CFN 2015R0711259
OR BK 29844 Pgs 2903-2909 (7Pgs)
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HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:

Ben Fernandez, Esq.
Bercow Radell & Fernandez, P.A.
200 S. Biscayne Boulevard, Suite 850
Miami, Florida 33131

A/22

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner, MANUEL J. MENENDEZ TRUST, holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit A, attached hereto, and hereinafter called the "Property", which is supported by the attorney's opinion, and

IN ORDER TO ASSURE the County that the representations made by the Owner during consideration of Public Hearing No. Z2013000077 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

(1) That, if the property is developed based on RU-4M and BU-2 Zoning Districts, said property shall be developed substantially in accordance with the plans entitled "Central Park" as prepared Collado and Partners, Inc., Sheet A-100 dated stamped received 09/01/15, A-200 dated stamped received 08/12/15 and the remaining eight (8) sheets dated stamped received 07/29/15, for a total of ten (10) sheets.

(2) That a continuous five foot (5') high masonry wall shall be provided along the Property's east side where the parking area abuts the RU-1 District uses and RU-TH District uses, subject to Miami-Dade County Code regulations. However, the wall shall be built up to six feet (6') high along the Property's boundary with 4090 SW 69th Avenue (folio number 30-4023-099-0020) and 4100 SW 69th Avenue (folio number 30-4023-009-0160).

(3) That prior to obtaining a certificate of occupancy for any residential development on the parcel referenced in Exhibit A, the Owner will file an application to rezone the single family home located at 4090 SW 69th Avenue

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CIRCUIT & COUNTY COURTS CLERK IN GOD WE TRUST MIAMI-DADE COUNTY, FLORIDA

Section-Township-Range: 23-54-40
Folio numbers: 30-4023-099-0010 and 30-4023-099-0020

Z13-077

(folio number 03-4023-099-0020) and described in Exhibit B, attached hereto, to RU-1.

(4) That the property will be developed with a maximum of seventy-seven (77) dwelling units.

County Inspection. As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

Covenant Running with the Land. This Declaration on the part of the Owners shall constitute a covenant running with the land and may be recorded, at Owners' expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owners, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then-owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

Modification, Amendment, Release. This Declaration may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then-owner(s) of the property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, or the Director as provided by the Miami-Dade County Code of Ordinances. It is provided, however, in the event that the Property is annexed to an existing municipality or the Property is incorporated into a new municipality, any modification, amendment, or release shall not become effective until it is approved by

CIRCUIT AND COUNTY COURTS
CLERK
IN GOD WE TRUST
MIAMI-DADE COUNTY, FLORIDA

such municipality and is thereafter approved by the Board of County Commissioners, in accordance with applicable procedures.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and

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Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owners to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

Owner. The term Owners shall include the Owners, and its heirs, successors and assigns.

[Execution Pages Follow]

CIRCUIT AND COUNTY COURTS
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IN GOD WE TRUST
MIAMI-DADE COUNTY, FLORIDA

Section-Township-Range: 23-54-40
Folio numbers: 30-4023-099-0010 and 30-4023-099-0020

ACKNOWLEDGMENT
TRUSTEE

Signed, witnessed, executed and acknowledged on this 9 day of October, 2015.

WITNESSES:

Signature

PATRICIA Reyes
Print Name

Signature

Jose Menendez
Print Name

Trustee Signature

MANUEL S. MENENDEZ
Print Name

Address:
7035 S.W. 44ST.
MIAMI, FL. 33155

STATE OF FLORIDA

COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me by MANUEL S. MENENDEZ, Trustee, to me personally known or produced N/A, as identification and who acknowledged the foregoing instrument for the purposes herein contained, and acknowledged that they were authorized under the trust to execute said instrument on behalf of the beneficiaries of the trust.

Witness my signature and official seal this 9 day of October, 2015, in the County and State aforesaid.

☑ did take an oath
☐ did not take an oath

Notary Public

My Commission expires: 03/17/2018

Isabel D. Gonzalez
Print Name

ISABEL D GONZALEZ
MY COMMISSION #FF103248
EXPIRES March 17, 2018
(407) 398-0153 FloridaNotaryService.com

CIRCUIT AND COUNTY COURTS
CLERK
IN GOD WE TRUST
MIAMI-DADE COUNTY, FLORIDA

213-077

Section-Township-Range: 23-54-40
Folio numbers: 30-4023-099-0010 and 30-4023-099-0020

Exhibit A

Legal Description

MENENDEZ TRACTS, Plat Book 167, Page 052, T-22724, Tract A, LOT SIZE 37,767 Square Feet,

and

MENENDEZ TRACTS, Plat Book 167 Page 052, T-22724, Tract B, LOT SIZE 89,603 Square Feet

Less that portion of Tract B formally known as Lots 19 and 20, and the North 5 feet of Lot 21, in Block 6, of BRYWOOD, according to the Plat thereof, as recorded in Plat Book 27, at Page 26, of the Public Records of Miami-Dade County, Florida.

Exhibit B

Legal Description

That portion of Tract B formally known as Lots 19 and 20, and the North 5 feet of Lot 21, in Block 6, of BRYWOOD, according to the Plat thereof, as recorded in Plat Book 27, at Page 26, of the Public Records of Miami-Dade County, Florida.

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that this is a true copy of the original filed in this office on _____ day of NOV 05 2015, A D 20
WITNESS my hand and Official Seal.
HARVEY RUVIN, CLERK, of Circuit and County Courts
By _____ D.C.
SHAKIERRA BRAZIL-ELVARD #162588

CIRCUIT AND COUNTY COURTS CLERK IN GOD WE TRUST MIAMI-DADE COUNTY, FLORIDA

OPINION OF TITLE

To: Miami-Dade County

With the understanding that this Opinion of Title is furnished to Miami-Dade County, as inducement for acceptance of Declaration of Restrictions covering the real property, hereinafter described, it is hereby certified that I have examined the complete title to the subject property abstracting provided by Attorney's Title Insurance Fund certified title search through September 23, 2015 at 11:00 p.m.

Tracts "A" & "B", of **MENENDEZ TRACTS,** Plat Book 167, at Page 52, of the Public Records of Miami-Dade County, Florida.

I am of the opinion that on the last mentioned date, the fee simple title to the above described real property was vested in:

MANUEL J. MENENDEZ, as Trustee of The Manuel J. Menendez Revocable Inter-Vivos Trust, under Agreement dated May 6, 2003

Note: For Limited Partnership or Joint Venture indicate parties comprising the Limited Partnership or Joint Venture and identify who is authorized to execute.

Subject to the following encumbrances, liens and other exceptions:

1. **RECORDED MORTGAGES: NONE**

2. **RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS:** NONE

3. **GENERAL EXCEPTIONS:**

   1. Taxes for the year of the effective date of this policy and taxes or special assessments which are not shown as existing liens by the public records.

   2. Rights or claims of parties in possession not shown by the public records.

   3. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.

   4. Easements or claims of easements not shown by the public records.

   5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

   6. Any lien provided by Chapter 159, Florida Statutes, or provided by Metropolitan Miami-Dade County Ordinance No. 84-10 in favor of any City, Town, Village, Port Authority, for unpaid service charges for services by any water systems, sewer systems or gas systems servicing the land described herein.

4. **SPECIAL EXCEPTIONS:**

   1. Declaration of Covenants recorded in Official Records Book 26415, at Page 102, of the Public Records of Miami-Dade County, Florida.

   2. Memorandum recorded in Official Records Book 26494, at Page 28, of the Public Records of Miami-Dade County, Florida.

3. Easement recorded in Official Records Book 26524, at Page 1666, of the Public Records of Miami-Dade County, Florida.

4. Covenant running with the land recorded in Official Records Book 26855, at Page 4293, of the Public Records of Miami-Dade County, Florida.

5. Agreement recorded in Official Records Book 27193, at Page 314, of the Public Records of Miami-Dade County, Florida.

6. Unity of Title recorded in Official Records Book 27193, at Page 343, of the Public Records of Miami-Dade County, Florida.

7. Plat of Menendez Tracts recorded in Official Records Book 167, at Page 52, of the Public Records of Miami-Dade County, Florida.

8. Declaration of Restrictions recorded in Official Records Book 24126, at Page 768, as affected by that certain Release recorded in Official Records Book 26198, at Page 4920, of the Public Records of Miami-Dade County, Florida.

9. Agreement recorded in Official Records Book 25515, at Page 1118, of the Public Records of Miami-Dade County, Florida.

10. Agreement recorded in Official Records Book 25932, at Page 4124, of the Public Records of Miami-Dade County, Florida.

11. Agreement recorded in Official Records Book 25932, at Page 4159, of the Public Records of Miami-Dade County, Florida.

12. Declaration of Restrictions recorded in Official Records Book 26198, at Page 4915, as affected by that certain Release recorded in Official Records Book 26343, at Page 3080, of the Public Records of Miami-Dade County, Florida.

13. Covenant recorded in Official Records Book 26890, at Page 2841, of the Public Records of Miami-Dade County, Florida.

14. Plat of BYRWOOD, according to the Plat thereof, as recorded in Plat Book 27, at Page 26, of the Public Records of Miami-Dade County, Florida.

15. Variance Agreement recorded in Official Records Book 29569, at Page 1290, of the Public Records of Miami-Dade County, Florida.

I HEREBY CERTIFY that I have reviewed all the aforementioned encumbrances and exceptions and that none of them hinder or affect the recording or enforcement of the Declaration of Restrictions.

Therefore, it is my opinion that the following party(ies) must join in the agreement in order to make the agreement a valid and binding covenants on the lands described herein.

NAME	INTEREST	SPECIAL EXCEPTION NUMBER
MANUEL J. MENENDEZ, as Trustee of The Manuel J. Menendez Revocable Inter-Vivos Trust, under Agreement dated May 6, 2003	**Fee Simple Ownership**	

I HEREBY CERTIFY that the legal description contained in this Opinion of Title coincides with, and is the same as, the legal description in the proffered, recordable agreement.

I, the undersigned, further certify that I am an attorney-at-law duly admitted to practice in the State of Florida and a member in good standing of the Florida Bar.

Respectfully submitted this 1st day of October, 2015.

Jorge J. del Valle

JORGE J. DEL VALLE, Esq.
Bar #287784
Law Offices del Valle & La Civita
4000 Ponce de Leon Boulevard
Suite 470
Coral Gables, Florida 33146

STATE OF FLORIDA)
)**SS:**
COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me this 1st day of October, 2015, by **Jorge J. Del Valle** who (**XXX**) is personally known to me or ( ) who has produced _____ as identification.

NOTARY PUBLIC STATE OF FLORIDA
ISABEL D GONZALEZ
MY COMMISSION #FF103248
EXPIRES March 17, 2018
(407) 398-0153 FloridaNotaryService.com

Print Name: Isabel D. Gonzalez
Notary Public, State of Florida

My Commission Expires:

Z:\WPDoc\DEL VALLE, Jorge (Master file)\OPINION - Menendez Trust 10-1-15.wpd