
RESTRICTIVE COVENANT

Aspen Cliff Estates
Calgary, Alberta

1169011 Alberta Ltd.
Calgary, Alberta

Restrictive Covenant
Made as of April 1, 2008

Made pursuant to sections 48 and 68 of the *Land Titles Act*
R.S.A. 2000, c. L-4, by:

1169011 Alberta Ltd.,
a body corporate entitled to carry on business in Alberta as
owner of the Project as hereinafter described
("**1169011**")

Recitals

- A. 1169011 is the registered owner of all of the lots in the residential subdivision project commonly known as "**Aspen Cliff Estates**", Calgary, Alberta (the "**Project**").
- B. To assure orderly and coordinated development of the Project in and as a homogeneous residential community, 1169011 wishes to implement a scheme of development control over the Project, including without limitation, restrictions against certain Lots in the Project, as more particularly described in Schedule "A" attached hereto, for the use and enjoyment by all occupants of the Project.

1169011 hereby declares, as owner of all lots in the Project, as follows.

ARTICLE 1
Preamble, Definitions

1.1 The recitals of fact contained in the preamble to this Restrictive Covenant are true and form an integral part hereof.

1.2 All terms and phrases requiring meaning or definition hereunder, and in the annexed Schedules hereto, shall have the following meanings or definitions, unless the context shall otherwise require:

"Accessory Building" means a building, the use or intended use of which is ancillary to that of Home situated on the same Servient Lot, and includes without limitation, sheds, gazebos, and covered decks;

"Architectural Design Approval Committee" means the committee as constituted and established by 1169011, from time to time, for the express purposes of reviewing and approving home design (plans and specifications) and construction under and in compliance with the Architectural Guidelines;

"Architectural Design Guidelines" means the "Aspen Cliff Estates Architectural Design Guidelines" dated June, 2007, as published by 1169011, as may be amended from time to time by 1169011;

"Architectural Standards" means, as the case may be, those specifications of building siting, colour, shade, textures, finishes, materials, hues, design, dimension, appearance and criteria prescribed for the construction, finish and appearance of any and all Structures of any and every kind situate or to be situate on the Lots, as set forth in Articles 2.1(b), 2.1(c), 2.1(d), 2.1(e) and 2.1(f) of this Restrictive Covenant and Schedule "C" annexed hereto and forming an integral part hereof;

"City" means The City of Calgary;

"Developer's Fence" means the fence built or installed by 1169011 on the rear of those Servient Lots described in Schedule "A" annexed hereto;

"Dominant Lots" means all lots as set out in Schedule "A" annexed hereto, and in accordance with paragraph 3.6 hereof;

"Entry Features" means the monument sign and decorative fences built or placed as the case may be on those Servient Lots described as the "Entry Lots" on Schedule "B" annexed hereto, by 1169011 as a community amenity;

"Fenced Lots "A" "means those Servient Lots described as Fenced Lots "A" on Schedule "B" annexed hereto;

"Fenced Lots "B" "means those Servient Lots described as Fenced Lots "B" on Schedule "B" annexed hereto;

"Fenced Lots "C" "means those Servient Lots described as Fenced Lots "C" on Schedule "B" annexed hereto;

"Fenced Lots "D" "means those Servient Lots described as Fenced Lots "D" on Schedule "B" annexed hereto;

"Fenced Lot "E" "means those Servient Lots described as Fenced Lot "E" on Schedule "B" annexed hereto;

"Fenced Lot "F" "means those Servient Lots described as Fenced Lots "F" on Schedule "B" annexed hereto;

"Grantee" means 1169011 and its successors, assigns, and successors-in-title to the Dominant Lots;

"Grantor" means 1169011 and its successors, assigns, and successors-in-title to the Servient Lots;

"Home" means a residential dwelling including garage, whether attached to or detached from the home, and any and all appurtenances thereto, on any Servient Lot, including, without limitation to the foregoing, driveways, walkways, verandas and decks, and attachments to the Home upon the Servient Lot.

"HomeOwners' Association" means the Aspen Cliff HomeOwners' Association incorporated as a society under and pursuant to the *Societies Act* of the Province of Alberta.

"Lands" or "Parcel" means all of the Lots comprising Plan No. 081 0400;

"Local Authority" means The City of Calgary and any other municipal government or agency having due and proper jurisdiction over the Lands and the development thereof, and, without limitation shall include any insurer of the Lands and the development thereon;

"Lot(s)" means any Servient Lot or lots herein without specific reference;

"Restrictive Covenant" means the restrictive covenant contained herein;

"Retaining Wall Lots" means those Servient Lots described as Retaining Wall Lots on Schedule "B" annexed hereto;

"Servient Lots" means all lots in Schedule "A" annexed hereto, and in accordance with paragraph 3.6 hereof;

"Structure(s)" means anything built or placed upon the Lands, including, without limitation, Homes, Accessory Buildings, signs, clotheslines and poles, electrical light standards, satellite dishes, parabolic antennae and electronic equipment, hot tubs, storage sheds, children's swing sets and similar recreational structures, dog houses and runs, fountains, statues and lawn ornaments, hedges and other shrubbery and non-mobile barbecues and other cooking equipment;

"Treed Lots" means those Servient Lots described as "Treed Lots" on Schedule "B" annexed hereto;

“Transportation and Utility Corridor” means the Transportation and Utility Corridor as set out on Plan 891 1402;

ARTICLE 2

Grants of Restrictive Covenants and Right of Access

2.1 The Grantor, as owner of the Servient Lots, does hereby covenant and agree to, with and in favour of the Grantee, as owner of the Dominant Lots, to observe, adhere to and be bound by those covenants, restrictions and prohibitions in respect of the Servient Lots, and each and every Servient Lot, being namely that:

- (a) The Grantor shall not in any manner whatsoever improve, develop, alter, build upon or otherwise disturb any Servient Lot therein unless in compliance with this Restrictive Covenant.
- (b) The Grantor shall not:
 - (i) park, or permit any person to park, anywhere on any Servient Lot (other than in a garage) for a period of time longer than 48 hours any of the following: motorhome, recreation vehicle, boat, truck-mounted camper, un-mounted camper, trailer, truck or any vehicle which is in a dilapidated condition or is not in good running order;
 - (ii) allow any Servient Lot to be used for the unenclosed storage of materials or equipment other than materials or equipment which is usually stored in connection with the construction or occupation of a building used for a private residence;
 - (iii) permit or allow on any Servient Lot a fire pit or outdoor fireplace in the front yard;
 - (iv) permit or allow on any Servient Lot a basketball hoop to be attached to any portion of any Home;
 - (v) permit or allow on any Servient Lot a non-illuminated address plaque which is not consistent with the other Homes in the Project to be attached to any area of the Home, other than the front of the Home;
 - (vi) permit or allow on any Servient Lot a satellite dish greater than 24 inches in diameter to be attached to any portion of any Home (and for greater certainty, any satellite dish 24 inches or less in diameter must be installed to minimize visual impact and, wherever possible, should not be visible from the street fronting such Servient Lot);

- (vii) permit or allow on any Servient Lot any recreational equipment including, but not limited to, playground structures, trampolines, swimming pools, and hot tubs to be visible from the street fronting such Servient Lot;
 - (viii) permit or allow a clothesline to be installed on any Servient Lot;
 - (ix) in any manner whatsoever, remove, disturb, or cause to be removed or disturbed or otherwise permit to be uncared for those trees within the rear 3 metres of the Treed Lots;
 - (x) disturb, demolish, change, modify nor allow to fall into disrepair the Entry Features;
 - (xi) in any manner whatsoever, modify or alter in any material respect the natural storm water drainage system in the Project, and, in particular, the Grantor shall not change grades in any Servient Lot, block, adjust, fill or otherwise modify any of the drainage ditches on any Servient Lot, nor block, adjust, fill or otherwise modify any culvert or culvert facing on or in any Servient Lot;
- (c) No new Home of any kind, type, size or shape whatsoever be placed, erected or constructed upon the Lands or any Servient Lot unless:
- (i) such Home is a single family residential detached dwelling, sited, constructed, and completed in accordance with the Architectural Design Guidelines as first approved by the Architectural Design Approval Committee, in writing, and in compliance with the Architectural Standards, this Restrictive Covenant, and, all rules, regulations, codes and standards imposed by Local Authority in connection therewith;
 - (ii) such Home shall be maintained and shall not be changed nor shall any Structure be added to any Servient Lot unless in accordance with the Architectural Standards and in compliance with the approvals set forth in subparagraph 2.1(c)(i); and
 - (iii) such Home shall not use roofing materials other than those as set out in the Architectural Standards;
- (d) No more than one Home shall be constructed on any one of the Servient Lots;
- (e) The Grantor shall not construct or allow to be constructed on any Servient Lot a fence, other than fence constructed in accordance with the Architectural Standards;

- (f) The Grantor shall not disturb, demolish, change, modify nor allow to fall into disrepair the Developer's Fence, and if determined by virtue of deterioration over time that the Developer's Fence is to be replaced, same shall not be replaced other than in whole, with a singular design and appearance, and comprised of a common material, and shall not otherwise be modified or replaced;
- (g) The Grantor shall not construct or allow to be constructed on any Servient Lot, more than one Accessory Building, provided that any Accessory Building must be located in the rear yard, not be visible from the street fronting such Servient Lot, and must be compatible in style, materials and architectural style to the Home;
- (h) The Grantor shall not construct or allow to be constructed a retaining wall on any Retaining Wall Lot unless the retaining wall is installed pursuant to the Architectural Guidelines and provided that such retaining wall shall be maintained and neither removed, altered or otherwise disturbed except if and when replaced, and in such case the retaining wall will be replaced in accordance with good engineering practice in compliance with appropriate engineering standards and with approval of The City of Calgary;
- (i) The Grantor shall not alter or reconstruct any retaining wall constructed on any Retaining Wall Lot by 1169011, and the Grantor shall not construct or erect any swimming pool, hot tub, or in ground structure on any Retaining Wall Lot except in accordance with good engineering practice in compliance with appropriate engineering standards and with approval of The City of Calgary, and having first consulted with (and having such work approved by) qualified structural engineers, licensed to carry on practice in the Province of Alberta;
- (j) The Grantor shall not permit to be placed or constructed any in ground swimming pool nor in ground hot tub anywhere in any Servient Lot; and,
- (k) The Grantor shall not in any manner whatsoever modify or alter any Structure, except in compliance with this Restrictive Covenant, without such modification or alteration complying with this Restrictive Covenant, and without limitation, in particular, paragraph 2.1(c) hereof.

2.2 In addition to the foregoing restrictions there shall be no direct vehicular access to and from the Transportation and Utility Corridor, as same has been designated by the Province of Alberta and the City, and any Servient Lot.

2.3 The covenants and agreements expressed in paragraphs 2.1 and 2.2 hereof are in addition to and not in substitution or replacement of all and every restriction, building code, regulation, by-law, standard, requirement and other provision governing the further development of the Lands and any Servient Lot.

2.4 The benefit of the covenants and agreements set forth in paragraph 2.1, 2.2, 2.3, and 2.4 hereof shall be for the benefit of the Dominant Lots and each of them, and to the Grantee and its successors in title and assigns of the Dominant Lots, and the HomeOwners' Association, as being generally and legally responsible for the control and maintenance of the Parcel, and shall be enforceable by the Grantee and its successors and assigns and successors in title to the Dominant Lots. The covenants and agreements of the Grantor herein shall run with the Lands, and shall be registrable accordingly.

2.5 It is expressly understood and agreed that the Architectural Design Guidelines shall expire on the 8 year anniversary of the signing of this Restrictive Covenant, and unless replaced by 1169011 on or before that date, shall cease to apply from that date; the Architectural Standards shall not expire. In addition, it is expressly acknowledged that the Architectural Design Approval Committee is constituted by appointees of 1169011.

ARTICLE 3

General

3.1 The Grantor does hereby grant unto the Grantee and its successors and assigns and their respective contractors, subcontractors, officers, servants, agents and workmen the full right and liberty to ingress and egress and right and liberty to pass and repass on, over, in and through the Servient Lots, and all and each part thereof and of each Lot, either by foot or by way of vehicle or machine, and to remain on the Servient Lots and all and each part thereof for the sole purposes of effecting any corrective measure relating to any of the foregoing covenants. The rights and privileges hereby granted are and shall be covenants running with title to the Lands.

3.2 The Grantor covenants and agrees to observe and be bound by the covenants contained herein provided that the said covenants shall only be personally binding upon the Grantor for such time that it, individually, remains owner of the Servient Lots, and only to extent of those Servient Lots which from time to time and at such relevant time are owned by the Grantor, and no action shall lie against the Grantor hereunder unless the Grantor, as the case may be, is then and remains the registered owner of the Lot alleged and proven by a court of competent jurisdiction to be in breach of this Restrictive Covenant. The covenant contained in this paragraph 3.2 shall constitute an absolute defence to any such action and may be pleaded as such.

3.3 Notwithstanding anything to the contrary expressed or implied hereunder:

- (a) no waiver of this Restrictive Covenant, howsoever arising, shall constitute an absolute waiver of this Restrictive Covenant, and after notice of such breach to the person in breach, this Restrictive Covenant shall be applied in full force and effect; and,
- (b) no person, party or entity responsible for the enforcement of this Restrictive Covenant shall be liable in any manner for failing to enforce this Restrictive Covenant.

3.4 If any provision of this Restrictive Covenant shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and each provision hereof shall be enforced to the fullest extent permitted by law. In any dispute regarding approval or compliance with the Architectural Design Guidelines, production of a certificate, letter or any other document stamped approved shall be sufficient to establish that the design of the Home or Structure was approved in compliance with this Restrictive Covenant.

3.5 Words herein importing a number or gender shall be construed in grammatical conformance with the context of the party or parties affected by this Agreement from time to time.

3.6 As the Servient Lots and the Dominant Lots are or may be one in the same in this Restrictive Covenant, this Restrictive Covenant shall be construed so that the Grantor shall hereunder have granted this Restrictive Covenant in respect of each Lot, to the benefit of the Grantee in respect of the Lands save for that Lot.

3.7 This Restrictive Covenant may be registered as a restrictive covenant against the Lands in the Alberta Land Titles Office.

Executed and delivered.

1169011 Alberta Ltd.

Per: _____

[Signature]

Per: _____



Schedule "A"
Legal Descriptions

Servient Lots/Dominant Lots

Plan 081 0400
Block 1
Lots 1 to 14 inclusive
Excepting thereout all mines and minerals; and,

Plan 081 0400
Block 2
Lots 1 to 25 inclusive
Excepting thereout all mines and minerals; and

Plan 081 0400
Block 3
Lots 1 to 14 inclusive
Excepting thereout all mines and minerals

Schedule "B"
Lot Descriptions

Entry Lots

Plan 0810400
Block 1
Lot 1
Excepting thereout all mines and minerals

and

Plan 0810400
Block 2
Lot 25
Excepting thereout all mines and minerals

Fenced Lots "A"

Plan 081 0400
Block 1
Lots 1 to 14 inclusive
Excepting thereout all mines and minerals

Fenced Lots "B"

Plan 081 0400
Block 2
Lots 1 to 10 inclusive
Excepting thereout all mines and minerals

Fenced Lots "C"

Plan 081 0400
Block 3
Lots 1 to 14 inclusive
Excepting thereout all mines and minerals

Fenced Lots "D"

Plan 081 0400
Block 2
Lots 12 to 20 inclusive
Excepting thereout all mines and minerals

Fenced Lot "E"

Plan 081 0400
Block 2
Lot 11
Excepting thereout all mines and minerals

Fenced Lots "F"

Plan 081 0400
Block 2
Lots 21 to 25 inclusive
Excepting thereout all mines and minerals; and

Treed Lots

Plan 0810400
Block 2
Lots 11 through 20 inclusive
Excepting thereout all mines and minerals

Retaining Wall Lots

Plan 0810400
Block 2
Lots 11 through 25 inclusive
Excepting thereout all mines and minerals

Schedule "C"

Architectural Standards

1. Homes

- 1.1 No Home of any kind, type, size or shape whatsoever be placed, erected or constructed or modified upon the Lands or any Servient Lot unless:
- (a) such Home is less than 10.0 m (32.8 feet) in height unless the Home is situated on a walkout lot at which point such Home shall not exceed 11.0 m (36.08 feet) in height;
 - (b) the siding for the Home is smooth finish acrylic stucco or other such material approved by the Architectural Design Approval Committee;
 - (c) the masonry for the Home is brick, cultured stone, real stone, or stoneware and such masonry consists of not less than 40% of the front elevation of the Home with a minimum of 3-foot returns on the corners of the Home;
 - (d) the front entry is consistent with the architectural style of the Home, stands as a primary element of the Home's front elevation and such entry faces the main community road upon which Servient Lot the Home is situated on;
 - (e) the front entry doors are made of either real wood or fiberglass stained to look like real wood and such doors have glazing and/or sidelights and/or transom windows;
 - (f) any screen door on the front entry is hidden from view when not in use (i.e. phantom screens);
 - (g) any patio door is not constructed of plain aluminium siding and in no case shall the patio door be visible from the street fronting such Servient Lot;
 - (h) the materials on the front face of the garage return along the side wall of the garage to the entry;
 - (i) the garage doors for the Home do not exceed 8 feet in height and 20 feet in width and are constructed in a traditional style Carriage or Renaissance door with vertically proportioned panels;
 - (j) the driveway for such Home is exposed aggregate or stamped concrete;
 - (k) the railings for any front porches and rear decks are in compliance with the Alberta Building Code and the railing materials are consistent with the architectural theme of the Home (acceptable railing materials for front

porches include, but are not limited to, wrought iron and aluminium (but not glass), while acceptable railing materials for rear decks include, but are not limited to wrought iron, aluminium and glass.

- (l) the downspouts for any rainware are on the side and rear elevations of the Home and are painted to match the fascia of the Home.

2. Roofing Materials

2.1 No Home shall use roofing materials other than the roofing materials set out below:

- (a) IKO Renaissance XL Black Slate shingles; or
- (b) IKO Renaissance XL Weathered Slate shingles; or
- (c) IKO Renaissance XL Harvest Slate shingles; or
- (d) Cambridge 30 Castle Grey shingles; or
- (e) Cambridge 30 Weatherwood shingles; or
- (f) Cambridge 30 Dual Black shingles; or
- (g) concrete tile in the slate profile; and
- (h) an alternative roofing material approved by the Architectural Design Approval Committee; and

2.2 No Home shall use roofing hardware unless the roofing hardware (including, but not limited to, vents, stacks, and flashings) is painted to match the colour of the roofing material.

3. Fences

3.1 In this section, "side yard" fence means a fence erected from the rear property boundary on the side property lines of a Home and terminates at the face of the front entry wall of the Home.

3.2 The Grantor shall not:

- (a) construct or allow to be constructed on Fenced Lots "A", "B" and "C" a fence, other than a rear or side yard 6-foot high sand coloured vinyl fence;
- (b) construct or allow to be constructed on Fenced Lots "D":
 - (i) a fence, other than a 4-foot high black vinyl chain link rear yard fence; and

- (ii) a fence, other than a 4-foot high black vinyl chain link side yard fence, or, a 6-foot high sand coloured vinyl side yard fence provided that height of the vinyl side yard fence is limited to not more than 4-feet for the 16-feet contiguous to the rear property line;
- (c) construct or allow to be constructed on Fenced Lot "E":
 - (i) a fence, other than a fence that is a 4-foot high black vinyl chain link north-east facing rear yard fence; and
 - (ii) a fence, other than a 6-foot high vinyl north-west facing rear yard fence; and
 - (iii) a fence, other than a 4-foot high black vinyl chain link side yard fence, or, a 6-foot high vinyl side yard fence provided that height of the vinyl side yard fence is limited to not more than 4-feet for the 16-feet contiguous to the rear property line.
- (d) construct or allow to be constructed on Fenced Lots "F":
 - (i) a fence, other than a:
 - (1) 4-foot high black vinyl chain link rear yard fence; or
 - (2) 4-foot high black powder coated steel fence.
 - (ii) a fence, other than a:
 - (1) 4-foot high black vinyl chain link side yard fence; or
 - (2) 4-foot high black powder coated steel fence; or
 - (3) 6-foot high sand coloured vinyl side yard fence provided that height of the vinyl side yard fence is limited to not more than 4-feet for the 16-feet contiguous to the rear property line.
- (e) construct or allow to be constructed on any Lot, a fence on the portion of the Lot fronting any of Aspen Cliff Place S.W., or Aspen Cliff Close S.W., provided that if such frontage is a sideyard to the Home a fence will be permitted if in compliance with these Architectural Standards.

4. Retaining Wall

4.1 The Grantor shall not construct or allow to be constructed on any of the Retaining Wall Lots a retaining wall, other than a retaining wall that is 3 feet or less in height, is constructed within the boundaries of Retaining Wall Lot, and is constructed using natural materials consistent with the finish of the Home.



081187008

081187008 REGISTERED 2008 05 22
RESC - RESTRICTIVE COVENANT
DOC 1 OF 1 DR#: B045B83 ADR/RTAGG0T2
LINC/S: 0033005589 +

3. LANDSCAPING

3.1 General Requirements

Each home site in Aspen Cliff Estates will require a comprehensive front yard landscaping package including the minimum planting of one tree and ten shrubs per standard lot, and two trees and twenty shrubs per side lot. The front yard of each home site must be sodded or appropriately landscaped.

A \$3,000 landscaping bond will be paid to the developer by the homeowner upon closing and will be returned to the homeowner after an inspection is carried out by IBI Group that certifies the front yard landscaping is complete. The home owners will be responsible for the execution and completion of the front yard landscape work. It is recommended that all the front yard landscape work be carried out by a landscape contractor, certified by LANTA. Due to seasonal weather, and the lot grading bylaw, front yard landscaping may have to be completed the following spring, but must be completed by one year after the issue of the lot grading certificate. An extension may be applied for if for some unforeseen reason the landscaping is not completed within one year of the grading certificate.



3.2 Fencing

3.2.1 REAR YARD FENCING

All rear yard fencing will be provided by the developer. The type of fence is designated on the marketing plan but is subject to change at the developer's discretion.

3.2.2 SIDE YARD FENCING

All side yard fencing, if desired, will be supplied and installed by the homeowner. For all homes that have a vinyl screen fence or a sound fence in the rear yard, the only permitted side yard fence will be a 6 foot vinyl fence which matches in colour and specification to the rear yard fence that was supplied by the developer. Construction specifications for this fence will be posted on the www.archcontrol.com website.

For all lots that have a 4 foot high chain link fence or a wrought iron fence in the rear yard, 4 foot high chain link or wrought iron fence will be the preferred side yard fencing. This fence must match the developer's specifications.