

Downey's Lot Owner's Association Deed Restrictions Section 5

SECTION 5 DEED RESTRICTIONS

That Gulf Coast Home Builders, Inc. and Downey Bros. Inc. of Harris County, herein called "Owners", are the owners of Downey's Caney Creek Club, Fifth Section, a subdivision out of the William Baxter League, Abstract 4 in Matagorda County, Texas, as recorded in Volume 4, Page 47, of the Plat Records of Matagorda County.

NOW, THEREFORE, Owners dedicate to public use as such, the streets, alleys and easements shown on the plat of said subdivision, forever, and covenant and declare that all lots in said subdivision shall be subject to the following restrictions, covenants and conditions, and each lot in said subdivision shall be conveyed by Owners subject thereto.

Any purchaser by, through or under it shall hold title to the lot conveyed subject to the restrictions, covenants, conditions and easements herein referred to, which shall continue and remain in effect until July 1, 1989 and for such an extended time, if extended as herein provided, said easements, restrictions, covenants and conditions being established and fixed against said property for the purpose of establishing and creating a uniform plan of development for said property.

The easements, covenants, restrictions and conditions to which such property shall be subject are:

1. Property in said subdivision shall be used for single residence families only. No duplexes, rooming houses, apartment houses or similar building shall be permitted upon such property, except that a duplex may be built on two adjoining lots.
2. No lot or any part thereof may be used for commercial, business or professional uses of any type.
3. No building shall be occupied while it is in the process of construction. All buildings shall be completed within six (6) months after construction is commenced.
4. No more than one residence shall be erected on any lot.
5. No building or structure may be constructed or covered with tar paper, corrugated metal or any material other than that customarily used for the erection of residences, and all residences shall have a minimum of four hundred (400) square feet of living area.
6. No tents or canvas covered shelters may be placed on any lot at any time. 7. No used house or other building may be moved on any lot in said subdivision. (Factory Made trailers may be permitted. Void due to county & federal building laws.)
8. No part of any lot shall be used for the dumping of rubbish, trash or other waste, all of which shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept clean and sanitary.
9. No sewage or other waste matter shall be placed or deposited in or permitted to drain into the waters of Caney Creek, canal or bar ditches. All septic tanks and lines shall be designed for maximum seepage.
10. No building or residence shall be located on any lot nearer than the minimum set back lines as shown on the recorded plat, or nearer than five (5) feet to any side lot line, including overhangs, steps and porches.
11. No livestock shall be staked or pastured on any lot. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that no more than two (2) dogs or cats or other household pets may be kept, provided they are not bred, kept or maintained for any commercial purpose and solely as pets.

12. No signs, billboards, posters or advertising devices of any character shall be erected on any lot or plat. The owner and developer may construct and maintain billboards and advertising devices customary in connection with the general sale of property in the subdivision.

13. There is hereby established and created a committee to be known as Downey's Caney Creek Club Section Five Civic Committee which shall consist of three (3) members. Until Owners have sold all lots in said subdivision, one of the members of such committee shall be appointed by Owners, one shall be elected by the owners of lots in said subdivision, and one shall be appointed by the two appointed and elected as indicated.

14. The election of the member of the committee by the owners of lots shall be held on the third Saturday in July of each year commencing July 1967 at four (4:00) o'clock P.M. at a place in said subdivision to be designated by the Trustees. Until July 1967, the members of said committee shall be C.J. Downey, D. F. W. Downey and H.B. Sanders.

15. At any and all elections each person who owns a lot in said subdivision shall be entitled to vote and shall be entitled to one vote for each lot owned. Owners of fractional lots shall be entitled to one-half (1/2) vote: however, each lot is limited to a maximum of one (1) vote, regardless of the number of fractional owners.

16. All residential lots in said subdivision are subject to an annual maintenance charge of Twelve and no/100 (\$12.00) Dollars per lot which shall be due on August 1 of each year. The maintenance charge shall not apply to lots owned by the developers.

17. The maintenance charge shall be paid by each and every lot owner annually in advance and is secured by the vendor's lien which is expressly created and retained upon each and every lot. The lien for the maintenance charge shall be secondary, subordinate and inferior to the lien of any bona fide mortgage. The Civic Committee shall be the custodian and administrator of the maintenance fund, and the vendor's lien is transferred and assigned to the Civic Committee. The maintenance charge shall be payable to the Committee in Matagorda County, Texas at such address as it may designate from time to time.

18. The Civic Committee shall have authority to adjust the maintenance charge from year to year as it may deem proper, but in no event shall such charge exceed the maximum herein stated without the consent of ninety (90%) percent of the owners of lots in said addition.

19. All funds collected shall be used for any and all purposes in said subdivision which the Committee in its sole judgment may deem for the benefit of the owners of all lots in said subdivision.

20. The foregoing restrictions, covenants and conditions shall constitute covenants running with the land and shall be binding on and inure to the benefit of Owners, their successors and assigns and all persons claiming by, through and under Owners and shall be effective until July 1, 1989 and shall be extended automatically thereafter for successive periods of ten (10) years, provided, however, that the owners of a majority of the square foot area in said subdivision may terminate the same on July 1, 1989 or at the end of any successive ten (10) year period thereafter by executing, acknowledging and filing for record in the Matagorda County Clerk's office an appropriate instrument or agreement in writing for such purposes which may be filed at any time within five (5) years of the end of any successive ten (10) year period, but said restrictions shall nevertheless continue to the end of the period for which they are then in effect.

21. If any person or persons, firm or corporation violates or attempts to violate any of these restrictions, covenants or conditions, any person owning or having an interest in any lot in said subdivision may

institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any violation or attempted violation, and the Civic Committee shall likewise have such right, but shall not be obligated to do so, and in such event, such person instituting such suit or proceeding may recover any and all damages incurred, including but not limited to any and all expenses incurred in connection with the institution and prosecution of such action, including without limitation attorney's fees, court costs and all other expenses so incurred.

22. Invalidation of any one or more of these restrictions, covenants or conditions by judgment, court order or otherwise shall in no wise affect or invalidate any other restriction, covenant or condition, but all such other restrictions, covenants and conditions shall continue and remain in full force and effect.

Executed this 24th day of January 1967 by and through the respective officers hereunto duly authorized.