

AFTER RECORDING, PLEASE RETURN TO:

Judd A. Austin, Jr.
Henry Oddo Austin & Fletcher, P.C.
1700 Pacific Avenue
Suite 2700
Dallas, Texas 75201

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**FIRST SUPPLEMENTAL CERTIFICATE AND MEMORANDUM
OF RECORDING OF ASSOCIATION DOCUMENTS FOR
HIGHLAND CREEK MANOR HOMEOWNERS ASSOCIATION, INC.**

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

The undersigned, as attorney for the Highland Creek Manor Homeowners Association, Inc., for the purpose of complying with Section 202.006 of the Texas Property Code and to provide public notice of the following instrument affecting the owners of property described on Exhibit B attached hereto, hereby states that the instrument attached hereto is a true and correct copy of the following:

*Certificate of Ratification and Promulgation of Community
Association Violation Enforcement Policy for Highland Creek Manor
Homeowners Association, Inc. (Exhibit "A").*

All persons or entities holding an interest in and to any portion of property described on Exhibit B attached hereto are subject to the foregoing Policy until amended by the Board of Directors.

IN WITNESS WHEREOF, the Highland Creek Manor Homeowners Association, Inc. has caused this First Supplemental Certificate and Memorandum of Recording of Association

Documents to be effective as of the 19th day of April, 2005 and supplements that certain Certificate and Memorandum of Recording of Association Documents for the Highland Creek Manor Homeowners Association, Inc., filed on December 30, 1999 and recorded in Volume 4572, Page 00094, et seq. of the Land Records of Collin County, Texas.

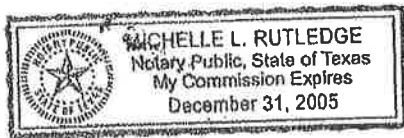
**HIGHLAND CREEK MANOR
HOMEOWNERS ASSOCIATION, INC.**

By: *Judd A. Austin, Jr.*
Its: Attorney

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Judd A. Austin, Jr., attorney for the Highland Creek Manor Homeowners Association, Inc., known to me to be the person whose name is subscribed on the foregoing instrument and acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND AFFIRMED SEAL OF OFFICE on this 13th day of May, 2005.



Michelle L. Rutledge
Notary Public, State of Texas

**CERTIFICATE OF RATIFICATION AND
PROMULGATION OF COMMUNITY ASSOCIATION
VIOLATION ENFORCEMENT POLICY FOR HIGHLAND
CREEK MANOR HOMEOWNERS ASSOCIATION, INC.**

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

WHEREAS, the Board of Directors of the Highland Creek Manor Homeowners Association, Inc., (the "Board") is the entity responsible for the operation of the Highland Creek Manor Homeowners Association, Inc., (the "Association"), pursuant to and in accordance with that certain Declaration of Covenants, Conditions, Restrictions, Easements, Charges & Liens for Highland Creek Manor, recorded as Instrument No. 94-00106483 in the Land Records of Collin County, Texas, and any and all amendments thereof and supplements thereto (collectively, the "Highland Creek Manor Declaration") and the Bylaws of the Association and any and all amendments thereto (the "Bylaws"); and

WHEREAS, the Highland Creek Manor Declaration affects certain parcels or tracts of real property in the City of Dallas, Texas, County of Collin, State of Texas (the "Property"); and

WHEREAS, the Board has the authority to enforce the provisions of the Highland Creek Manor Declaration pursuant to Article VI thereof and Article IV of the Bylaws and to enforce the decisions of the Architectural Review Committee (the "ARC"); and

WHEREAS, the Board has authority pursuant to the Highland Creek Manor Declaration and the Bylaws to determine, in its reasonable discretion, the manner in which violations of the Highland Creek Manor Declaration, the Bylaws, and the Design Guidelines promulgated pursuant to Article VIII of the Highland Creek Manor Declaration, are to be remedied and enforced; and

WHEREAS, the Board has and does hereby find the need to establish procedures for the enforcement of the restrictions contained in the Highland Creek Manor Declaration and the Design Guidelines and for the elimination of violations which may be found to exist within the Property; and

WHEREAS, the Board acknowledges that the terms and conditions contained herein shall apply to violations of the Design Guidelines and the covenants, conditions and restrictions contained in the Highland Creek Manor Declaration on all Property affected thereby;

NOW THEREFORE, IT IS RESOLVED that the following procedures and practices are hereby established for the enforcement of violations of the restrictions contained in the Highland Creek Manor Declaration and the Design Guidelines, and for the elimination of



violations of such provisions found to exist in, on or about the Property (hereinafter referred to as "Enforcement Policy".)

1. **Application.** This Enforcement Policy and the rights and remedies conferred herein shall apply exclusively to violations of the Design Guidelines and the covenants, conditions and restrictions contained in the Highland Creek Manor Declaration existing on all Property affected thereby.

2. **Establishment of a Violation.**

a. **Failure to Obtain Prior Approval.** Any improvement, as that term is defined in the Highland Creek Manor Declaration of any kind or nature erected, placed or altered on any Lot within the Property which has not been first approved by the ARC, is deemed a "Violation" under this Enforcement Policy for all purposes.

b. **Failure to Abide by Protective Covenants or Design Guidelines.** Any construction, alteration or modification which does not in all respects conform to that which has been so approved by the ARC or any activity or condition allowed to continue or exist on any Lot that is in direct violation of the covenants, conditions and restrictions contained in the Highland Creek Manor Declaration or the Design Guidelines set forth therein is also deemed a "Violation" under this Enforcement Policy for all purposes.

3. **Notification.**

a. **Initial Notice of Violation.** Upon verification of the existence of a Violation by the management staff ("Management") of the Association, Management will send via certified mail, return receipt requested, to the Owner a written notice of the existence of the Violation ("Initial Notice"). The Initial Notice will inform the Owner of the following:

- (i) The nature, description and location of the Violation that is the basis for the potential suspension action, charge or fine and state any potential amount due the Association from the Owner;
- (ii) What needs to be done to cure the Violation to avoid further enforcement measures;
- (iii) Notice that the Owner is entitled to a reasonable period to cure the Violation based on the type of action required to cure unless the Owner was given notice and a reasonable opportunity to cure a similar Violation within the preceding six months in which case a Notice of Violation Prior to Enforcement Action shall be sent initially; and

- (iv) A statement that if the Violation has already been corrected or plans and specifications for the subject improvement have been submitted to the ARC for approval, to disregard the notice.

b. **Notice of Violation Prior to Enforcement Action.** If the Owner fails to remedy the Violation or fails to submit plans and specifications for the offending improvement to the ARC (or if the ARC has denied approval of the plans and specifications submitted), and the violation is continuing, then no earlier than the expiration of the cure period in the Initial Notice of Violation, Management shall send via certified mail, return receipt requested, to the Owner written notice (the "*Notice of Violation Prior to Enforcement Action*") informing the Owner of the following:

- (i) The nature, description and location of the Violation that is the basis for the suspension action, charge or fine and state any amount due the Association from the Owner and the failure of the Owner to correct the Violation, as previously requested in the Initial Notice of Violation;
- (ii) That since Owner did not cure the Violation during the period provided in the Initial Notice of Violation the Association is now taking the previously notified action; and
- (iii) That Owner has a right to request in writing a hearing pursuant to Section 209.007 of the Texas Residential Property Owners Protection Act on or before the 30th day after the date the Owner receives the Notice of Violation Prior to Enforcement Action.

c. **Failure to Remedy and Notice of Fine.** Failure to either (i) cease all non remedial work immediately upon receipt of the Initial Notice of Violation, and/or (ii) remedy the current Violation existing upon the Lot within the cure period stated in the Initial Notice of Violation, shall constitute a continuing Violation and result in the sending of a Notice of Violation Prior to Enforcement Action and one or more of the following: (a) the imposition of per diem fines as determined by the Board against the Owner, or (b) the pursuit of any other remedy available at law or in equity, under the Highland Creek Manor Declaration, the Bylaws or this Enforcement Policy including, but without limitation, the recording in the Land Property Records of Collin County of a Notice that the Lot in question is in violation of restrictive covenants or an action for injunctive relief and civil damages. Management shall state such action in the Notice of Violation Prior to Enforcement Action. Exercise of one remedy will not preclude the later exercise of any other remedy. *The date of expiration of cure period stated in the Notice of Violation Prior to Enforcement Action shall be the "Notice of Fine Date."*

d. **Fine Structure.** Any single fine imposed pursuant to the provisions of this Enforcement Policy may not exceed the greater of \$10.00 per day or all actual costs incurred by the Association to remedy the Violation including but not limited to,

reasonable attorney fees. Fines shall begin to be levied on the fifth (5th) day that the Violation continues to exist after the Notice of Fine Date. Thereafter, the fines shall be levied on an actual cost or a per diem basis until the Violation has been remedied or cured. There shall be no limit to the aggregate amount of fines that may be imposed for the same Violation. The initial fine shall be imposed in the event the Owner fails to request a hearing as hereinafter provided.

e. Hearing. Included in the Notice of Violation Prior to Enforcement Action will be the notice that the Owner has a right to request in writing a hearing pursuant to Section 209.007 of the Texas Residential Property Owners Protection Act on or before the 30th day after the date the Owner receives the Notice of Violation Prior to Enforcement Action. The Board may appoint a committee to conduct such hearing in which case the Owner has the right to appeal such committee's decision to the Board. The hearing shall be held not later than the 30th day after the date the Board receives the Owner's request for a hearing. The Board shall notify the Owner of the date, time and place of the hearing not later than the 10th day before the date of the hearing. The Board or the Owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the Board and Owner.

4. Actions Without Notice or Hearing. The notice and hearing provisions contained in paragraph 3 shall not apply under the following circumstances as set forth in Subsection 209.007(d) of the Texas Residential Property Owners Protection Act.

a. Filing of Legal Action. No notice or hearing shall be required if the Board files a suit seeking a temporary restraining order or temporary injunctive relief for a violation or files a suit that includes foreclosure as a cause of action. In such instance, a party to such legal action may file a motion to compel mediation.

b. Temporary Suspension of Right to Use Common Area. No notice or hearing shall be required if the temporary suspension is the result of a Violation that occurred in a common area and in the opinion of a majority of the Board involved a significant and immediate risk of harm to others in Highland Creek Manor. This temporary suspension shall be effective until the Board makes a final determination on the suspension action after following the procedures prescribed in paragraph 3, above.

5. Referral to Legal Counsel. Where a Violation is determined to exist by Management pursuant to any of the provisions of this Enforcement Policy and where Management deems it to be in the best interests of the Association, after receiving written approval from the Board, Management may, at any time and without prior notice to the Owner under the Enforcement Policy, refer the Violation to legal counsel for purposes of seeking to correct or otherwise abate the Violation, including an action for injunctive relief and/or civil damages against the Owner, or any other legal or equitable remedy that may be available to the Association.

6. **Cure of Violation During Enforcement.** An Owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this Enforcement Policy prior to the Hearing. Upon verification by the Board that the Violation has been corrected or eliminated, the Violation will be deemed to no longer exist and the Initial Notice of Violation and/or Notice of Violation Prior to Enforcement Action shall be voided except as hereinafter provided. The Owner shall be advised by the Board of the consequences of the future violation of the same provision of the Highland Creek Manor Declaration or Design Guidelines as set forth in the following paragraph. If and only if the Owner waives its right in writing to a hearing pursuant to Paragraph 3, above, the Owner will remain liable for all fines, Individual Assessments and Special Individual Assessments under this Enforcement Policy, which fines, Individual Assessments and Special Individual Assessments, if not paid upon written demand thereof by Management, will be referred to the Association's legal counsel for collection. The Board, however, in its sole and absolute discretion reserves the right to waive some or all of the fines imposed.

7. **Repeated Violation of the Same Provision of the Highland Creek Manor Declaration or the Architectural Standards therein.** Whenever an Owner who has previously cured or eliminated a violation after receipt of an Initial Notice of Violation, commits a similar violation six (6) months from the date of the Initial Notice of Violation, the Board shall send a Notice of Violation Prior to Enforcement Action as provided in Subparagraph 3(b), above.

8. **Authority of Management To Act.** The Board may authorize and empower Management to do all such things and perform all such acts as are reasonably necessary to implement and effectuate the purposes of the Enforcement Policy without further action by the Board.

9. **Binding Effect.** The terms and conditions of this Enforcement Policy, as may be amended from time to time by the Board, shall bind all Owners including their heirs, successors, transferees or assigns, and all Property as defined in the Highland Creek Manor Declaration, and the Property shall hereafter be held, occupied, transferred and conveyed subject to the terms and conditions of this Enforcement Policy, as amended.

10. **Invalid or Unenforceable Provisions.** If any provision of this Enforcement Policy, or its application to any person or circumstance, is invalid or unenforceable, then the remainder of this Enforcement Policy or the application of those provisions to other persons or circumstances shall not be affected thereby.

11. **Highland Creek Manor Declaration and Bylaws Control.** Nothing herein is intended to amend or modify the Highland Creek Manor Declaration or Bylaws and in each and every instance of conflict of this Enforcement Policy with the terms of the Highland Creek Manor Declaration and Bylaws, the terms of the Highland Creek Manor Declaration and Bylaws shall control.

12. **Use of Terms.** Capitalized Terms which are used herein but not defined shall have the same meaning given to such terms in the Highland Creek Manor Declaration.

Executed at to be effective as of the 19 day of April, 2005.

**Highland Creel Manor Homeowners
Association, Inc.**

By: *Di A. Egan*
Secretary

CERTIFICATION OF APPROVAL

I, *Paul Glickle* the duly-elected President of the Highland Creek Manor Homeowners Association, Inc. hereby certify:

That the Community Association Violation Enforcement Policy for the Highland Creek Manor Homeowners Association, Inc., was approved by the affirmative vote of the majority of the Board of Directors, and that the same does now constitute an official policy of the Highland Creek Manor Homeowners Association, Inc. and shall be filed of record with the office of the Collin County Clerk.

IN WITNESS WHEREOF, I heretofore subscribe my hand on this 19th day of April, 2005.

Paul Glickle
President

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EXHIBIT B

Those tracts and parcels of real property located in the City of Dallas, Collin County, Texas and more particularly described as follows:

- (a) All real property subject to the Declaration of Covenants, Conditions, Restrictions Easements, Charges & Liens on and for Highland Creek Manor, recorded on December 2, 1994 under Collin County Clerk's Index No. 94-00106483 in the Land Records of Collin County, Texas.
- (b) Lots 1 thru 46 of Block 25/8734; Lots 48 thru 69 of Lot 25/8734; Lots 71 thru 89 of Block 25/8734; Lots 1 thru 14 of Block 26/8734; Lots 1 thru 27 of Block 27/8734; Lots 1 thru 20 of Block 28/8734; and Lots 1 thru 12 of Block 29/8734 of Highland Creek Manor, an Addition to the City of Dallas, Collin County, Texas, according to the Plat thereof recorded in Volume 1, Pages 330-332, Deed Records, Collin County, Texas.

Exhibit-B.wpd

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
(THE STATE OF TEXAS) (COUNTY OF COLLIN)
I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Collin County, Texas.

MAY 16 2005

Brenda Taylor



Filed for Record in:
Collin County, McKinney TX
Honorable Brenda Taylor
Collin County Clerk

On May 16 2005
At 4:07pm

Doc/Num : 2005-- 0064707

Recording/Type:CT 30.00
Receipt #: 20051