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CITY OF HOUSTON ORDINANCE NO. 89-

1312 157-80-2165

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AN ORDINANCE AMENDING THE CODE OF ORDINANCES, HOUSTON, TEXAS, BY ADDING A NEW SECTION 41-11 RELATING TO THE GIVING OF A NOTICE REGARDING DEED RESTRICTIONS TO BUYERS OF RESTRICTED PROPERTY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR CIVIL AND CRIMINAL PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS: *W*

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E WHEREAS, the City may, under the provisions of Chapter 230 of the Local Government Code and Section 41-9 of the Code of Ordinances, enjoin or abate violations of deed restrictions that protect or tend to protect residential character, in order to promote the public health, safety and general welfare, and, in particular, to promote the safe, orderly, and healthful development of the City; and

WHEREAS, Subchapter A of Chapter 230 of the Local Government Code is applicable to the City because it does not have zoning ordinances and it has passed an ordinance that requires uniform application and enforcement of that Subchapter with regard to all property and residents; and

WHEREAS, the City may, under the provisions Section 230.005 of the Local Government Code, require any person who sells or conveys restricted property located inside the boundaries of the City to

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first give to the purchasers at the time of closing written notice of the restrictions and notice of the City's right to enforce compliance; and

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WHEREAS, the City will ensure the widest distribution of this Ordinance by sending a copy of same to all companies issuing title insurance within the city limits to facilitate use of the "Notice to Purchasers" in all subsequent real estate transactions affecting restricted property; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the City Council hereby ratifies, confirms, and adopts the findings and recitals contained in the preamble to this ordinance and further finds that said findings and recitals are true and correct.

Section 2. The Code of Ordinances, Houston, Texas, is hereby amended by adding a new section 41-11 thereto, which reads as follows:

"Sec. 41-11. Notice of deed restrictions upon conveyance.

(a) In this section the following words and terms shall have the meaning herein ascribed.

- (1) Deed Restrictions shall have the meaning ascribed to the word 'restriction' in Section 230.002 of the Local Government Code, as amended, provided that it shall not be deemed to include any restrictions that by their express provisions have terminated or any provisions contained within any restrictions to the extent and only to the extent that the

provisions restrict the sale, rental, or use of property on the basis of race, color, religion, sex or national origin.

- (2) Sale or conveyance means any transfer of any lot, tract or parcel of real property subject to deed restrictions that is situated in whole or in part within the corporate limits of the city, except (1) a conveyance by trustee's or substitute trustee's deed to the lienholder pursuant to a foreclosure sale, (2) a conveyance by deed to the lienholder in full or partial satisfaction of a debt secured by the property conveyed, (3) a deed of trust conveyed to secure a lien (4) an auction sale conducted by a public official pursuant to an order of a court of competent jurisdiction, or (5) a conveyance in which the purchaser is a governmental entity. Without limitation, the term shall include an executory contract of purchase and sale having a performance period of more than six months.
- (3) Purchaser shall mean each person who constitutes a grantee, purchaser, buyer, or transferee in a sale or conveyance, regardless of the amount or nature of the consideration received.
- (4) Seller shall mean each person who constitutes a seller, grantor or transferor in a sale or conveyance, regardless of the amount or nature of the consideration received.

(b) It shall be the duty of each seller to ensure that each buyer receives in connection with each sale or conveyance notice issued in accordance with the terms of this section in the form of Exhibit A to this Ordinance, which exhibit is incorporated herein by reference. The following procedure shall be followed in the giving and recording of the notice:

- (1) the notice shall be given to each purchaser at the final closing of the sale and purchase, provided however Seller may provide the notice prior to closing;
- (2) each seller and each purchaser shall sign and acknowledge the notice; and

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- (3) following the execution, acknowledgment and closing of the sale and purchase, the notice shall be recorded in the Real Property Records of the county in which the property is located.

(c) The failure of any seller to comply with this section shall constitute a misdemeanor punishable upon conviction by a fine of not more than five hundred dollars. Each person who constitutes a seller shall be criminally responsible and each sale or conveyance for which the seller has failed to comply with this section shall constitute a separate offense."

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Section 3. The City Secretary is hereby directed to cause a copy of this ordinance, inclusive of Exhibit A, to be filed for recordation in the real property records of each county in which the City of Houston is situated in accordance with Section 230.005(d)(1) of the Local Government Code.

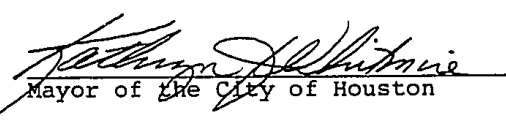
Section 4. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect upon the thirtieth day next following its passage and approval by the Mayor.

PASSED AND APPROVED this 20th day of September, 1989.

CAPTION PUBLISHED IN DAILY COURIER

VIEW
AGE:

SEP 26 1989


Mayor of the City of Houston

APPROVED:


Assistant City Attorney

(L. D. File 30-89011)

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EXHIBIT A

THE STATE OF TEXAS \$ NOTICE TO PURCHASER(S)
COUNTY OF _____ \$

The real property described below, which you are purchasing, is subject to deed restrictions recorded at _____ of the County _____ records (identify the volume and page, clerk's file number, or film code number and the title of the records in which the restrictions are recorded; if the restrictions have been amended or extended or if property is subject to restrictions recorded at various places, then identify each filing; be certain to include reference to subdivision and other map filings to the extent they include setback lines or other restrictions). THE RESTRICTIONS LIMIT YOUR USE OF THE PROPERTY. THE CITY OF HOUSTON IS AUTHORIZED BY STATUTE TO ENFORCE COMPLIANCE WITH CERTAIN DEED RESTRICTIONS. You are advised that, in the absence of a declaratory judgment that the referenced restrictions are no longer enforceable, the City of Houston may sue to enjoin a violation of such restrictions. ANY PROVISIONS THAT RESTRICT THE SALE, RENTAL, OR USE OF THE REAL PROPERTY ON THE BASIS OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN ARE UNENFORCEABLE; however, the inclusion of such provisions does not render the remainder of the deed restrictions invalid. The legal description and street address of the property you are acquiring are as follows: (insert legal description or attach and refer to by designated Exhibit; state property street address).

Date

Seller

Date

Seller

The undersigned admit receipt of the foregoing notice at or prior to closing the purchase of property above described.

Date

Purchaser

Date

Purchaser

(Add additional execution lines for Sellers and Purchasers as required; attach acknowledgments for each seller and purchaser in the applicable form as provided by Section 121.008 of the Civil Practice and Remedies Code.)

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I, ANNA RUSSELL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance No. 89-1312, passed by the City Council and approved by the Mayor of said City on the 20th day of September 1989, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 22nd day of September, A. D. 1989.



City Secretary of the City of Houston
Anna Russell



Ret:
Edwin Taylor Grauke
Assistant City Attorney
507 Dallas, Suite 400
Houston, Texas 77002

FILED
SEP 26 3 31 PM '89
Quita Rodcheimer
COUNTY CLERK
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF FORM OR DATE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

SEP 26 1989



Quita Rodcheimer
COUNTY CLERK,
HARRIS COUNTY, TEXAS