

DECLARATION
of
TRUST AND AGREEMENT

(Please note: This is a digital version of the latest printed indenture. It does not reflect the past ~40 years of amendments. We will draft that version soon. 4-27-2004)

UNIVERSITY HEIGHTS
Subdivision No. 1

DECLARATION OF
TRUST AND AGREEMENT

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THIS DECLARATION OF TRUST AND AGREEMENT, Made this Nineteenth day of January, 1905, by the University Heights Realty & Development Company, a corporation organized under the laws of the State of Missouri (hereinafter called the "Company") with, to and for the benefit of all those persons who have already purchased and those who may hereafter purchase, and from time to time hold and own any of the several lots in University Heights, as designated and laid down on a certain plat of said University Heights, filed by said Company in the office of the Recorder of Deeds of St. Louis County, Missouri, on the 23rd day of February, 1904, and recorded in said office in Plat book No. Six (6) at pages fourteen and fifteen (14 and 15) :

WITNESSETH:--THAT WHEREAS, said Company is desirous of developing the certain tract or parcel of ground owned by it, known as University Heights, situated in St. Louis County, Missouri, described as follows, to-wit:

All of lot number ten (10) and the western twelve and twenty-eight one-hundredths (12 and 28/100) acres of lot number nine (9) of the subdivision of Eliza Clemens Estate, in United States Survey number three hundred and seventy-eight (378): also all of lot number sixteen (16) of Clemens extension of Olive Street Addition in said United States Survey number three hundred and seventy-eight (378): containing in all eighty-four and eighty-one one hundredths (84 and 81/100) acres; more or less; for the purpose of selling the same in lots for use as high grade residence property, and

WHEREAS, To that end said Company has caused said tract of land to be laid out and subdivided in to blocks numbered from 1 to 12 both inclusive, and each of said blocks, except Block No. 4, to be further subdivided into lots, and the lots in each block respectively to be designated by numbers from one upward, and has caused private streets to be laid out upon said property, and water pipes to be laid out in said streets, and has caused a map or plat of said tract of land, showing the number, dimensions and exact location of each of said several blocks and lots, and the

name, dimensions, and exact location of each of said streets, to be recorded in the office of the Recorder of Deeds of said County of St. Louis, in plat book No. 6, at pages 14 and 15; and

WHEREAS, it is the intention of said Company to cause said private streets to be paved and sidewalks to be laid thereon, and to set apart said streets to the use of the persons who may hereafter, from time to time, purchase and own or hold said lots, and every and any one of them; and

WHEREAS, it is also the purpose and intention of said Company to create, in respect of each and every of said lots (except certain lots reserved for retail business purposes, and for school and church purposes, as hereinafter specifically set forth in Article III hereof) certain restrictions, conditions and easements, in order that the character of the lots in said University Heights as high grade residence property may be established and maintained for the benefit of the persons who may hereafter own or occupy said several lots; and

WHEREAS, the Company has already agreed to sell certain of the lots in said University Heights, and has agreed with the purchasers thereof to execute this declaration of trust imposing the restrictions and conferring the rights hereinafter specified.

NOW, THEREFORE, in consideration of the premises, and as a consideration and inducement to persons to purchase lots in said University Heights and for other good and valuable consideration, the Company does hereby covenant, jointly and severally with each and all and every person or persons who may hereafter purchase, own or hold any of said lots, as designated and laid down on said plat, and to and with their several heirs, grantees, assigns, and legal representatives, that it will hold as herein described, and it does for the benefit of said persons, their heirs, grantees and assigns, the said property known as "University Heights" and each and every lot and parcel hereof, as shown on said plat and is hereinafter defined, under and subject to the following covenants, conditions, restrictions, easements and trusts (running with the title to said lots and each respectively) which are hereby impressed upon said property, and upon every lot and part thereof that is to say:

ARTICLE I

The Company declares that, subject to the reservations hereinafter expressed, it holds and will hold as herein stated, the

legal title to the private streets, as laid down and designated upon said plat of University Heights, to-wit: Harvard Avenue, Bryn Mawr Avenue, Amherst Avenue, Columbia Avenue, Cornell Avenue, Oberlin Avenue, and Princeton Avenue, impressed with an easement for the common benefit of all persons who may hereafter own or occupy any of the said lots, as designated and laid down on said plat, to be used by them freely and without obstruction as private streets and private rights-of-way forever. The Company, subject to the reservations hereinafter expressed, also holds the strip of ground ten (10) feet in width extending along the northern line of Delmar Avenue on the southern side of the tract of land first hereinabove described, for the benefit of the owners of the several lots abutting thereon, to be used by them freely and without obstruction, for the purpose of ingress and egress to and from Delmar Avenue, with the rights to construct the necessary foot-walks and drive-ways across that part of said strip on which their respective lots abut to connect said lots with Delmar Avenue.

The Company, however, its successors in trust and its assigns shall have, and it expressly reserves, the right (if in its opinion such action will be for the benefit of the owners of said lots in University Heights) at any time to dedicate said ten (10) foot strip and any one or all of said private streets for public use, and to grant to any person or corporation engaged in the business of furnishing electricity, heat, light, power or gas, the right to place the necessary poles upon or pipes or conduits or other adjuncts in, under or upon said streets for supplying the occupants of said lots with such conveniences.

At the expiration of the time fixed by the present charter as the period of the existence of said company, the legal title to said private streets and said ten (10) foot strip unless previously divested as provided herein shall be held by said Company or by its board of directors for the time being, in trust for the then legal owners of the several lots in said University Heights for the purpose of use, repair, maintenance, and improvement as hereinafter provided by these presents, and said Company furthermore shall in its discretion have the right and power, at any time after January 1, 1906, to transfer its right, title and estate in said streets, and in said ten (10) foot strip, as also its duties and powers as trustee (herein defined) to a board of three trustees (who shall be at the time be owners of lots in said University Heights)

who shall thereby be invested with the legal title to said streets, avenues and strip subject to the trusts herein defined and with all the powers hereby conferred on and reserved, to said Company or its successors and assigns, respecting repair, maintenance and improvement of said avenues, streets and strip, and other subjects of the trusts defined by these presents, under the terms and provisions hereof. Said transfer shall be evidenced by a deed duly executed by said Company and recorded in the office of the Recorder of Deeds of the jurisdiction wherein said University Heights at that time may be situated; and after said Board shall have been so appointed it (or a majority thereof) shall be fully invested with an the powers and trusts hereby conferred in respect to the repair, maintenance and improvement of said streets, avenues and strip, and all other powers and trusts herein and hereby given or created. And in case of death, resignation or refusal to and of any member of said Board of Trustees, the survivor or survivors of said Board shall have the power, by like instrument, to designate and appoint a successor or successors in said Board from time to time, so that said Board may be completed to its proper number of three members; and if by death, resignation or for any cause, the membership of said Board shall become extinct, then the Circuit Court of the said locality shall have power to appoint a like board from among the lot owners of said University Heights, to have, fulfill and perform said trust and to hold the legal title to said streets, avenues and said strip, subject to the trusts herein defined, and with all the powers in that behalf hereby vested in said Company.

ARTICLE II

The Company agrees and covenants that neither it nor its successors or assigns will or shall any of them have power to convey, demise or otherwise dispose of any of the said lots or any part thereof, except expressly subject to the conditions, restrictions and easements in these presents set forth and defined, and that every conveyance by said Company, or its successors or assigns of any of said lots or parts thereof shall expressly refer to this declaration of trust and agreement, and by such reference or otherwise make the provisions hereof a part of such conveyance. The burden of, and obligation to observe and perform, the covenants, restrictions, conditions and easements herein expressed in respect of each lot, shall run with land and shall bind the owner

or owners of such lot into whomsoever hands it may come, and the corresponding benefit, and the right to compel the observance of such covenants, restrictions, conditions and easements in respect of such lots shall run with the title to all others of said lots, and enure to the benefit of the owners thereof from time to time, and such right may be enforced by the owner of any of said lots, by appropriate proceedings at law or in equity.

And it is further provided that said Company and its successors and assigns as aforesaid as trustees are hereby vested with an active trust and duty to maintain, repair and improve said streets, avenues and said strip, and to that end said trustees may do all necessary and proper sprinkling and cleaning of said thoroughfares and that part of Delmar boulevard which abuts on the University Heights, all necessary collecting and disposing of garbage, and the laying and constructing, ornamenting and repairing of all curbing, guttering, roadways, sewers, water mains, sidewalks and tree lawns, and to pay all general or special taxes levied against the property vested in said Company or in its successors or assigns for streets and avenues and for said ten foot strip as hereinbefore mentioned, and shall have power to assess the cost of all of said items (devolved hereby on said Company and its successors and assigns) as a lien against the several lots of said University Heights and against the owners thereof, in the proportion which the frontage of each of said several lots shall bear to the total frontage area of said University Heights lots within the terms of these presents, but such assessments for the purpose aforesaid shall not, in any one year, exceed the sum of twenty five cents per front foot (according to said plat) of any lot in said University Heights. But such cost shall not become a lien until so declared by said Company, its successors or assigns, by instrument of writing, duly acknowledged, and recorded in the office of the Recorder of Deeds of the City or County wherein said University Heights are located at the time, and the recording thereof shall be taken as a demand for payment thereof by said Company and the assessments of said cost shall bear interest at the rate of 6 per cent per annum beginning 30 days thereafter; and said lien (upon due payment) shall be released and discharged by entry to that effect by said Company or its successor or assigns by entry on the margin of the record of said lien or by other written release thereof.

Note-Following is an extract from copy of the decree granted by the Circuit Court of St. Louis County, Missouri, increasing assessments from 25c per front foot to 50c per front foot, dated October 11, 1957, recorded In Book 5121, page 278 in the office of the Recorder of Deeds of the County of St. Louis, Missouri;

"NOW THEREFORE this Court doth order, adjudge and decree as follows: That the Trustees. defendants, their successors in office, shall have full power and authority to assess lots in the Subdivision of University Heights according to plat thereof, at a rate not to exceed 50c per front foot (according to plat thereof) on any lot in said University Heights Subdivision in anyone year."

ARTICLE III

* Section 1. No building other than a private dwelling house, and the stable and outbuildings appurtenant thereto, shall be erected on any of said lots, nor shall any lot or part thereof be used or occupied for any but private residence purposes, nor by any other person or persons than those of the Caucasian race (except that persons of other race may reside upon any of said lots while employed as servants in the family of the owner or owners of said lot and not otherwise). Not more than one dwelling house shall be erected on any one lot. This section shall not be construed so as to permit to be erected or maintained upon any of said lots, any inn or hotel, flat, apartment-house, boarding house, or lodging house; it being the intention hereby to prohibit the erection or use of any building for any such purposes, subject to the reservations contained in Section 5 of this Article. Section 2. No building shall be erected upon any of the said several lots in University Heights nearer to the present line of any private or public street upon which said lot abuts than as specified, respectively as follows:

***This portion or the indenture invalid by 1954 decision of United States Supreme Court .**

Lots	Distance Of Building Line from Street Line
All lots in Block No. 2.....	30 feet
All lots in Block No. 3.....	30 feet
All lots in Block No.5 (from Delmar).....	60 feet
(from private streets).....	35 feet
All lots in Block No. 6.....	35 feet
All lots in Block No. 7.....	30 feet

All lots in Block No. 8.....	30 feet
All lots in Block No. 9.....	20 feet
All lots in Block No. 10.....	20 feet
All lots in Block No. 11.....	30 feet
All lots in Block No. 12.....	30 feet
Lot No.1 in Block No... 12, (from Delmar Avenue)	60 feet

The several lots, abutting upon the ten (10) foot strip lying along the northern line of Delmar Avenue, shall be considered as abutting upon said Delmar Avenue, for the purpose of this Section and of Section 4 of this Article, and for all the purposes of these presents.

Section 3. No dwelling house shall be erected upon any of the said lots which shall cost less than the amounts herein below respectively specified, to-wit:

Lots	Minimum Cost of Dwelling
Lots 3 to 14, both inclusive, in Block 2.....	\$3000
Lots 15 to 20, both inclusive, in Block 2.....	2000
Lots 1 to 24, both inclusive, in Block 3.....	2000
Lots 25 to 34, both inclusive, in Block 3.....	3000
All lots in Block 5.....	6000
Lots 3 to 21, both inclusive, in Block 6.....	6000
All lots in Block 7.....	4000
All lots in Block 8.....	3000
All lots in Block 9.....	2000
All lots in Block 10.....	1500
Lots 1 to 4, both inclusive, in Block 11.....	6000
Lots 5 to 11 and 25 to 34, both inclusive, in Block 11	5000
Lots 12 to 24, both inclusive, in Block 11.....	3000
Lots 1 to 3, both inclusive. in Block 12.....	6000
Lots 4 to 14, both inclusive, in Block 12.....	4000
Lots 15 to 23, both inclusive, in Block 12.....	2000
Lots 24 to 27, both inclusive, in Block 12.....	1500

Note--Following is an extract from copy of the decree granted by the Circuit Court of St. Louis County, In June, 1921, recorded In Book 518, Page 9, and certified to by A. D. Willecken, Clerk of the Circuit Court. amending Section 3 immediately preceding.

"It is therefore considered, ordered, adjudged and decreed by the court that plaintiffs' petition for further limitations and restrictions be imposed upon said lots and tracts in said University Heights by increasing the minimum cost of each dwelling to be hereafter erected on any of said lots and tracts to the amount hereinafter specified and as to height be sustained, and Section 3 of Article 3 of said Declaration of Trust and Agreement aforesaid, be and the same is hereby amended to read as follows:

"Section 3. No dwelling house shall hereafter be erected upon any of the said lots which shall cost less than the amounts and shall conform to the requirements, as to height as herein below respectively specified, to-wit:

Lots	Minimum Cost of Dwelling
Lots 3 to 14, both inclusive, in Block 2.....	\$ 6000
Lots 15 to 20, both inclusive, in Block 2.....	3500
Lots 1 to 16, both inclusive, in Block 2.....	4000
Lots 17 to 23, both inclusive, in Block 3.....	3500
Lots 24 to 34, both inclusive, in Block 3.....	5000
All lots in Block 5.....	10000
Lots 3 to 12, both inclusive, in Block 6.....	8000
Lots 1, 2 and 13 to 21, both inclusive, in Block 6.....	10000
All lots in Block 7.....	7000
Lots 2 to 16, both inclusive, in Block 8.....	5000
Lots 1, and 17 to 30, both inclusive, in Block 8	6000
All lots in Block 9.....	4000
All lots in Block 10.....	2500
Lots 1 to 4, both inclusive, in Block 11.....	8000
Lots 5 to 11, and 25 to 34, both inclusive, in Block 11.....	7500
Lots 12 to 24, both inclusive, in Block 11.....	6000
Lots 1 to 3, both inclusive, in Block 12.....	10000
Lots 4 to 14, both inclusive, in Block 12.....	7000
Lots 15 to 23, both inclusive, in Block 12.....	5000
Lots 24 to 27, both inclusive, in Block 12	3000

All dwelling houses hereafter erected on any residence lot on which the restrictions herein require such dwelling house to cost

not less than Six Thousand Dollars (\$6,000.00) shall be not less than two and

one-half (21/2) stories high or two (2) full stories, with a hip roof."

Section 4. No stable, shed or other outbuilding shall be constructed or maintained upon any of the lots in said University Heights nearer to the line of any public or private street upon which said lot abuts, than two-thirds (2/3) of the distance between the line of such street and the opposite line of said lot.

Section 5. The above restrictions in this Article contained, shall not, however, apply to Block No. 4 reserved for, and on which is situated, the printery and Office Buildings of the "Woman's Magazine," nor at the option of the Company, shall they apply to the following lots which are expressly reserved for the purposes respectively stated as follows:

All lots in Block 10 and lots 24, 25, 26 and 27 of Block 12 and lot 20 of Block 2 of said University Heights, which, for the present are reserved from the effect of these presents, subject to such future limitations or stipulations as the Company, its successors or its assigns, may hereafter declare by a like instrument.

Note-Following is an extract from copy of an Indenture dated December 29, 1926, recorded in Book 824, page 279 in the Office of the Recorder of Deeds of the County of St, Louis, Missouri, by the Trustees of University Heights, Subdivision # 1.

"NOW, THEREFORE, in consideration of the premises and in order to further carry out the terms and provisions of said Declaration of Trust and Agreement in each and every particular, and to make said instrument applicable to said property, the undersigned Trustees, acting under and by virtue of said Declaration, and in pursuance of the authority conferred upon them therein, hereby declare that all the terms, conditions, covenants, restrictions, easements and trust, are hereby made applicable to, binding upon, and impressed on all lots in said Block 10, and Lots 24, 25, 26 and 27 of said Block 12, and Lot 20 of Block 2 of said University Heights, the same as though said provisions were specifically set forth in this Instrument and in the terms, words, phrases and figures set forth in said original Declaration, reference to which is hereby made, and same is incorporated as a part hereof as though fully set forth in this instrument."

All lots in Block No. 1, and Lots 1 and 2 of Block 2 reserved for offices and retail stores or places of business either with or without flats or apartments above the first floor.

Lots 1 to 7 and 31 to 34, both inclusive, in Block 3, reserved for use as an entire tract for a public high school or common school.

Lots 1 and 2 of Block No.6, reserved for use as an entire tract for a church or place of public worship.

The Company shall have, and it hereby reserves the right to determine whether said lots in Blocks No. 2 and No. 3 shall be used for the purposes for which they are respectively reserved, or for private residence purposes, but in the event that they shall be used for private residence purposes, they shall be and remain subject to all the provisions and restrictions in the preceding sections of this Article contained.

The lots in this section described shall not, however be used for any purposes other than the purposes for which they are respectively reserved, or for private residence purposes as aforesaid; to which purposes they are hereby expressly restricted, into whosoever hands they may come. And nothing in this section contained shall be so construed as to permit any livery stable, any public pool or billiard room, any gambling establishment, or any bar, saloon, or place for the sale of beer, wine or intoxicating liquors, or any nuisance or any sort to be erected or maintained upon any or the blocks or lots in said University Heights, or on any part hereof.

Section 6. The restrictions in these presents contained are to be construed as independent, and in the event that any one of them should be declared void, or for any reason unenforceable, the validity and binding effect of the other restrictions shall not thereby be impaired or affected.

It is further agreed that if, at any time after January 1, 1910, a majority of the owners of lots in University Heights (estimated by the frontage or said lots and also by the assessed value of said lots) shall agree that further limitations and restrictions on the use of lots in University Heights are desirable to maintain said tract as a first-class residence quarter, said majority of lot owners may petition the Circuit Court of said locality for a decree that such further limitations and restrictions be imposed as though recited herein, and if the said court upon due hearing (after such notice to all other lot owners as may be practicable) shall adjudge that said

limitation, prayed are reasonable and just, then it is hereby authorized by decree to make the same a part of the terms of this instrument upon the due record of said decree in the office of the Recorder of Deeds of said locality.

And if, after January 1, 1910, all the then owners of lots in University Heights shall (by deed duly acknowledged and recorded in said Recorder's Office) mutually agree that all restrictions herein as to buildings and the uses of lots by lot owners be abolished and cancelled, their deed so recorded to that effect shall be valid and have the force and effect to annul all said restrictions and limitations from and after the date of the recording of said instrument.

This declaration of trust and agreement has been executed, and is made a part of the public records, for the express purpose of inducing persons, in consideration of the benefits hereby conferred, to purchase the said lots in University Heights, and is hereby made irrevocable and binding upon said Company, and upon said property and every lot and part thereof, in favor of the purchaser or purchasers of any of said lots of University Heights, as laid down on said plat, and his and their heirs and assigns.

IN TESTIMONY WHEREOF the University Heights Realty & Development Company has caused these presents to be executed by its President and its corporate seal to be hereto affixed, attested by its Secretary, the day and year first above written.

UNIVERSITY HEIGHTS REALTY & DEVELOPMENT COMPANY

By.....

President

Attest the Corporate Seal: