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RECORDED ON THE INDICATED
DATE & TIME IN THE ABOVE LISTED ACT
P. 278



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2005 DEC -6 P 3:33

Robert H. Davis
CENTRE COUNTY RECORDER OF DEEDS

**DECLARATION
OPEQUON HILL CONDOMINIUM
OPEQUON HILL LAND DEVELOPMENT - LOT 83**

**ARTICLE I
SUBMISSION; DEFINED TERMS**

Section 1.1 Declarant; Property; County; Name. OPEQUON HILL, LLC, a Pennsylvania limited partnership ("Declarant"), owner in fee simple of the real estate described in Exhibit "A" attached hereto, located in Benner Township, Centre County, Pennsylvania, hereby submits the Real Estate, including all easements, rights and appurtenances thereunto belonging and buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S. Section 3101 et. seq. (the "Act"), and hereby creates with respect to the Property a flexible condominium, to be known as "Opequon Hill Condominium" (the "Condominium").

Section 1.2 Easements and Licenses. Included among the easements, rights and appurtenances referred to in Section 1.1 above are the following recorded easements and licenses, and the Real Estate is hereby submitted to the Act:

1.2.1 TOGETHER WITH Declaration of Permanent Sanitary Sewer Easement for the Opequon Hill Subdivision/Land Development dated September 21, 2005, and recorded in Centre County Record Book 1876, Page 798.

1.2.2 TOGETHER WITH Declaration of Permanent Stormwater Management Easements and Stormwater Management Easement Maintenance Agreement for Opequon Hill Subdivision/Land Development dated September 21, 2005, and recorded in Centre County Record Book 1876, Page 791.

1.2.3 TOGETHER WITH Water Line Easement Agreement for Opequon Hill Subdivision/Land development dated May 25, 2005, and recorded in Centre County Record Book 1827, Page 345.

1.2.4 Subject to all matters contained in the Final Subdivision Plan, Opequon Hill Subdivision, dated May 2, 2005, and recorded in Centre County Plat Book 74, Pages 27-33.

Subject to all matters contained in the Final Land Development Plan, Opequon Hill Land Development, Phase 1 - Lot 83, dated November 18, 2005 and recorded in Centre County Plat Book 75, Pages 85-71.

1.2.6 All other utility easements, rights of way and other matters affecting the Property which appear of record.

Section 1.3 Defined Terms.

1.3.1 Capitalized terms not otherwise defined herein or in the Plats and Plans shall have the meanings specified or used in the Act.

1.3.2 The following terms are used or defined in general terms in the Act and shall have specific meanings herein as follows:

1.3.2.1 "Association" means the Unit Owners' Association of the Condominium and shall be known as the "Opequon Hill Condominium Association."

1.3.2.2 "Building(s)" means any building(s) included in the Property.

* 1.3.2.3 "Common Elements" means all portions of the Condominium other than the Units, and include without limitation all of the land, roofs, the supporting structure of the buildings, exterior walls, walls separating Units, portions of plumbing and electrical, which service more than one Unit, streets, sidewalks and landscaped areas.

1.3.2.4 "Condominium" means the Condominium described in Section 1.1 above.

1.3.2.5 "Declarant" means the Declarant described in Section 1.1 above and all successors to any Special Declarant Rights.

1.3.2.6 "Declaration" means this document, as the same may be amended from time to time.

1.3.2.7 "Executive Board" means the Executive Board of the Association.

1.3.2.8 "Limited Common Elements" means the front porches, rear patios, front sidewalks and driveways from the garage to the public street, mailboxes, pole light, outdoor HVAC compressor, and any propane storage tanks which are shown on the Plats and Plans as Limited Common Elements appurtenant to the Unit(s) they serve.

1.3.2.9 "Limited Common Expenses" means the Common Expenses incurred for maintenance, repair and/or replacement of certain Limited Common Elements which, pursuant to Section 2.3 of this Declaration, are to be assessed against the Units to which such Limited Common Elements are assigned.

1.3.2.10 "Plats and Plans" means the Plats and Plans attached hereto as Exhibit "A" and made a part hereof, as the same may be amended from time to time.

1.3.2.11 "Property" means the Property described in Section 1.1 above.

1.3.2.12 "Unit" means a Unit as described herein and in the Plats and Plans. A unit owner shall be a member of the Condominium/Homeowners' Association and, upon acquiring title to a unit and paying the membership fee, shall automatically become a member of the Association.

1.3.3 The following terms when used herein shall have the meanings set forth below:

1.3.3.1 "General Common Expenses" means Common Expenses excluding Limited Common Expenses.

1.3.3.2 "Percentage Interest" means the undivided ownership interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "B" attached, as the same may be amended from time to time.

1.3.3.3 "Reserved Common Elements" means portions of the Common Elements which the Executive Board may designate as such from time to time.

**ARTICLE II
ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND
COMMON EXPENSE LIABILITIES; UNIT INDEMNIFICATION
AND BOUNDARIES: MAINTENANCE RESPONSIBILITIES**

Section 2.1 Percentage Interests, Votes and Common Expense Liabilities.

2.1.1 Attached as Exhibit "B" hereto is a list of all Units by their Identifying Numbers and the Percentage Interest appurtenant to each Unit, based on the initial amounts that are to be built.

2.1.2 Each Unit shall have a single vote in the Association. Cumulative voting shall not be permitted.

2.1.3 The share of Common Expense Liability appurtenant to each unit shall be in proportion to its Percentage Interest.

Section 2.2 Unit Boundaries. The title lines or boundaries of each Unit are situated as shown on the Plats and Plans (Exhibit "A" attached hereto) and described as follows: All perimeter walls, floors, ceilings, doors and windows within or comprising part of each Unit,

including the attached garage. Each Unit shall also consist of all spaces, interior partitions and other fixtures and improvements within the title lines described above. Each Unit shall include the items within the title lines described in Paragraphs (1) and (3) of Section 3202 of the Act which are appurtenant to the Unit. Each Unit shall include the items within the boundaries as described in Paragraphs (1) and (3) of Section 3202 of the Act and shall have the benefit of the use of all Limited Common Elements described in Section 3202 of the Act, or designated on the Plans, as being allocated to such Unit.

Section 2.3 Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of Section 3307 of the Act, except as expressly set forth to the contrary herein. All expenses associated with the maintenance, repair and replacement of the Limited Common Elements other than the sidewalk from the front porch to the driveway and the driveway from the garage to the public street shall be the responsibility of the Unit Owner. All expenses associated with the maintenance, repair and replacement of the Common Elements of the Condominium plus the sidewalk from the front porch to the driveway and the driveway from the garage to the public street shall be the responsibility of the Condominium Association.

ARTICLE III ALLOCATION AND RESTRICTION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 3.1 Limited Common Elements. The front porches, rear patios, front sidewalks and driveways from the garage to the public street, mailboxes, pole light, outdoor HVAC compressor and propane storage tank which are shown on the Plats and Plans as Limited Common Elements appurtenant to the Unit(s) they serve. Portions of the Common Elements are marked on the Plats and Plans as "Common Elements which may be assigned as Limited Common Elements." Declarant may assign such Common Elements as Limited Common Elements pursuant to the provisions of Section 3209(c) of the Act by making such an assignment in a written instrument of assignment or in the deed to the Unit to which such Limited Common Elements shall be appurtenant or by recording an appropriate amendment to this Declaration. Such assignments by Declarant may be to Units owned by Declarant. Upon the election by the Unit Owners of a majority of the members of the Executive Board, the right of initial assignment of each of the aforesaid Limited Common Elements pursuant to this Section 3.1 shall pass from the Declarant to the Executive Board and Declarant shall no longer have the right to exercise any such right.

ARTICLE IV BASEMENTS

Section 4.1 Additional Easements. In addition to and in supplementation of the easements provided for by Sections 3216, 3217 and 3218 of the Act, the following easements are hereby created:

4.1.1 Offices and Models. Declarant shall have the right to maintain sales offices, management offices and models throughout the Property. Declarant reserves the right to place one (1) or more models, management offices and sales offices on any portion of the Common Elements in such manner, of such size and in such locations as Declarant deems appropriate. Declarant may from time to time relocate models, management offices and sales offices to different locations within the Common Elements. Declarant shall have the right to remove any such models, management offices and/or sales offices from the Common Elements at any time up to thirty (30) days after Declarant ceases to be a Unit Owner.

4.1.2 Utility Easements. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section 4.1.2 shall include, without limitation, rights of Declarant, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, read utility meters, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 4.1.2, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the first conveyance of the Unit by the Declarant, or so as not to materially interfere with the use or occupancy of the Unit by its occupants.

4.1.3 Declarant's Easement to Correct Drainage and Maintain Common Areas. Declarant reserves an easement on, over and under those portions of the Common Elements not located within a Building for the purpose of maintaining and correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 4.1.3 expressly includes the right to cut any trees, bushes or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which Declarant shall restore the affected property as closely to its original condition as practicable. Declarant and Association shall have the right to enter the Common Elements and Limited Common Elements to make repairs, cut grass, maintain landscaping, signage and appurtenants and to plow snow and other items that are necessary to maintain the property.

ARTICLE V AMENDMENT OF DECLARATION

Section 5.1 Amendment Generally. This Declaration may be amended only in accordance with the procedures specified in Section 3219 of the Act, the other Sections of the Act referred to in Section 3219 thereof and the express provisions of this Declaration.

Section 5.2 Rights of Secured Lenders. Subject to the limitations imposed by Section 3221 of the Act and except as set forth below, no amendment of this Declaration may be made without the prior written approval of all record holders of first mortgages on Units if and to the extent that such approval is required by the Act. Such approval shall not be required with respect to any Amendment pursuant to Articles VI, VII or VIII below. In addition, any published requirement of the Federal National Mortgage Association, or its successors (collectively "FNMA") or of the Federal Home loan Mortgage Corporation, or its successors (collectively "FHLMC") with respect to approval of amendments to the Declaration by holders of mortgages on Units shall be complied with if, at the time such amendment is submitted to the Unit Owners for their approval, one (1) or more mortgages on Units is held by whichever of FNMA or FHLMC imposes such requirement and the Executive Board has been notified in writing that a mortgage is held by the entity imposing such requirement.

ARTICLE VI USE RESTRICTIONS

Section 6.1 Use and Occupancy of Units and Common Elements. The occupancy and use of the Units and Common Elements shall be subject to the following restrictions:

6.1.1 Units shall be occupied and used solely for residential purposes.

6.1.2 Reasonable rules and regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property, may be promulgated from time to time by the Declarant and the Executive Board, subject to the right of the Association to change such Rules and regulations. Copies of the then current Rules and regulations and any amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after the adoption of such rules and regulations or any amendments thereto.

6.1.3 No more than twenty-five (25%) percent of the existing units may be leased.

ARTICLE VII MORTGAGES

Section 7.1 Permitted Mortgages. A Unit Owner other than the Declarant or the Executive Board may not voluntarily encumber or subject his or its Unit to any lien, other than the lien of a Permitted Mortgage. Whether or not they expressly so state, all such Permitted Mortgages and the obligations secured thereby shall be deemed to provide, generally, that the Permitted Mortgage, and the rights and obligations of the parties thereto, shall be subject to the terms and conditions of the Act and this Declaration and shall be deemed to provide specifically, but without limitation, that the Permitted Mortgagee shall have no right (a) to participate in the

adjustment of losses with insurers or in the decision as to whether or not or how to repair or restore damage to or destruction of the Property, or (b) to accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere on the Property other than within the affected Unit, and the obligation secured shall be prepayable, without penalty, upon the happening of any termination of the Condominium or determination not to restore or replace the affected Unit. No Unit Owner shall deliver any Permitted Mortgage, or any obligation to the secured thereby, unless it has first notified the Executive Board of the name and address of the proposed Permitted Mortgagee. When such Permitted Mortgage is delivered to the Permitted Mortgagee, the Unit Owner shall simultaneously provide executed or conformed copies to the Executive Board. Upon receipt of such copy of a Permitted Mortgage, the Secretary of the Executive Board shall instruct the insurer of the Property to add the name of the Permitted Mortgagee to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Permitted Mortgagee with a Certificate of Insurance showing that the Permitted Mortgagee's name has been so added. The lien of any purported mortgage which does not comply with all the requirements of this Article VII shall not attach to or affect the Property or any part thereof or interest therein and shall be of no force and effect as and to the extent that it purports to relate thereto. The Secretary shall maintain a register of such Permitted Mortgages, showing the names and addresses of the Permitted Mortgagees.

ARTICLE VIII

BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

Section 8.1 Monthly Payments. All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be payable in equal monthly installments in advance on the first (1st) day of each month. The Executive Board of the Association reserves the right to invoice assessments on a quarterly basis. Special assessments shall be due and payable in one (1) or more monthly payments, in advance, on the first (1st) day of each month, as determined by the Executive Board. Any assessments not received within five (5) days after the due date will be charged a late fee as established by the Executive Board.

Section 8.2 Subordination of Certain Charges. Any fees, charges, late charges, fines and interest which may be levied by the Executive Board pursuant to Sections 3302(a)(10), (11) and (12) of the Act, shall be subordinate to the lien of a Permitted Mortgage on a Unit.

Section 8.3 Surplus. The budget of the Association shall segregate Limited Common Expenses from General Common Expenses. Any amounts accumulated from assessments for Limited Common Expenses and income from the operation of Limited Common Elements to which such Limited Common Expenses pertain in excess of the amount required for actual Limited Common Expenses shall be held by the Association as reserves for future Limited Common Expenses.

Section 8.4 Assignment of Income Rights. The Association may assign its rights to future income, including payments made on account of assessments for General Common Expenses and Limited Common Expenses, to secure any loan obtained by the Association for repairs, replacements or capital improvements to the Common Elements, provided that any such

assignment is authorized by the vote of not less than seventy-five (75%) percent of the members of the Executive Board.

Section 8.5 Water System. At the time of sale of any unit from the Declarant, the new Owner shall pay a membership fee of \$1,000.00. Subsequent transfers of any unit, the new Owner shall pay a membership fee of \$500.00. Original purchasers shall have \$750.00 of this amount paid directly to the Declarant to offset part of the original water system construction with the balance held by the Association for its purposes.

ARTICLE IX RIGHTS OF PERMITTED MORTGAGEES

Section 9.1 Reports and Notices. Upon the specific written request of a holder of a mortgage on a Unit or its servicer to the Executive Board, the mortgagee shall be entitled to receive some or all of the following as designated in the request:

9.1.1 Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Executive Board to the Owner of the Unit covered by the mortgage;

9.1.2 Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Unit Owners;

9.1.3 Copies of notices of meetings of the Unit Owners and the right to designate a representative to attend such meetings;

9.1.4 Notice of the decision of the Unit Owners to make any material amendment to this Declaration;

9.1.5 Notice of substantial damage to or destruction of any Unit (the repair of which would cost in excess of ONE THOUSAND and 00/100 (\$1,000.00) DOLLARS) or any part of the Common Elements (the repair of which would cost in excess of ONE THOUSAND and 00/100 (\$1,000.00) DOLLARS);

9.1.6 Notice of commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;

9.1.7 Notice of any default by the owner of the Unit which is subject to the mortgage, where such default is not cured by the Unit Owner within thirty (30) days after the giving of notice by the Association to the Unit Owner of the existence of the default;

9.1.8 The right to examine the books and records of the Executive Board at any reasonable time; or

9.1.9 Notice of any decision by the Executive Board to terminate professional management and assume self-management of the Property.

The request of a mortgagee or its servicer shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Executive Board. The Executive Board need not inquire into the validity of any request made by a mortgagee hereunder.

Failure to comply with the requirements set forth above shall in no way invalidate otherwise proper actions of the Association and the Executive Board.

ARTICLE X DECLARANT'S RIGHTS

Section 10.1 Control.

10.1.1 Opequon Hill Condominium Association ("Association"), acting through its Executive Board, has adopted rules and regulations ("Regulations"). These Regulations may be amended from time to time by resolution of the Executive Board. The Executive Board will initially consist of the Declarant (two (2) members) and three (3) Unit Owners appointed by the Declarant. The Declarant will create the Executive Board within sixty (60) days after the first eight (8) dwelling units are sold. The Declarant wants to have a strong working relationship with Unit Owners. In order to accomplish this, the Executive Board will be established and will have quarterly meetings throughout the year as provided for within the condominium documents.

10.1.2 Until the sixtieth (60th) day after conveyance of 42 Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Executive Board. Declarant may not unilaterally remove any members of the Executive Board elected by the Unit Owners other than Declarant.

10.1.3 Not later than sixty (60) days after conveyance of 42 Units to Unit Owners other than Declarant, three (3) (sixty (60%) percent) of the five (5) members of the Executive Board shall be elected by Unit Owners.

10.1.4 Not later than the earlier of (a) seven (7) years after the date of the recording of this Declaration, or (b) one hundred eighty (180) days after 42 of the Units which may be constructed on the Property have been conveyed to Unit Owners, all appointed members of the Executive Board shall resign, and the Unit Owners shall elect replacements to the Executive Board.

ARTICLE XI LIMITATION OF LIABILITY

Section 11.1 Standard of Conduct.

11.1.1 In the performance of their duties, the officers and members of the

Executive Board shall stand in a fiduciary relation to the Association and shall perform their duties, including duties as members of any committee of the Board upon which they may serve, in good faith, in a manner they reasonably believe to be in the best interests of the Association and with such care, including reasonable inquiry, skill and diligence, as a person or ordinary prudence would use under similar circumstances.

11.1.2 In discharging the duties of their respective positions, the Executive Board members and officers may, in considering the best interests of the Association, consider the effects of any action upon employees and upon suppliers of the Association and upon communities in which the Condominium is located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of the standards described above.

11.1.3 Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as an Executive Board member or officer or any failure to take any action shall be presumed to be in the best interest of the Association.

Section 11.2 Good Faith Reliance. In performing his duties, an officer or Executive Board member shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

11.2.1 One (1) or more officers or employees of the Association whom the officer or Executive Board member reasonably believes to be reliable and competent in the matters presented.

11.2.2 Counsel, public accountants or other persons as to matters which the officer or Executive Board member reasonably believes to be within the professional or expert competence of such person.

11.2.3 A committee of the Executive Board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the officer or Executive Board member reasonably believes to merit confidence.

An officer or Executive Board member shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

Section 11.3 Limited Liability. No Executive Board member or officer, in his capacity as such, shall be personally liable for monetary damages for any action taken, or any failure to take any action, unless he has breached or failed to perform the duties of his office under the standards described above; provided, however, that the provisions of this Section 11.3 shall not apply to the responsibility or liability of an Executive Board member or officer pursuant to any criminal statute, or to the liability of an Executive Board member or officer for the payment of taxes pursuant to local, state, or federal law.

Section 11.4 Indemnification. To the extent permitted under Pennsylvania law, each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged to be in breach of the standards of conduct described above; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Section 11.4 shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

To the extent permissible under Pennsylvania law, expenses incurred by an Executive Board member or officer in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon the request of the Executive Board member or officer, after the Association has received an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association.

Section 11.5 Directors & Officers Insurance. The Executive Board shall obtain insurance to satisfy the indemnification obligation of the Association and all Unit Owners set forth in Section 11.4 above, if and to the extent available at reasonable cost.

IN WITNESS WHEREOF, the said OPEQUON HILL, LLC, has caused its name to be signed to these presents by its general partner on this 6th day of December, 2005.

OPEQUON HILL, LLC

WITNESS:

Tomasz Kulakowski
Tomasz Kulakowski, President

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CENTRE

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On this the 6th day of December, 2005, before me, a Notary Public, personally appeared Tomasz Kulakowski, who acknowledged himself to be the President of OPEQUON HILL, LLC and in that capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signed the name of the Limited Liability Company by himself as the Managing Member.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Rebecca Ann Pettenger

