

\*\*\*\* Electronically Filed Document \*\*\*\*

Denton County  
Cynthia Mitchell  
County Clerk

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Parties:

Direct- KELSOE AND RILEY  
Indirect- LEMUS MANUEL HUGO

Receipt Number: 196775  
By Deputy: Jane Morris

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.



THE STATE OF TEXAS)  
COUNTY OF DENTON)

I hereby certify that this instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

*C. Mitchell*

County Clerk  
Denton County, Texas



## DECLARATION OF COVENANTS AND RESTRICTIONS

Date: APRIL 26, 2005

Owner & Developer: KEILSOE & RILEY, LLC

Property: SEE LEGAL DESCRIPTION ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES

Development: MILAM ROAD/RECTOR ROAD DEVELOPMENT APPROXIMATELY 120 ACRES TOTAL

Restricted Uses of the Property:

1. **Restrictions on Division of Acreage.** Each property shall be initially conveyed out of Kelsoe & Riley, LLC into the minimum of ten (10) acre tracts. Any further divisions of a tract must follow Denton County Subdivision Rules and have Denton County approval.
2. **Minimum Residence Construction.** The minimum square foot requirement of any residential home shall be fifteen hundred (1500) square feet.
3. **Temporary Residence During Residential Construction.** For each ten (10) acre tract during residential construction, each family is permitted to temporarily reside on the property in a permanent constructed building. Temporary residence in any event shall not exceed thirty-six (36) months. This does not allow temporary residence in any other structure include but not limited to any mobile home, manufactured home, or temporary building. This building may not be used for commercial use in any manner during the temporary residence.
4. **Additional Commerical Structure.** On each ten (10) acre tract, an additional and separate commercial structure is permitted for commercial use only so long as there is a qualifying residential structure previously existing. This additional structure shall not be included in the minimum square footage requirements for the residential structure and cannot be attached to the residential structure in any way.
5. **No Modular or Manufactured Homes.** There will be no Manufactured Homes or Modular Homes allowed on the property whatsoever. They are not allowed for either the residential residence or the commercial structure.
6. **Restriction on Animals.** There shall not be any more than two (2) livestock per acre of property owned. This restriction shall not be construed to restrict or limit household pets. Additionally, no commercial feed lots will be allowed.

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7. **No Hazardous Materials or Waste.** There shall be no hazardous materials or waste produced or used on or about the land. Additionally, there shall be no hazardous materials or waste stored in any manner on the land.
8. **Limitation on Storage.** No property will be allowed to store junk automobiles, junk machinery and/or junk equipment. All automobiles on the property must be in current operating condition. No storage of any construction debris is allowed unless inside a building.
9. **Limitation of Operation.** No heavy industry operation shall be allowed. Noise, dust, smells or waste that may be considered objectionable by any adjoining land-owner are strictly prohibited.

### RECITALS

1. *Restrictions on Use of Property.* No portion of the Property may be used for the Restricted Uses for the period beginning on the date of this declaration and ending on the earlier of the expiration of fifty years after that date.
2. *Prohibited Uses.* The Property will not be used for any of the herein referenced prohibited uses for a period beginning on the date of this agreement and ending fifty (50) years after that date.
3. *Amendment and Termination.* This declaration may be amended or terminated in whole or in part from time to time, and at any time, by written instrument agreed to and signed by two-thirds (2/3) of the then record owners of all of the Property subject to these declarations and restrictions and said agreement recorded in the real property records of Denton County, Texas; provided, however, that as long as Kelsoe & Riley, LLC owns any portion of the Development any such instrument must be signed by Kelsoe & Riley, LLC to be effective.
4. *Covenants Running with the Land.* Without limiting the provisions of paragraph 4. above, the parties agree that the provisions of this agreement will be deemed to be covenants running with the land that are for the benefit of, and create burdens on, the respective portions of the Development described above.
6. *Binding Effect.* This agreement binds, benefits, and may be enforced by the successors in interest to the parties.
7. *Choice of Law.* This agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules in any jurisdiction. Venue is in the county or counties in which the Development is located.
8. *Attorney's Fees.* If any party retains an attorney to enforce this agreement, the party prevailing in litigation will be entitled to recover reasonable attorney's fees and court and other costs.

9. *Severability.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision of this agreement, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement.

10. *Remedies Cumulative.* Except as otherwise provided herein, all rights, privileges, and remedies afforded the parties by this agreement will be deemed cumulative and not exclusive and the exercise of any remedy will not be deemed to be a waiver of any other right, remedy, or privilege provided for herein or available at law or in equity. It is expressly understood that a recovery in damages may not be an adequate remedy for a violation of the provisions of this agreement and that the granting of equitable remedies may, and probably will, be necessary.

11. *Number and Gender.* The use of the singular will be deemed to mean the plural, the masculine to mean the feminine or neuter, and the neuter to mean the masculine or feminine when context requires.

12. *Captions.* Captions used in this agreement are for convenience only and will not be considered as a limitation on or an expansion of the terms of the agreement.

13. *Construction of Agreement.* The terms and provisions of this agreement are the result of negotiation between the parties, each of which has been represented by counsel of its selection, and neither of which has acted under duress or compulsion, legal, economic, or otherwise. Consequently, the terms and provisions of this agreement will be interpreted and construed in accordance with their usual and customary meanings, and the parties expressly waive and disclaim any rule of law or procedure interpreting or construing this agreement otherwise, including, without limitation, any rule of law to the effect that ambiguous or conflicting terms or provisions in this agreement must be interpreted or construed against the party whose attorney prepared this agreement or any draft hereof.

14. *Other Instruments.* The parties to this declaration covenant and subsequent owners of the property subject to these covenants hereby agree that they will execute any further instruments and agreements necessary or convenient to carry out the purposes of this agreement, including, without limitation, amendments of this agreement reasonably requested in connection with the sale of any of the Property to other parties, as long as such amendments do not materially and adversely affect the rights and obligations of Buyer and Buyer's heirs, successors, and assigns under this declaration.

15. *Prior Agreements Superseded.* This declaration constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior understandings or oral or written agreements between the parties respecting the subject matter.

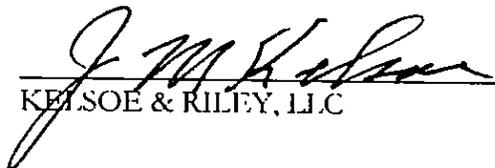
Declaration of Covenants and Restrictions  
Page 4 of 4

16. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

17. *No Third-Party Beneficiaries.* Nothing in this agreement, expressed or implied, is intended or may be construed to confer on any person or entity, other than the parties and their respective heirs, successors, and assigns, any right, remedy, or claim by reason of this agreement. This agreement is intended for the sole and exclusive benefit of the parties and their respective heirs, successors, and assigns as the owners of the Development or portions thereof.

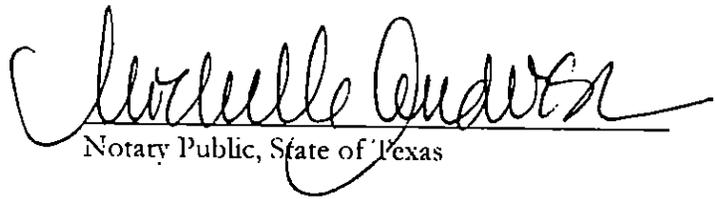
18. *Time.* Time is of the essence with respect to each covenant, agreement, and obligation of the parties set forth in this agreement.

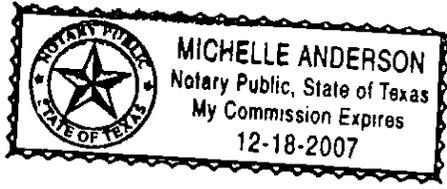
19. *Counterparts.* If this agreement is executed in multiple counterparts, all counterparts taken together will constitute this agreement.

  
\_\_\_\_\_  
KELSOE & RILEY, L.L.C.

STATE OF TEXAS            }  
  }  
COUNTY OF                }

This instrument was acknowledged before me on the 16th day of May, 2005 by Jerry Kelsoe ~~and Jerry Ax Riley~~ of Kelsoe & Riley, L.L.C.

  
\_\_\_\_\_  
Notary Public, State of Texas



After Recording Return to:  
CTIC  
211 So. Stemmons Suite C  
Lewisville, Texas 75067

## LEGAL DESCRIPTION

All that certain tract or parcel of land lying and being situated in the J. Ayers Survey, Abstract Number 2, being all of a called 119.756 acre tract of land described in the Deed to John W.A. Scharlach recorded under Document Number 2004-42135 of the Real Property Records, Denton County, Texas, and being more particularly described as follows:

BEGINNING at a found 1/2 inch iron pin at the Southeast corner of said Scharlach tract and the Northeast corner of a called 124.128 acre tract of land described in the Deed to Dale Murphy recorded in Volume 1420, Page 718 of the Real Property Records, Denton County, Texas, said pin being on the West line of a called 12.000 acre tract of land described in the Deed to Newt B. Wardlaw recorded in Volume 878, Page 214 of the Deed Records, Denton County, Texas;

THENCE North 89 degrees 54 minutes 11 seconds West with the South line of said Scharlach tract a distance of 2929.14 feet to a set PK nail at the Southwest corner of said Scharlach tract and the Northwest corner of a called 8.559 acre tract of land described in the Deed to Texas Power & Light Company recorded in Volume 559, Page 419 of the Deed Records, Denton County, Texas, said nail being in Rector Road;

THENCE North 00 degrees 19 minutes 14 seconds East with the West line of said Scharlach tract a distance of 1586.60 feet to a set PK nail at the Northwest corner of said Scharlach tract, said nail being on a South line of Gulf, Colorado and Santa Fe Railroad;

THENCE North 52 degrees 10 minutes 05 seconds East with a North line of said Scharlach tract and the South line of said railroad a radius of 2231.74 feet to a cross-tie fence corner at the Northern most Northeast corner of said Scharlach tract, said fence corner being on the West line of Lot 1, Block 1 of the Development Plat of Cline Addition as shown by the plat thereof recorded in Cabinet L, Page 309 of the Plat Records, Denton County, Texas;

THENCE South 00 degrees 02 minutes 37 seconds East with an East line of said Scharlach tract and the West line of said Lot 1 a distance of 1922.83 feet to a found 1/2 inch iron pin at the Southwest corner of said Lot 1, said pin being in Milam Road;

THENCE North 89 degrees 46 minutes 13 seconds East with a North line of said Scharlach tract a distance of 1156.25 feet to a set 1/2 inch iron pin with a yellow plastic cap stamped "Metroplex 1849" at the Northeast corner of said Scharlach tract and the Northwest corner of a called 17.989 acre tract of land described in the Deed to Roger D. Shipman recorded in Volume 463, Page 766 of the Deed Records, Denton County, Texas, said pin being in Milam Road;

THENCE South 00 degrees 00 minutes 20 seconds West with an East line of said Scharlach tract a distance of 1042.17 feet to the Point of Beginning of the herein described tract, containing 119.760 acres of land.

NOTE: COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.