

DECLARATION NO. 3, WHICH IMPOSED RESTRICTONS ON LAND USE IN FOREST HILLS GARDENS).

DECLARATION NO. 3, made and dated April 18th, 1913, by Sage Foundation Homes Company, a New York Corporation, hereinafter called the Homes Company.

WHEREAS, the Homes Company is the owner of a certain tract of land at Forest Hills, in the County of Queens, State of New York, shown on a map entitled "Map No. 3 of Forest Hills Gardens Situated at Forest Hills, Borough of Queens, City of New York, Surveyed for Sage Foundation Homes Company," dated April, 1913, made by C. B. Fancy, C. E. and filed, or about to be filed, in the office of the Clerk of the County of Queens, State of New York, except so much of the property shown thereon as has been sold and conveyed by the Homes Company; and

WHEREAS, a large portion of said property shown on said map is the same as is shown on a certain map entitled "Map No. 2 of Forest Hills Gardens situated at Forest Hills, Borough of Queens, City of New York, surveyed for Sage Foundation Homes Company" dated October, 1912, made by C. B. Fancy, C. E., and filed in the office of the Clerk of the County of Queens, State of New York, on November 29th, 1912, as Map No. 84, as to which property the Homes Company made a Declaration, dated January 21st, 1913, and recorded in the office of the Clerk of the County of Queens, State of New York, on January 28th, 1913, in Liber 1855 of Deeds, at Page 172; and

WHEREAS, the Homes Company at the time of the making of said Declaration dated January 21st, 1913, was the owner of or has since acquired the balance of the property shown on said Map No. 3, above referred to, and desires to make a new Declaration setting forth restrictions, conditions, covenants, charges and agreements subject to which all of the property shown on said Map No. 3 is now held as is to be conveyed.

NOW, THEREFORE, the Homes Company declares that the property shown on said Map No. 3, above referred to, is held and shall be conveyed subject to the restrictions, conditions, covenants, charges and agreements set forth in the various subdivisions of this Declaration, to wit:

Exceptions to Restrictions

FIRST: The restrictions, conditions, covenants, charges and agreements set forth in this Declaration shall affect all of said property, with the following exceptions:

(a) The restrictions contained in sub-divisions Fourth, Sixth, Seventh and Eighth, shall not affect:-

Lot No. 19 and lots Nos. 25 to 35 inclusive, in Block No. 1.

Lots Nos. 11 to 14 inclusive, lot No. 20, lots Nos. 26 to 28 inclusive, and lots Nos. 43 to 45 inclusive, in Block 7.

Block No. 10.

Lots Nos. 7 to 10 inclusive and lots Nos. 15 to 42 inclusive, in Block 14.

Lots Nos. 48 to 59 inclusive, in Block 15.

Lots Nos. 1 to 13 inclusive, in Block 17.

Lots Nos. 1 to 7 inclusive and lots Nos. 49 to 53 inclusive, in Block 18.

Lots Nos. 1 to 4 inclusive, lots Nos. 73 to 78 inclusive.

Lots Nos. 82 to 119 inclusive and lots Nos. 124 to 128 inclusive in Block 45.
Lot No. 28 in Block 107, so long as the same shall be used for club purposes.

(b) The restrictions contained in sub-divisions Sixth and Seventh shall not affect:

Lot No 23 in Block 1.

Lot No. 41 in Block 2.

Lots Nos. 1 to 9 inclusive, in Block 3.

Definitions

SECOND:- The word “street” as used in this Declaration is defined as meaning any street, highway, or other thoroughfare shown on said map whether designated thereon as street, avenue, terrace, crescent, lane, path, road or otherwise, except ‘private lanes.’”

A “front street” shall, as to any lot excepts a corner lot, be deemed the street, not less than thirty (30) feet in width, upon which the particular lot abuts. A corner lot shall be deemed to front on the street, not less than thirty (30) feet in width upon which it has its smallest dimension.

The word “building” as used in this Declaration, when not qualified, is defined as meaning both a detached building and a block of two or more attached buildings.

Nuisances

THIRD:- There shall not be erected, permitted, maintained or carried on upon said property, or any part thereof, any brewery, distillery, malt house, slaughter house, brass foundry, tin, nail or other iron foundry, lime kiln or sugar bakery, tallow candlery, crematory, hospital, asylum, or like or kindred nature, stable of any kind (the word stable not being intended to include a garage), cattle yard, hog pen, fowl yard or house, cesspool, privy vault; nor any cattle, hogs or other live stock or live poultry; nor any establishment for the making or preparing of soap, candles, starch, vitriol, glue, ink, turpentine, oil, lamp black, gunpowder, dynamite or other explosives, baking powder, cream of tartar, gas, asphalt or fertilizer; nor any establishment for bone boiling, fat boiling, dyeing, tanning, dressing or preparing of skins, hides or leather; nor any noxious, dangerous or offensive thing, trade or business or use of the property whatsoever.

Residences, Garages

FOURTH:- The property shall be used for private residence purposes only and no buildings shall be erected or maintained thereon except private dwelling houses with cellars, each for occupation by not more than two families; and private garages not more than one story in height, for the sole use of the owners or occupants of the lots or plots upon which such garages are erected.

Approval of Plans

FIFTH:- No building, fence, wall or other structure shall be erected or maintained nor any change or alteration made therein unless the plans and specifications therefor showing the nature, kind, shape, height, material, color-scheme and location of such structure and the grading plans

of the lot or plot to be built upon shall have been submitted to, approved in writing by, and a copy thereof, as finally approved, lodged permanently with the Homes Company.

Setback from Front Streets

SIXTH:- No building or part thereof, except porches, steps, and bay or oriel windows, as hereinafter provided, shall be erected or permitted within twenty-five (25) feet of any front street, except as follows:

- (a) On lots Nos. 24 to 31 inclusive, lots Nos. 32 to 38 inclusive, and lot No. 40 in Block 2, Lots Nos. 13 to 23 inclusive in Block 5A, lots Nos. 18 to 37 inclusive in Block 5B, lots Nos. 1 to 17 inclusive in Block 5C, lots Nos. 1 to 13 inclusive in Block 5D, lots Nos. 1 to 12 inclusive in Block 12, and lots Nos. 55 to 63 inclusive and lots Nos. 70 to 72 inclusive in Block 23; such setback shall not be less than 20 feet.
- (b) On lots Nos. 20 to 22 inclusive, and lot No. 24 in Block 1, lots Nos. 42 to 49 inclusive in Block 2, lots Nos. 15 to 19 inclusive in Block 7, lots Nos. 1 to 7 inclusive, and lots Nos. 36 to 47 inclusive in Block 15; lots Nos. 33 to 42 inclusive in Block 16, lots Nos. 14 to 23 inclusive in Block 17, lots Nos. 12 to 28 inclusive in Block 21, lots Nos. 9 to 38 inclusive and lots Nos. 48 to 62 inclusive in Block 22; lots Nos. 15 to 23 inclusive in Block 28, and lots Nos. 37 to 46 inclusive in Block 40; such setback shall be not less than fifteen feet.
- (c) On lot No. 42 in Block 6, lots Nos. 1 to 11 inclusive in Block 9, lots Nos. 11 to 14 inclusive in Block 13, lots Nos. 37 to 63 inclusive in Block 19, lots Nos. 64 to 67 inclusive, and lots Nos. 94 to 112 inclusive in Block 20, lots Nos. 1 to 7 inclusive, lots Nos. 9 to 11 inclusive, and lots Nos. 43 to 55 inclusive in Block 21, lots Nos. 11 to 27 inclusive in Block 29, lots Nos. 1 to 26 inclusive in Block 30, all of Block 37, lots Nos. 33 to 57 inclusive in Block 43, and lots 5 to 72 inclusive and lot No. 124 in Block 45; such setback shall not be less than ten (10) feet.
- (d) On lot No. 1 in Block 7, such setback shall be not less than fifteen (15) feet from Roman Avenue and Groton Street, and not less than twenty-five (25) feet from Greenway South.
- (e) On lots Nos. 1 to 7 inclusive in Block 101, lots Nos. 11 to 23 in Block 102, all of Block 103 and lots Nos. 1 to 32 inclusive in Block 104, such setback shall be not less than thirty (30) feet.
- (f) On lots Nos. 8 to 18 inclusive in Block 101 such setback shall be not less than forty (40) feet,

From Side Streets

No building or part thereof, except porches, steps, and bay and oriel windows as hereinafter provided, shall be erected or permitted within twelve and one-half (12 ¹/₂) feet of any side street not less than thirty (30) feet in width, except as to the lots designated in paragraph (c) above where such setback shall be not less than ten (10) feet.

From Rear

No building or part thereof shall be erected or permitted within ten (10) feet of the rear line of any lot except on Lot 42 in Block 6.

Porches

Porches, the floors of which are not higher than the level of the first floor of the building, may be built to within fifteen (15) feet of any such front street where the building setback therefrom is twenty-five (25) feet or more, to within ten (10) feet of any such front street where the building setback therefrom is less than twenty-five (25) feet and to within six and one-half (6 1/2) feet of any such side street,

Steps

Steps extending not higher than the level of the first floor of the building may be built on such restricted areas, except on those in the rear.

Bay Windows

Bay, bow and oriel windows not more than fifteen (15) feet in height may encroach on any such restricted areas, except on those in the rear, by projecting thereon not more than three (3) feet but the total horizontal area of such encroachments on any one side or front shall not exceed thirty (30) square feet.

Garages

No garage shall be erected within sixty (60) feet of any front street or within twenty-five (25) feet of any other street not less than thirty (30) feet in width.

If, for any reason, it is uncertain which are the front, side or rear lines of any lot or plot or the restricted areas adjoining the same, the Homes Company shall in any such cases determine what are to be deemed such lines and restricted areas and the decision of the Homes Company in respect thereto shall be final.

Free Spaces at Sides

SEVENTH:- Free Spaces shall be left on the lot or plot built upon on both sides of every building, extending the full depth of the lot or plot, which free spaces shall be independent of any free spaces pertaining to or required for any other building. No part of any building, except porches, steps, and bay, bow and oriel windows as hereinafter provided, shall encroach on these free spaces. The aggregate width of such free spaces on both sides of any building, except to the extent modified in deeds made by the Homes Company, shall be, for buildings thirty (30) feet or less in width, not less than fifteen (15) feet and for buildings more than thirty (30) feet in width, not less than fifty per cent (50%) of the width of the building less one and one-half per cent (1 1/2%) of the width of the building for every ten (10) feet or fifteen hundredths (15/100) of one per cent for every foot of such additional width of building over thirty (30) feet. In no event, however, shall the aggregate width of the free spaces be less than twenty-five per cent (25%) of the width of the building.

Minimum Free Spaces

The minimum width of such free spaces to be left on either side of any building shall, in the case of a single or detached building be thirty-five per cent (35%), and in the case of attached or “block houses” forty per cent (40%) of the minimum aggregate width of such free spaces.

Porches

Porches, the floors of which are not higher than the level of the first floor of the building, may encroach upon such free spaces, but not nearer than three (3) feet to either exterior limit of such free spaces.

Steps

Steps extending not higher than the level of the first floor of the building may be built upon such free spaces.

Bay Windows

Bay, bow and oriel windows, not more than fifteen (15) feet in height, may encroach upon such free spaces by projecting thereon not more than three (3) feet, but the total horizontal of such windows on either side of any building shall not exceed thirty (30) square feet. Such bay, bow and oriel windows shall, in no event, however, be built nearer than three (3) feet to either exterior limit of such free spaces.

If the width of any building by reason of its irregular shape or otherwise, or if the location of the free spaces required herein in relation thereto be uncertain, the Homes Company shall in all such cases determine what is to be deemed the width of such buildings and the location of such free spaces and the decision of the Homes Company in respect thereto shall be final or the locations and the minimum aggregate width of such free spaces may, in any case, be determined by the Homes Company and particularly described in the deeds of the plots as to which such determination is made.

Maximum Width

EIGHTH:- No building or “block” of buildings more than two hundred and fifty (250) feet in width or length shall be erected or maintained.

Minimum Cost

NINTH:- No dwelling houses shall be erected or maintained which shall cost less than the amounts to be specified by the Homes Company in the several deeds of the lots or plots to be conveyed.

Easements Reserved

TENTH:- Easements and rights of way shall be reserved for the erection, construction and maintenance of:

Poles, wires and conduits for the transmission of electricity for lighting, telephone and other purposes, and of the necessary attachments in connection therewith.

Public and private sewers, storm water drains, land drains, pipes and

Any other method of conducting and performing any public or quasi-public utility or function beneath the surface of the ground.

Such easements and rights of way are located on said map, and except where otherwise indicated thereon, shall be confined to the three (3) feet of all lots shown thereon, and also reserved in and over all streets, "private lanes," parks, private or otherwise, and all open spaces maintained for the general use of owners of property shown on said map and in and over Lots Nos. 57, 66 and 73 in Block 23 and Lot No. 61 in Block 42.

And the Homes Company shall have the right, without liability for damage for trespass, to enter upon said strips of land at any and all times for any of the purposes for which said easements and rights of way are reserved.

And the Homes Company shall have the right at any time to extinguish such easements and rights of way as to all or any portion of said property.

Title to Streets

ELEVENTH:- No title to land in any streets or "private lanes" is intended to be conveyed to purchasers of any property, except where expressly stated in deeds, but the Homes Company retains the right to convey to abutting land owners or to any public authority all of its right, title and interest in said streets should the Homes Company at any time deem it expedient so to do.

Should the title to any streets shown on said map be hereafter acquired by condemnation or otherwise by any public authority, all moneys received by the Homes Company by way of compensation therefor except compensation for structures, shall be immediately turned over to such public authority in reduction of the assessment against the owners of land shown on said map for such acquisition.

Grades of Streets

The Homes Company shall have the right to grade the streets in accordance with such grades as it may establish.

Encroachments on Streets

The Homes Company shall have the right to complete the erection of and maintain the bridges and other structures of a permanent character encroaching on the streets, whether now erected or in course of construction, and also the right to erect and maintain bridges and other structures of a permanent character encroaching on such streets in the locations indicated on said map as the right to erect and maintain any additional bridges over streets to connect properties owned by it at the time of such construction.

General Maintenance Charges

TWELFTH:- All of the land shown on said map, whether owned by the Homes Company or otherwise, except streets, "private lanes", parks, private or otherwise, now or hereafter opened, laid out or established (including lots Nos. 56, 66 and 73 in Block 23, so long as they are used for a private park) open spaces maintained for the general use of owners of property shown on said map, and land taken or sold for public improvements or uses, shall be subject to an annual charge or assessment of two mills (\$.002) per square foot of area, to be paid by the owners of property subject thereto to the Homes Company annually in advance on the first day of January in each and every year, on which date said charge or assessment shall become a lien upon the land, and so continue until fully paid. Such charge or assessment shall, with the consent in writing of the Homes Company, be subordinate to the lien of any mortgage or mortgages on the property subject thereto.

Said charge or assessment shall be applied toward the payment of the cost of the following so-called "Maintenance Charges," to wit:

Lighting, maintaining and improving street, parks and other open spaces maintained for the general use of the owners of property shown on said map, including all grass plots and planted areas within the lines of such streets, but not including those open spaces designated on said map as "private parks" and "private lanes."

Collecting and disposing of garbage, ashes, rubbish, etc.
Maintaining the sewerage system.

Caring for vacant and unimproved lots and plots, removing grass and weeds therefrom and other things necessary or desirable, in the opinion of the Homes Company, to keep the property neat and in good order.

Expenses incident to the enforcement of the restrictions, conditions, covenants, charges and agreements herein contained.

Taxes and assessment, if any, which may be levied by any authority upon the streets and parks now or hereafter opened, laid out or established, and other open spaces, maintained for the general use of the owners of property shown on said map, including sewers and storm drains contained therein, whether taxed or assessed as part thereof or separately, except those open spaces designated on said map as "private parks" and "private lanes."

The Homes Company agrees that the money so collected, together with the charges and assessments which are liens upon the land retained by the Homes Company and for which the Homes Company shall be liable, shall be applied to the purposes mentioned.

Said annual charge or assessment may be adjusted from year to year by the Homes Company by lowering or raising (but in no event above two mills (\$.002) per square foot of area) as the needs of the property may in its judgment require.

Said charge or assessment as to Lot No. 28 in Block 107 shall be \$400 per annum, so long as said lot shall be used for club purposes and no longer. In the event that it shall cease to be so used, it shall thereupon become subject to an annual charge or assessment of two mills (\$.002) per square foot of area as above provided.

Maintenance Charge-Private Parks

THIRTEENTH:- Undivided interests in the “private parks” and “private lanes” shown on said map are to be conveyed with certain lots or plots abutting thereon subject to such rules and regulations as the Homes Company may from time to time impose.

All of the plots shown on said map as “private parks” and “private lanes” shall be subject to an annual charge or assessment of seven and one-half mills (\$.0075) per square foot of area, to be paid by owners of such undivided interests in proportion to their interests, to the Homes Company annually in advance on the first day of January in each and every year beginning January 1st, 1913, on which date said charge or assessment shall become a lien upon the land and so continue until fully paid.

Said charge or assessment shall be applied toward the cost of the following:

Maintaining such parks and lanes, including the planting of trees, shrubbery and flowers, the cutting of grass, the providing and maintaining of seats and benches, the erection thereon of such other structures and the doing of such other things as may seem to the Homes Company necessary, advisable and proper to keep such parks and lanes neat and in good order and to promote their attractiveness, convenience and usefulness, and the Homes Company shall have the right to enter in and upon such parks and lanes for such purposes.

Taxes and assessments, if any, which may be levied by any authority upon such parks and lanes.

Such charges and assessments shall also be liens upon the lots or plots together with which undivided interests in said parks and lanes are conveyed proportionate to such undivided interests.

The Homes Company agrees that the money so collected, together with the portion of such charges and assessments proportionate to the interests in said “private parks” and “private lanes” retained by it, for which it shall be liable, shall be applied to the purpose mentioned.

And the purchasers of property shown on said map, by the acceptance of deeds therefor shall vest the Homes Company the right and power to bring all actions for the collection of such charges and assessments and the enforcement of such liens.

This sub-division shall not apply to lots Nos. 57, 66 and 73 in Block 23, if used as a private park. In which event, a special maintenance charge will be provided therefor in deeds of lots in said block 23.

Right to Modify.

FOURTEENTH: _ Any of the restrictions, conditions, covenants, charges and agreements herein contained, except the restrictions set forth in sub-division Third, and the maintenance charges set forth in sub-division Twelfth may be annulled, waived, changed or modified by the Homes Company as to any property owned by it, and with the consent of the then owner thereof, as to any property sold. The maintenance charges set forth in sub-division Twelfth may be terminated by the Homes Company after January 1st, 1922, with the consent of the then owners of more than one-half in area of the property shown on said map subject to such charges.

Right to Abate.

FIFTEENTH:- Violations of any of the restrictions or conditions or breach of any of the covenants and agreements herein contained shall give to the Homes Company the right to enter upon the property upon or as to which such violation or breach exists and to summarily abate or remove, at the expense of the owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent or meaning of the provisions hereof; and the Homes Company shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

Right to Assign.

SIXTEENTH:-Any or all of the rights and powers of the Homes Company herein contained may be assigned to any corporation or association which may hereafter be organized and which will assume the duties of the Homes Company hereunder pertaining to the particular rights and powers assigned, and upon any such corporation or association evidencing its consent in writing to accept such assignment and assume such duties it shall, to the extend of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Homes Company herein.

Right to Extend.

SEVENTEENTH:- All of the restrictions, covenants, charges and agreements contained herein shall run with the land and continue until January 1st, 1950, and may, as then in force, be extended from that time for a period of twenty (20) years and thereafter for successive period of twenty (20) years without limitation, by the assent, evidenced by appropriate agreement entitled to record, of the owners of two-thirds in area of the property shown on said map, exclusive of streets, lanes and parks, private or otherwise, and open spaces intended for the general use of the owners of property shown on said map.

Right to Enforce.

EIGHTEENTH:- The provisions herein contained shall bind and enure to the benefit of and be enforceable by the Homes Company or by the owner or owners of any property shown on said map, their legal representatives, heirs, successors and assigns, and failure by the Homes Company or any property owner to enforce any such restrictions, conditions, covenants and agreements herein contained shall in no event be deemed a waiver of the right to do so thereafter.

IN WITNESS WHEREOF the Sage Foundation Homes Company has caused its seal to be hereunto affixed and these presents to be signed by its President thereunto duly authorized.

Sage Foundation Homes Company,

(Corporate Seal)

by Robert W. De Forest,
President.

Attest:

John M. Glenn,
Secretary

State of New York)
County of New York) ss.:

On this 18th day of April, nineteen hundred and thirteen, before me personally came Robert W. De Forest, to me known, who being by me duly sworn, did depose and say that he resided in the Borough of Manhattan, City of New York, that he is the President of the Sage Foundation Homes Company, the corporation described in and which executed the above instrument; that he knew the seal of said corporation; that the seal affixed to the instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

(Notarial Seal)

William McBrien,
Notary Public, Queens County.
Certificate filed in New York County.
(No. 24)

(The foregoing Declaration No. 3 was recorded July 15, 1913, in the Queens County Clerk's Office in Liber 1889 of Conveyances, Page 322).

(ASSIGNMENT BY THE SAGE FOUNDATION HOMES COMPANY TO GARDENS CORPORATION, CONVEYING STREETS, PARKS, ETC., AND RIGHTS AND POWERS WITH REGARD TO RESTRICTIONS).

THIS INDENTURE, made and dated the first day of January, nineteen hundred and twenty three, between the Sage Foundation Homes Company, a New York Corporation, having its principal office at 9 Station Square, Forest Hills Gardens, Borough of Queens, New York City, hereinafter called the "Homes Company" party of the first part, the Russell Sage Foundation, a New York Corporation, having its principal office at 130 East 22nd Street, in the Borough of Manhattan, New York City, hereinafter called the "Foundation", party of the second part and Gardens Corporation, a New York Corporation, having its principal office at Forest Hills, Long Island, party of the third part.

WHEREAS, the Homes Company now is or formerly was the owner of a certain tract of land at Forest Hills, in the Borough of Queens, City of New York, shown on map entitled "Map No. 3 of

Forest Hills Gardens, situated at Forest Hills, Borough of Queens, City of New York, surveyed for Sage Foundation Homes Company”, dated April 1913, made by C. B. Fancy, C. E., and filed in the Office of the Clerk of the County of Queens, State of New York, on July 15, 1913, as Map No. 97;

AND WHEREAS, the Homes Company made three certain Declarations as to said premises or portions thereof, to wit:

DECLARATION dated June 22, 1911, recorded June 28, 1911 in Liber of Conveyances, page 273.

DECLARATION NO 2, dated January 21, 1913, recorded January 28, 1913, in Liber 1855 of Conveyances, page 172.

DECLARATION NO 3, dated April 18, 1913, recorded July 15, 1913, in Liber 1889 of Conveyances, page 322;

AND WHEREAS, such Declarations provided for certain restrictions, conditions, covenants, charges and agreements as to said tract of land;

AND WHEREAS, such Declarations provided that any or all of the rights or powers of the Homes Company therein contained might be assigned to any corporations or associations thereafter organized which would assume the duties of the Homes Corporation thereunder upon any such corporation or association evidencing its consent in writing to accept such assignment and assume such duties;

AND WHEREAS, such restrictions, conditions, covenants, charges and agreements have from time to time been annulled, waived, changed and modified as to certain portions of said tract of land;

AND WHEREAS, by agreement between the Homes Company and the Foundation, dated April 10, 1922, it was agreed that such restrictions, conditions covenants, charges and agreements, should not be annulled, waived, changed or modified without the consent of the Foundation, the Foundation consenting, however, in such agreement, that said restrictions, conditions, covenants, charges and agreements be modified so as to permit the erection of apartment houses on property shown upon said map as Block No. 12, or on any lots upon the easterly side of Burns Street, adjoining the Long Island Railroad, or on any lots fronting on the Union Turnpike, provided plans for such apartment houses shall be submitted to and approved of in writing by the Foundation before they shall be erected, and further consenting to the annulment of all said restrictions, conditions, covenants, charges and agreements, in-so-far as the same may be annulled as to lots 64 to 93 in Block 19, as to Lots 1 to 10 and 28 to 37 in Block 29, and all of Blocks 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55;

AND WHEREAS, the Homes Company may desire to annul, change and modify such restrictions, conditions, covenants, charges and agreements in accordance with the consent of the Foundation, contained in said agreement of April 10, 1922;

AND WHEREAS, it is desired as set forth in said agreement of April 10, 1922, that the erection of apartment houses on Block 12 or on any lots on the easterly side of Burns Street, adjoining the Long Island Railroad, or on any lots in Blocks 31, 36, 38, 44 and 45, fronting on the Union Turnpike, shall be subject to the approval of the plans by the Foundation;

AND WHEREAS, the Homes Company, with the consent of the Foundation, desires to assign and transfer to the Gardens Corporation, all of its rights and powers contained in said Declarations, except as herein reserved;

AND WHEREAS, the Homes Company has retained title to all of the streets shown on said map hereinbefore referred to or on various supplementary maps subsequently filed or on the Topographical Maps of the City of New York and is also the owner of certain parks, open spaces, interest in the pumping station used on connection with the sewer system and easements which it desires to transfer and convey to the Gardens Corporation;

AND WHEREAS, the Homes Company is the owner of certain curbs, sidewalks, sewers, drains, conduits, ducts, pipes, wires and poles, located in said streets or within the lines of the easements reserved in subdivisions "Tenth" of said Declarations, subject to certain agreements entered into with the New York Telephone Company, New York, and Queens Electric Light and Power Company, and Citizens Water Supply Company, which curbs, sidewalks, sewers, drains, conduits, ducts, pipes, wires and poles, it desires to assign, transfer and convey to the Gardens Corporation, to the extent of its interest therein.

NOW, THEREFORE, in consideration of these presents, and of the sum of \$1.00, paid by the party of the third part to the party of the first part, receipt of which is hereby acknowledged, the party of the first part assigns, grants, transfers and conveys to the party of the third part, its successors and assigns: all of its rights and powers contained in said Declarations hereinbefore referred to, including approval of plans and specifications for buildings, fences, walls and other structures as provided for in subdivisions "Fifth", of said Declarations; the determination of front, side and rear lines of any lot or plot and the restricted areas as provided for in subdivisions "Sixth", of said Declarations; the determination of the width of any building and the location of free spaces and their minimum aggregate width as provided for in subdivisions "Seventh" of said Declarations; the determination of the minimum cost of dwelling houses as provided for in subdivisions "Ninth", of said Declarations; the right to extinguish easements and rights of way as provided for in subdivisions "Tenth", of said Declarations; the collections and administration of maintenance charges as provided for in subdivisions "Twelfth" and "Thirteenth", of said Declarations; the Foundation and the Homes Company between them assuming responsibility for all unpaid obligations payable out of maintenance charges accrued prior to January 1, 1923, the Homes Company reserving the right to collect any maintenance charges accruing prior to that date and the Gardens Corporation assuming all responsibility for maintenance charges accruing on January 1, 1923, and thereafter and for all obligations payable out of maintenance charges; the right to annul, waive, change or modify the restrictions, conditions, covenants, charges and agreements as provided for in subdivisions "Fourteenth" of said Declarations; and the right to abate or remove any erection, thing or condition violating any of the restrictions, conditions or agreements in said Declarations, except as to any modifications thereof which have been heretofore made contained in subdivisions "Fifteenth", of said Declarations; reserving, however, to the Homes Company, its successors or assigns, the right to modify said restrictions, conditions, covenants, charges and agreements so as to permit the erection of apartment houses

on property shown upon said "Map No. 3 of Forest Hills Gardens" as Block 12 or on any lots on the easterly side of Burns Street, adjoining the Long Island Railroad, or on any lots fronting on the Union Turnpike in Block 31, 36, 38, 44 and 45, provided plans for such apartment houses shall be submitted to and approved of in writing by the Foundation before they shall be erected, such approval to be final, and further reserving to the Homes Company the right to annul all of said restrictions, conditions, covenants, charges and agreement in-so-far as the same may be annulled as to Lots 64 to 93 in Block 19, as to Lots 1 to 10 and 28 to 37 in Block 29, and as to all of Blocks 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55, and further reserving to the Homes Company the right to modify and the Homes Company does hereby modify the provisions of subdivisions "Sixth" of said Declarations so as to permit the erection of garages to within six feet of the rear line of any lot and to within three feet nine inches of the side line of any lot.

ALSO all of the street including Station Square, shown on said "Map No. 3 of Forest Hills Gardens", or on any map supplementary thereto, or on the Topographical Maps of the City of New York, except Ascan Avenue west of Greenway South, Puritan Avenue west of Whitson Street, Whitson Street northwesterly from Puritan Avenue, Kessel Street, Stratford Street, Guilford Street, Loubet Street, Manse Street, Lucy Place, so much of Station Square as lies in front of the Forest Hills Inn and is now used for a park; Stafford Avenue, so much of Rockrose Place between Greenway North and Markwood Road as lies northerly of the fences on the northerly side of Rockrose Place and any "Private Lanes" as shown on any of said maps, reserving, however, easements for the maintenance of Forest Hills Inn or any portions thereof and any projections therefrom and bridges connecting portions thereof in-so-far as they encroach on said streets and on Station Square. It being understood that the title to Lot 41 in Block 4, Lot 31 in Block 12, Lot 49 in Block 16 and the spaces between such lots and the balance of such blocks is not included in this grant.

ALSO plots of land shown upon said map as Olivia Park in Block 42 and Hawthorne Park in Block 27, and plots of land in the center of Greenway Terraces and at the intersection of Middlemay Circle, Bye Street, and Holder Place, upon the express condition that such plots shall be used for parks and for no other purpose and if such plots of land shall be used for any other purpose, then the title thereto shall revert to the Homes Company, and it shall have the right to re-enter and re-possess itself of the same.

ALSO Lot 29 in Block 107;

ALSO the undivided one-half interest of the Homes Company in and to Lot 32 in Block 534 on a certain map entitled "Map of Forest Hills in the Second Ward, Borough of Queens, City of New York, property of the Cord Meyer Development Company", dated September 1906, H. T. McLoughlan, C. E. and C. S.; the undivided one-half interest in and to the buildings and improvements thereon, erected for use as a pumping station and in and to all machinery, equipment, tools, and personal property used in connection therewith; the undivided one-half interest in and to the sewer and all pipes, conduits, mains, etc. composing the same and connecting said pumping station on the premises above described with the Sewage Disposal Plant of the City of New York, at Elmhurst, and running from said pumping station westerly on Meteor Street to Hoffman Boulevard and thence northerly on Hoffman Boulevard to said Sewage Disposal Plant: and the undivided one-half interest in and to all easements, franchises and rights in connection with the use and maintenance of said sewer. The conveyance of the pumping station and the land upon which the same is erected being upon the express condition

that the title to the said one-half interest shall revert to the Cord Meyer Development Company on the termination of its use as a pumping station and upon such termination, the Cord Meyer Development Company shall have the right to reenter and re-possess itself of said interest;

ALSO the curbs, sidewalks, mains, sewers, conduits, drains, ducts, pipes, wires and poles, now located in the streets hereby conveyed, or within the lines of the easements reserved in subdivisions "Tenth", of said Declarations together with the pumping station and equipment located in Burns Street at Tennis Place in-so-far as the same belong to the Homes Company and subject to certain agreement entered into with the New York Telephone Company, New York and Queens Electric Light and Power Company, and the Citizens Water Supply Company.

The Homes Company reserves the right to permit the general public to use the streets hereby conveyed and further reserves the right to connect any property which has been, now is, or may hereafter be owned by the Homes Company with the sewers hereby conveyed and the necessary easements for making and maintaining such sewer connection, it being expressly understood and agreed:

1. That the right of the Homes Company to make such sewer connections shall continue only so long as John M. Demarest, shall own or control a majority of the stock of the Homes Company.
2. That no such connections shall be made if the Board of Directors of Gardens Corporation decides that the capacity of said sewers hereby conveyed is insufficient to take proper care of them and the other connections with the said sewers; and that any such connections so made will be discontinued if the capacity of such sewer or sewers shall become insufficient to take care of such connections.
3. That the owner of any property connecting with such sewers shall pay a proportionate share of the expense of the Gardens Corporation for maintaining such sewers and for maintaining and operating any pumping station or stations for the disposal of sewage.

TO HAVE AND TO HOLD unto the party of the third part, its successors and assigns forever.

The Gardens Corporation hereby assumes the duties of the Homes Company with regard to any and all rights and powers contained in said Declaration and assigned to the Gardens Corporation herein.

The Foundation waives any rights or powers which it may have by virtue of agreements made between it and the Homes Company, dated April 10, 1922, hereinbefore referred to, except as to the approval of plans for the erection of apartment houses on property shown upon said "Map No. 3 of Forest Hills Gardens", as Block No. 12 and on any lots on the easterly side of Burns Street adjoining the Long Island Railroad and on any lots in Blocks 31, 36, 38, 44 and 45, fronting on the Union Turnpike.

The acceptance of this assignment by the Gardens Corporation shall have no effect on the rights of any individual property owner whether a member of the Gardens Corporation or not to maintain any suit involving what may be claimed to be violations of restrictions.

IN WITNESS WHEREOF the parties thereto have executed these presents.

Sage Foundation Homes Company,
John M. Demarest,
President.

Russell Sage Foundation
Robert W. De Forest,
President.

Gardens Corporation
Lawrence F. Abbot,
President.

George B. Hanavan,
Treasurer.

Louis Dean Speir,
Secretary.

(The foregoing assignment had a \$1.00 revenue stamp affixed and was duly acknowledged on January 17, 1923, by John M. Demarest, President of Sage Foundation Homes Company and by Lawrence F. Abbott, President of Gardens Corporation, and on January 23, 1923, by Robert W. De Forest, President of Russell Sage Foundation, and was recorded February 6, 1923, in the Queens County Clerk's Office in Liber 2478 of Conveyances, Page 311).