

IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSOURI
CIRCUIT JUDGE DIVISION

MICHAEL BRADSHER,)
JOSEPH A. CREASON,)
PATRICK D. DONOVAN,)
DEAN REAKA,)
JOHNNY L. TRACY, and)

PLAINTIFFS;)

vs.)

Case No.

WILLIAM M. BARNES and)
SUSAN G. BARNES, Lot 23,)
ROBERT A. ATCHLEY and)
JAMIE ATCHLEY, Lot 24,)
JOHN E. ROSER and)
GLORIA ROSER, Lot 25,)
JOHNNY L. TRACY and)
MARY LYNN TRACY, Lots 26 and 27,)
ROBERT J. MAY, Lot 28,)
JOSEPH R. VEILE and)
KATHLEEN R. VEILE, Lot 29,)
ROBERT J. TALIR and)
NANCY J. TALIR, Lot 30,)
PATRICK D. DONOVAN and)
SHIRLEY M. DONOVAN, Lots 31 and 32,)
DAVID C. CRADER and)
DARLENE F. CRADER, Lot 33,)
WILLIAM M. BECKER, TRUSTEE OF THE)
WILLIAM M. BECKER TRUST and)
GLORIA J. BECKER, TRUSTEE OF THE)
GLORIA J. BECKER TRUST, Lot 34, and)
JOSEPH A. CREASON and)
BRENDA R. CREASON, Lot 35,)

DEFENDANTS.)

PETITION FOR DECLARATORY JUDGMENT

COME NOW Plaintiffs, the Troy Airpark Board of Trustees, and for their Petition for a Declaratory Judgment, state as follows:

1. The current Troy Airpark Board of Trustees are MICHAEL BRADSHER, JOSEPH A. CREASON, PATRICK D. DONOVAN, DEAN REAKA and JOHNNY L. TRACY, and each serve pursuant to the requirements of paragraph 28 of the Declaration of Covenants, Conditions and Restrictions of "Troy Airpark" in the County of Lincoln, State of Missouri, duly executed on November 23, 1993 and recorded in Book 725 at Page 34, on November 24, 1993, in the Office of the Recorder of Deeds for Lincoln County, Missouri, and the Second Amended Declaration of Covenants, Conditions and Restrictions of Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy Airpark 4 and Troy Airpark 5 in the County of Lincoln, State of Missouri, duly executed in April and May, 2009 and recorded in Book 2101 at Page 523, on August 12, 2009, in the Office of the Recorder of Deeds for Lincoln County, Missouri. Joseph A. Creason, Patrick D. Donovan and Johnny L. Tracy, with their spouses, own Lots within Troy Airpark 5.

2. Defendants WILLIAM M. BARNES and SUSAN G. BARNES, own Lot 23 in Troy Airpark, 4, ROBERT A. ATCHLEY and JAMIE ATCHLEY, own Lot 24 in Troy Airpark 5, JOHN E. ROSER and GLORIA ROSER, own Lot 25 in Troy Airpark 5, JOHNNY L. TRACY and MARY LYNN TRACY, own Lots 26 and 27 in Troy Airpark 5, ROBERT J. MAY, owns Lot 28 in Troy Airpark 5, JOSEPH R. VEILE and KATHLEEN R. VEILE, own Lot 29 in Troy Airpark 5, ROBERT J. TALIR and NANCY J. TALIR, own Lot 30 in Troy Airpark 5, PATRICK D. DONOVAN and SHIRLEY M. DONOVAN, own Lots 31 and 32 in Troy Airpark 5, DAVID C. CRADER and DARLENE F. CRADER, own Lot 33 in Troy Airpark 5, WILLIAM M. BECKER, Trustee of the WILLIAM M. BECKER TRUST and GLORIA J. BECKER, Trustee of the

GLORIA J. BECKER TRUST, own Lot 34 in Troy Airpark 5, and JOSEPH A. CREASON and BRENDA R. CREASON, own Lot 35 in Troy Airpark 5.

3. Concurrently filed with the Troy Airpark Declaration of Covenants, Conditions and Restrictions of "Troy Airpark" in the County of Lincoln, State of Missouri, was the original plat for Troy Airpark, duly executed and recorded in Plat Book 12 at Page 67 in the Office of the Recorder of Deeds for Lincoln County, Missouri.

4. In December, 1995, the Declaration of Covenants, Conditions and Restrictions of "Troy Airpark 2 and 3" in the County of Lincoln, State of Missouri, and the Amended Declaration of Covenants, Conditions and Restrictions of "Troy Airpark" in the County of Lincoln, State of Missouri, were duly executed on December 28, 1995 and recorded in Book 863 at Page 103, on December 29, 1995, in the Office of the Recorder of Deeds for Lincoln County, Missouri.

5. In August, 2009, the Second Amended Declaration of Covenants, Conditions and Restrictions of Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy Airpark 4 and Troy Airpark 5, were duly executed in April and May, 2009 and recorded in Book 2101 at Page 523, on August 12, 2009, in the Office of the Recorder of Deeds for Lincoln County, Missouri.

6. It is the belief of the current Trustees of Troy Airpark that the Declaration of Covenants, Conditions and Restrictions for Troy Airpark as set forth in the Conditions recorded in Book 725 at Page 34 and the Declaration of Covenants, Conditions and Restrictions for "Troy Airpark 2 and 3" in the County of Lincoln, State of Missouri and Amended Declaration of Covenants, Conditions and Restrictions of "Troy Airpark" in the County of Lincoln, State of Missouri, recorded in Book 863 at Page 103 were intended to serve as the Covenants, Conditions and Restrictions for "Troy Airpark 4 and 5," along with the Second Amended Declaration of Covenants, Conditions and Restrictions of Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy

Airpark 4 and Troy Airpark 5 in the County of Lincoln, State of Missouri, duly executed in May and April, 2009, and recorded in Book 2101 at Page 523.

7. The language of the Second Amended Declaration of Covenants, Conditions and Restrictions of Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy Airpark 4 and Troy Airpark 5 does not contain language that bind the lot owners of Troy Airpark 4 and Troy Airpark 5 to the Covenants, Conditions and Restrictions of the previous Declarations recorded in Book 725 at Page 34 and in Book 863 at Page 103.

8. Defendants are the current lot owners of all lots contained in Troy Airpark 4 and Troy Airpark 5.

9. The lot in Troy Airpark 4 is Lot 23 and the lots in Troy Airpark 5 are Lots 24 through 35. The plat for Troy Airpark 4 was duly executed and recorded in Plat Book 11 at Page 177, on December 16, 1997, in the Office of the Recorder of Deeds for Lincoln County, Missouri. The plat for Troy Airpark 5, was duly executed and recorded in Plat Book 13 at Page 54, on November 30, 2000, in the Office of the Recorder of Deeds for Lincoln County, Missouri.

10. Upon information and belief, all named Defendants believe the intent was for the Covenants, Conditions and Restrictions of the previous Declarations recorded in Book 725 at Page 34 and in Book 863 at Page 103 to apply to all lot owners in Troy Airpark 4 and Troy Airpark 5, along with the Second Amended Declaration of Covenants, Conditions and Restrictions of Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy Airpark 4 and Troy Airpark 5 in the County of Lincoln, State of Missouri, duly executed in May and April, 2009, and recorded in Book 2101 at Page 523.

11. It is in the best interest of all lot owners in Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy Airpark 4 and Troy Airpark 5 that all Covenants, Conditions and Restrictions apply to all phases of the Troy Airpark development.

12. By reason of the foregoing, a declaratory judgment is both necessary and proper in order to set forth and determine the rights, obligations and liabilities that exist among the lot owners of Troy Airpark 4 and Troy Airpark 5.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment as follows:

1. Declaring that the intent was for the Covenants, Conditions and Restrictions of the previous Declarations recorded in Book 725 at Page 34 and in Book 863 at Page 103 apply to all lot owners in Troy Airpark 4 and Troy Airpark 5, along with the Second Amended Declaration of Covenants, Conditions and Restrictions of Troy Airpark, Troy Airpark 2, Troy Airpark 3, Troy Airpark 4 and Troy Airpark 5 in the County of Lincoln, State of Missouri, duly executed in May and April, 2009, and recorded in Book 2101 at Page 523.

2. Declaring the rights and other legal relations of Plaintiff and Defendant arising out of the Agreement.

3. Awarding such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

McILROY AND MILLAN

By /s/James D. Burlison
James D. Burlison #34618
103A Community Bank Plaza
Troy, MO 63379
(636) 462-4505, Fax (636) 528-1457
Jim_burlison@mcilroyandmillan.com
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

A copy of the foregoing will be served on all counsel of record by the Court's e-file system after the date and time of filing as shown by the e-filing system.

/s/James D. Burlison

James D. Burlison