BENALEX
HEIGHTS 5TH
EXTENSION

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DECLARATION OF RESTRICTIONS

PART A: PREAMBLE

WHEREAS, THE TITLE GUARANTEE & TRUST COMPANY, TRUSTEE, and Arkay Development Company hereinafter referred to as the Owner, owns in fee simple a subdivision known as the BENALEX HEIGHTS FIFTH EXTENSION, described as follows, to-wit:

Lots numbered 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193 and Lot # "A" in Benalex Heights, Fifth Extension, a Subdivision in the City of Toledo, Lucas County, Ohio,

and recorded in Volume 61 Record of Plats, page 49 on the records of the Recorder of Lucas County, Ohio; said The Title Guarantee & Trust Company, Trustee, owns the undivided interest in said lots 161 to 192 and the easterly part of lot 193, and said Arkay Development Company owns the undivided interest in the balance of said lot 193; and

Whereas, the said Owner desires to make known the restrictions, conditions, covenants and agreements subject to which all of the said property hereinafore described is now owned by them, and subject to which the lots aforesaid are to be conveyed by them.

Now Therefore, the restrictions hereinafter contained are hereby adopted pursuant to a general plan for the better and uniform improvement and development of Benalex Heights, Fifth Extension, and for the benefit of all persons who may hereafter become owners of lots therein. In consideration of the mutual execution hereof and the enhancement of value of said property, due and ample protection in the uses and occupancies thereof for the purpose for which it is designed, the said Owner hereby declares that said real estate is held by it, and shall be conveyed by it, subject to all the restrictions, conditions, covenants and agreements hereinafter set forth.

PART B: AREA OF APPLICATION

B-1. The Owner reserves for itself, its successors and assigns, the right to use and permit the use of a strip of land 5 feet in width, along the rear of each lot for the construction and maintenance of public or quasi-public utilities or functions.

B-2. Lot "A" is dedicated to public use as soon as East Holly Glen Drive is extended south.

PART C: RESIDENTIAL COVENANTS

C-1. Land use and building type. Said lots numbered 161 through 163 inclusive, 177 through 180 inclusive, 187 through 189 inclusive, shall be single family two-story residences, overall height from first floor line to high point of roof ridge shall not exceed 24 feet.

Said lots numbered 166 through 171 inclusive, 181 through 186 inclusive, shall be single family ranch type residences with overall
height from first floor line to high point of ridge not to exceed 16 feet.

Said lots numbered 164, 165, 172 through 176 inclusive, 190 through 192 inclusive, shall be split-level or tri-level type single family residences, overall height from first floor line to high point of roof ridge not to exceed 21 feet.

C-2. Lot number 193 shall be used for agriculture, gardens, recreational or park purposes only. No residence structures are permitted. Any other buildings of any type must be approved by the Architectural Control Committee.

C-3. For all types of residences, the finish grade from the first floor line shall not exceed 27 inches.

C-4. The garage, not more than 2 car capacity, must be attached for any of the above optional building types.

C-5. Architectural Control. No building shall be erected, placed or allowed on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee, as to the quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.

C-6. Dwelling Cost, Quality and Size. No dwelling shall be permitted on a lot at a cost of less than $18,000.00, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same and better than that produced on the date these covenants are recorded at the minimum cost herein stated for the minimum permitted dwelling size. The ground floor area of the one-story dwelling and the total living area of the split-level and tri-level dwellings, exclusive of one-story open porches and garages, shall be not less than 1,050 square feet for each single dwelling.

C-7. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat or as required by City building restrictions. No building shall be located nearer than 10 percent of lot width to an interior lot line. No dwelling shall be located on any interior lot nearer than 30 feet to the rear lot line. For the purpose of this covenant, eaves and steps shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

C-8. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Storage of trucks, house trailers, boats or other equipment shall not be permitted except within the confines of the garage.
C-9. Separate Buildings. Separate buildings will not be permitted on any lot or any part of the lot except a garden tool storage structure will be permitted with maximum of 100 square feet of floor area. Such tool storage structure must be approved by the Architectural Control Committee.

C-10. Fences. No fence shall be constructed beyond the front (or side at corner lots) setback lines. No barbed wire may be utilized as a part of any fencing.

C-11. Temporary Structures. No temporary structures of any kind will be approved by the Architectural Control Committee; accordingly, no such structure can be built on any lot.

C-12. Completion of Structures. Any residence, either one or two family, must be substantially completed within eight months from the date of building permit or the starting of work at the site.

PART D: ARCHITECTURAL CONTROL COMMITTEE

D-1. Membership. The Architectural Control Committee is composed of E. Forest Builley, 3443 Woodley Court, Toledo, Ohio; John C. Kuerten, 2367 Townley Road, Toledo, Ohio; and Morton Neipp, 3600 West Bancroft Street, Toledo, Ohio. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the record owners of a majority of the lots shall have the power through a duly recorded written instrument, to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

D-2. Procedure. The committee’s approval or disapproval, as required in these covenants shall be in writing. In the event that the committee, or its designated representative, fails to approve or disapprove within 30 days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been duly complied with.

PART E: GENERAL PROVISIONS

E-1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 1990, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots have been recorded, agreeing to change said covenants in whole or in part.

Duly executed on May 19, 1965 by The Title Guarantee & Trust Company, Trustee, by James D. Irvine, Vice President, and A. J. Horek,

THE TITLE GUARANTEE & TRUST CO.
Subsidiary of
Lawyers Title Insurance Corporation
Secretary, and duly executed on May 27, 1965 by Arkay Development Company by E. Forest Ruhiely, Vice President.

Received for record May 19, 1965 and May 27, 1965 and recorded in Volume 2146 of Mortgages, page 179 and Volume 2149 of Mortgages, page 80.
An Amendment to Declaration of Restrictions dated May 17, 1966, executed by The Title Guarantee & Trust Company, Trustee, Arkay Development Company, Wayne Builders, Inc., Cecil M. Lamb and Alda J. Lamb, Thomas A. Scherzer and Diana Scherzer, Robert Tanner and June Tanner, Joseph F. Horvath and Betty L. Horvath, Alex Hukalo and Jim Manire Hukalo, Charles John Wirtz and Joan I. Wirtz, James W. Istler and Mary Ann Istler, John F. Krasniewski and Martha E. Krasniewski, Michael V. Carlucci and Kathleen Carlucci, and Vincent J. Massa and Rose Marie Massa, as owners of lots 163 to 193, both inclusive, provides as follows:

WHEREAS, on the 19th day of May, 1965, a Declaration of Restrictions was filed for record in the Recorder's Office of Lucas County, Ohio, and was recorded in Volume 2148 at pages 179, 180, 181, 182, 183 and 184, and re-recorded on May 27, 1965 in Volume 2149 at pages 80, 81, 82, 83, 84, 85 and 86 on the records of said County, and it is now the desire to amend said Declaration of Restrictions heretofore referred to in the manner and form herein contained.

WHEREAS, said Owners desire to make known said amendment to said restrictions, conditions, covenants and agreements subject to which all of the said property hereinafter described, is now owned by them, and subject to which the lots aforesaid are to be conveyed by them.

NOW, THEREFORE, the Declaration of Restrictions heretofore referred to are hereby amended in the following manner: PART C: RESIDENTIAL COVENANTS, Section C-1 be and the same is hereby amended by adding a fourth paragraph thereto which shall read as follows:

"Notwithstanding any provision to the contrary, the Architectural Control Committee shall have the complete and absolute authority to authorize the construction of either single family two-story residences, single family ranch type residences, or split-level or tri-level single family residences, all as described herein, for the harmonious arrangement of dwellings on said lots, except as to lots numbered one hundred eighty-one (181), one hundred eighty-two (182), one hundred eighty-three (183), one hundred eighty-four (184), one hundred eighty-five (185) and one hundred eighty-six (186), which shall have single family ranch type residences."

Said Owners agree that in all other respects said restrictions, conditions, covenants and agreements in said Declaration of Restrictions heretofore referred to shall remain unchanged.

Received for record May 18, 1966 and recorded in Volume 2183 of Mortgages, page 390.