and agree that the Annexation annexed the Apartment Property into the Indian Springs Subdivision, and rendered the Apartment Property subject to the Agreement, which concept was detailed originally in the Annexation.

6. ISCA and Green Space Owner further acknowledge and agree that no amendment to the Agreement that adds any restriction on the Apartment Property, or that affects the annual maintenance fee set forth herein, shall be permitted without the written consent of the Apartment Owner.

7. There are no assessments or fees owed under the Agreement and any lien permitted under the Agreement shall be subordinate to the lien of any mortgage now or hereafter encumbering the Apartment Property. Notwithstanding the foregoing, the owner of the Apartment Property agrees that it shall pay an annual maintenance fee (the "Assessment") in the amount of \$10,000.00, payable to the undersigned. The annual maintenance fee shall increase by two percent (2%) per year starting in 2018 ("Annual Adjustment"), provided, however, that in the event ISCA revokes the Apartment Owner's Recreational Use Right (as hereinafter defined) as to more than 10% of the Recreational Property, the Assessment shall be reduced on the same basis as such assessments are reduced for other lot owners in the Indian Springs Subdivision for the year following the year the Apartment Owner's Recreational Use Right is revoked (as assessments are annual assessment with the rate set the year before). Such reduction in assessment reflects a reduction in the maintenance obligations of ISCA resulting from the reduced size of the Recreational Property. By way of example, if ISCA reduces the assessments for all homeowners from \$550 to \$400 a year for the year following the reduction in the Recreational Property described above, Apartment Owner's Assessment would be reduced by 27% (i.e. $\$150/\$550 = 0.27$). Thereafter, the Apartment Owner's Assessment shall increase by the Annual Adjustment. Apartment Owner acknowledges that ISCA and Green Space Owner are currently making the Recreational Property available for recreation use pursuant to KRS 411.190, and no payment is being made for use of the Recreational Property.

8. Within fifteen (15) days after Apartment Owner's written request, the undersigned shall deliver to Apartment Owner an estoppel on a form reasonably acceptable to Apartment Owner stating such matters as Apartment Owner may reasonably require.

9. For the avoidance of doubt, ISCA and Green Space Owner hereby grant Apartment Owner, its successors and assigns, a perpetual, non-exclusive right to use the Recreational Property (as defined in the Agreement) for the same recreation use as is allowed to the homeowners in the Indian Springs Subdivision, including, walking, running, and fishing for so long as the Recreational Property is made available for recreational use pursuant to KRS 411.190 (collectively, the "**Recreational Use Right**"). There shall be no use of the Recreational Property which trespasses on private property, which is a nuisance or causes damage to the Recreational Property, which is expressly prohibited by posted signs, or as may be prohibited by the Agreement. In addition to the foregoing, ISCA and Green Space Owner hereby agree that in the event an easement over the Recreational Property is granted to any owner of a lot within the Indian Springs Subdivision, a similar easement shall be granted to Apartment Owner. The Apartment Owner acknowledges Section 23 of the Third Amendment, as may be amended or modified in the future, and the right of ISCA and/or Green Space Owner to change or modify the Recreational Property, or the use thereof, including the right to subdivide and/or sell all or any portion of the Recreational Property.

10. Except as to the intentional acts of ISCA and Green Space Owner, Apartment Owner hereby agrees to indemnify and hold ISCA and Green Space Owner harmless from and for any and all liability, claim, suit, proceeding, demand, loss, damage, and expense of any nature, including attorney's fees, arising from or connected with the use of the Recreational Property by the Apartment Owner's residents or any guest, contractor, employee, representative, or agents. Apartment Owner shall cause ISCA and Green Space Owner to be added as an additional insured on its general liability policy covering the use of the Recreational Property, and provide evidence of same to the ISCA and Green Space Owner.

11. ISCA agrees that it will provide Apartment Owner with notice of all meetings of ISCA and Apartment Owner shall be permitted to attend such meetings at Apartment Owner's discretion. Notwithstanding the foregoing, in no event shall Apartment Owner be permitted to cast a vote at meetings of the undersigned.

12. The rights of ISCA, Green Space Owner, and Apartment Owner pursuant to this Use and Estoppel Agreement for Indian Springs Subdivision shall run with the land and be binding upon and inure to the benefit of all present and future owners of any portion of the Indian Springs Subdivision, and their respective heirs, personal representatives, successors and assigns, including but not limited to any purchaser at a foreclosure of any mortgage encumbering all or any portion of the Indian Springs Subdivision, or any grantee of any deed given in lieu of foreclosure.

13. The undersigned acknowledges that Apartment Owner and its lender, KeyBank National Association, and each of their successors and assigns, is relying on the statements contained herein in connection with the ownership and financing of the Apartment Property.

14. Each of the parties hereto hereby covenants, warrants and represents that: (a) the individual executing this document is duly authorized to execute and deliver this document and grant the interests in the estates demised hereunder in accordance with the organizational

documents of such party; and (b) all necessary consents for this document to be binding upon such party have been obtained.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Use and Estoppel Agreement to be duly executed the day and year first above written.

ISCA:

INDIAN SPRINGS COMMUNITY ASSOCIATION, INC.,
a Kentucky non-profit corporation

By: [Signature]
Brent Nash, President

ACKNOWLEDGEMENT

STATE OF KENTUCKY)
): ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 24th day of May, 2017 by Brent Nash, the President of Indian Springs Community Association, Inc., a Kentucky non-profit corporation, on behalf of the corporation.

[Signature]
Notary Public
My Commission Expires: 8/31/2019

JODI L. REILLY
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY
ID. # 541174
MY COMMISSION EXPIRES AUG. 31, 2019

GREEN SPACE OWNER:

INDIAN SPRINGS GREEN SPACE, LLC,
a Kentucky limited liability company

By: Indian Springs Community Association, Inc., a
Kentucky non-profit corporation, its Member

Brent Nash
Brent Nash, President

ACKNOWLEDGEMENT

STATE OF KENTUCKY)
): ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 24th day of May, 2017
by Brent Nash, the President of Indian Springs Community Association, Inc., as Member of Indian
Springs Green Space, LLC, a Kentucky limited liability company, on behalf of the company.

Jodi L. Reilly
Notary Public
My Commission Expires: 8/31/2019

JODI L. REILLY
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY
ID. # 541174
MY COMMISSION EXPIRES AUG. 31, 2019

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Los Angeles)

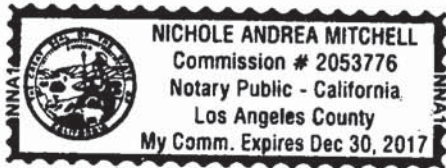
On May 23, 2017 before me, Nichole Andrea Mitchell, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared K. Conly Chi
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Nichole Mitchell
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Use and Estoppel Agreement for Indian Springs

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- Corporate Officer - Title(s)
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:

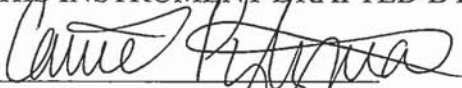
Signer Is Representing:

Signer's Name:

- Corporate Officer - Title(s)
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:

Signer Is Representing:

THIS INSTRUMENT DRAFTED BY:

A handwritten signature in cursive script, appearing to read "Carolyn A. Pytynia".

Carolyn A. Pytynia
Frost Brown Todd LLC
400 West Market Street, Suite 3200
Louisville, Kentucky 40202

EXHIBIT A

Legal Description of Apartment Property

Located in Jefferson County, Kentucky:

Being all of Tract #1 as shown on approved Minor Subdivision Plat bearing Docket # 167-01 attached to and made a part of instrument recorded in Deed Book 7718, page 435 in the office of the Clerk of Jefferson County, Kentucky.

Being the same property conveyed to the mortgagor herein, by deed dated as of MAY 31, 2017 filed for record _____ of record in Deed Book 10900, page 721 in the office of the Clerk of Jefferson County, Kentucky.

EXHIBIT B

Recreational Property

- 1) Lots 407 and 408 of the Indian Springs Golf Community, plat of which is of record in Plat and Subdivision Book 39, Pages 93-96, in the Office of the Clerk of Jefferson County, Kentucky, as amended by plats of record in Deed Book 6395, Page 305, Deed Book 6395, Page 311, Deed Book 6395, Page 317, Deed Book 6446, Page 10, Deed Book 6569, Page 661, Deed Book 6612, Page 43, Deed Book 6687, Page 193, and Deed Book 7114, Page 104, all in the Office of the Clerk aforesaid.
- 2) Being Lot 1 as shown on Minor Subdivision Plat attached to Deed of record in Deed Book 10441, Page 406 in the Office of the Clerk of Jefferson County, Kentucky.
- 3) Revised Residual Lot 406-B as shown on Minor Subdivision Plat attached to Deed of record in Deed Book 10441, Page 406 in the Office of the Clerk of Jefferson County, Kentucky.

LESS AND EXCEPT that property described as Tract 3 on that Minor Subdivision Plat approved by the Louisville Metro Planning Commission on March 6, 2015 in Docket Number 14MINORPLAT1142, and attached to that Deed recorded in Deed Book 10410, Page 153, Jefferson County, Kentucky Clerk's Records.. Said Tract 3 was conveyed in Deed recorded in Deed Book 10410, Page 173, Jefferson County, Kentucky Clerk's Records.