

WHEREAS, the deed restrictions in the attached instrument have been volunteered in conjunction with a request for an MF-2(A) Multifamily District with the retention of Historic Overlay District No. 72 which was approved by the City Council on August 13, 1997 on Zoning Case No. Z967-130/10221-C(DW) on property on the southeast side of Swiss Avenue, northeast of Grigsby Avenue; and

WHEREAS, said deed restrictions have been approved as to form; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the deed restrictions set forth in the attached instrument be and are hereby accepted by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property zoned an MF-2(A) Multifamily District with the retention of Historic Overlay District No. 72 as described in Ordinance No. 23202.

Section 2. That said deed restrictions shall be filed in the Deed Records of Dallas County, Texas.

Section 3. That this resolution shall take effect from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

**APPROVED BY
CITY COUNCIL**

AUG 13 1997

Robert Bloom
City Secretary

Approved as to form:
SAM LINDSAY, City Attorney

By *Glenn Fernandez*
Assistant City Attorney

APPROVED *[Signature]*
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

972513

RECEIVED 1670429

Deed 9/27/93 31 641329 PM 1:31

\$15.00

DEED RESTRICTIONS

STATE OF TEXAS

KNOW ALL PERSONS BY THESE PRESENTS: TEXAS

COUNTY OF DALLAS

I.

The undersigned, Swiss Cheese, Ltd., a Texas limited partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Avenue Heights Addition, Lots 2 and 3, Block D-770, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to Swiss Cheese, Ltd. by The Marie F. Murphy Living Trust dated February 6, 1991 by deed dated May 25, 1993, and recorded in Volume 287, Page 1 in the Deed Records, Dallas County, Texas and being more particularly described as follows:

See attached Exhibit A.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit: A maximum of 3 multifamily units are permitted on the Property.

III.

These restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated only after public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved in form by the city attorney. If the City Council approves an amendment or termination of these restrictions, the Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

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VI.

The owner agrees that these restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived expressly or otherwise.

VII.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

XI.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there no signatures of mortgagees or lienholders subscribed below.

XII.

The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this the 25th day of June, 1997.

Swiss Cheese, Ltd. a Texas Limited Partnership,
Owner

By: Swiss Cheese Management Company,
a Texas Corporation, General Partner

By: Kevin C. Maddox
Kevin C. Maddox, President

CONSENT AND CONCURRENCE OF
LIENHOLDER:

Swiss Avenue State Bank
Property Lienholder

By: Harlan
Title: Executive Vice President

APPROVED AS TO FORM:

SAM A. LINDSAY, City Attorney

By: Flora Hernandez
Assistant City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF DALLAS

This instrument was acknowledged before me on June 25, 1997 by Kevin C. Maddox, President of Swiss Cheese Management Company, a Texas corporation, on behalf of said corporation as general partner of Swiss Cheese, Ltd., a Texas limited partnership, on behalf of said limited partnership.

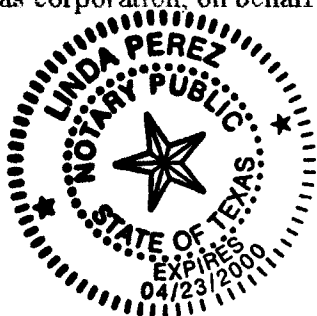
Linda Perez
My commission expires: 4-23-00



STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on June 26,
1997 by Harlan Bilton, Vice President of Swiss Avenue State Bank,
a Texas corporation, on behalf of said corporation.



Linda Perez

My commission expires: 4-23-2000

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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.
STATE OF TEXAS
COUNTY OF DALLAS
I hereby certify this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of Dallas County, Texas as stamped hereon by me.

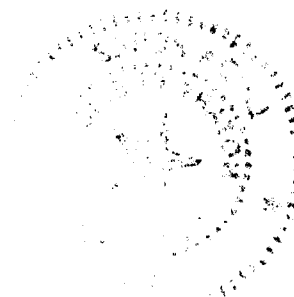
AUG 27 1997



Earl Bullock
COUNTY CLERK, Dallas County, Texas

97-2513

Dallas, Texas 75201



EARL BULLOCK
COUNTY CLERK
DALLAS COUNTY

97 AUG 26 AM 8:19

FILED

Robert S. Sloan
City Secretary
City Hall - Suite 5DS
1500 Marilla Street
Dallas, Texas 75201