

# LICHTSINN & HAENSEL, S.C.

ATTORNEYS AT LAW



May 11, 2023

**VIA EMAIL—apinon@wauwatosa.net**

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Landmark Credit Union  
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Wauwatosa, WI 53213

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***RE: Approval of Amendment to Declaration of Restriction  
Property Address: 11430 West Bluemound Road,  
Wauwatosa, WI 53226  
Tax Key Number: 411-0175-003***

Dear Arthur,

I represent Blue Boys Real Estate LLC (“Owner”), the owner of that real property known as 11430 West Bluemound Road, Wauwatosa, WI (“Subject Property”) and I’m submitting this letter as a formal request by the Owner of the Subject Property for the City of Wauwatosa’s approval of an amendment to that Declaration of Restrictions dated June 9, 1971 and recorded with the Register of Deeds for Milwaukee County on June 21, 1971 as Document No. 4600358 (the “Declaration”), and attached hereto as **Exhibit A**, which encumbers the Subject Property. Specifically, the Owner requests approval from the City of Wauwatosa that Section 1 of the Declaration be deleted from therein.

As you are aware, the PUD preliminary plans submitted by Atlius Building Co. were approved by the Common Council last week. Further, the preliminary plans detail certain development activities that are intended for the Subject Property including the construction of a new building and parking lot thereon. However, the current Declaration would restrain such activity. Specifically, Section 1 of the Declaration prohibits any improvement of the North 35 feet of the Subject Property and any vehicles, bicycles or any other propelled or self-propelled equipment from being located therein. Due to such restriction, the PUD as preliminary approved for the Subject Property could not occur as planned or approved unless such language is deleted from the Declaration.

PETER C. HAENSEL\*  
FRANK W. BASTIAN\*\*  
MICHAEL J. BENNETT  
WILLARD G. NEARY  
KATHLEEN R. DAHLGREN  
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MICHAEL D. ORGEMAN  
MICHAEL A. YAMAT  
JOSEPH A. ABRUZZO  
ANDREW B. CHRISTOPHERSON  
DANIEL J. FIORENZA  
TYLER M. HORN  
\*Of Counsel  
\*\*Also Certified Public Accountants

Accounting Services  
DAWN KIEL, CPA



Arthur Pinon  
May 11, 2023  
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Accordingly, to permit the PUD to occur on the Subject Property once the final plans are approved, the Owner hereby requests the City of Wauwatosa's approval for the deletion of Section 1 of the Declaration and authorization to execute an amendment to the Declaration to effectuate the same (attached hereto as **Exhibit B** is a proposed amendment to effectuate the requested amendment).

If you have any questions regarding the requested amendment to the Declaration to effectuate the proposed PUD for the Subject Property, please don't hesitate to contact me.

Very truly yours,

LICHTSINN & HAENSEL, s.c.

By: Electronically signed by Daniel J. Fiorenza  
Daniel J. Fiorenza

Exhibit A

REC 592MAC2155

4600358

REGISTER'S OFFICE  
Milwaukee County, Wis.  
RECORDED AT.....M

on JUN 21 1971 in  
Reel 592 Image 2155 to  
2158  
Walter C. Cuyler  
REGISTER OF DEEDS  
incl.

DECLARATION OF RESTRICTIONS

PRELIMINARY RECITATIONS:

a. Carl A. Hoffmann owns the property described on Exhibit "A" attached hereto and made a part hereof.

b. In order to promote the proper development of said property, the restrictions, covenants and agreements set forth herein are adopted by Carl A. Hoffmann.

AGREEMENT:

1. USE OF LAND. With respect to only the North thirty-five feet of the property described on Exhibit "A", no buildings or other improvements of any kind shall be placed, erected or permitted to remain thereon, and no motor vehicles, bicycles or any other propelled or self propelled equipment shall be permitted therein. The said North thirty-five feet shall be landscaped in a manner comparable to that existing in the surrounding neighborhood. Such landscaping shall be regularly maintained and shall include, at a minimum, evergreens along the southerly edge of said North thirty-five feet and grass on the remainder of said North thirty-five feet.

Except as hereinbefore set forth no restriction is hereby placed on the use of the property described on Exhibit "A".

2. BINDING EFFECT. This Declaration of Restrictions shall run with the land, and shall be binding upon all parties having or acquiring any right, title or interest in the land referred to herein, subject at all times to the provisions for amendment as set forth herein.

JUN-21-71 155629 • 4600358 D CA REC

REEL 592IMAC2156

EXHIBIT A

Parcel 2 of Certified Survey Map No. 1588 being a  
resubdivision of a part of Parcel 1 of Certified Survey Map No. 963  
and Lots 7 and 8 in Block "D" in Grand Avenue Highlands in the South-  
east 1/4 of Section 30, Township 7 North, Range 21 East, in the City of  
Wauwatosa, County of Milwaukee, State of Wisconsin.

3. AMENDMENTS. This Declaration of Restrictions may be amended from time to time by the record fee owners of the property described on Exhibit "A", subject, however, to approval by the Common Council of the City of Wauwatosa. Each such amendment shall be in writing, in recordable form, signed by the said record fee owners, and approved by the Mayor or City Clerk of the City of Wauwatosa, pursuant to the approving resolution.

4. ENFORCEMENT. (a) The City of Wauwatosa or any record fee lot owner in the area, bounded on the south by the centerline of West Bluemound Road, on the west by the centerline of North One Hundred and Sixteenth Street, on the north by the centerline of West Wisconsin Avenue and on the east by the centerline of North One Hundred and Thirteenth Street, may enforce the provisions of this Declaration of Restrictions. Enforcement shall be by proceedings at law or in equity against any party violating or attempting to violate any provision of this Declaration of Restrictions, either to restrain violation, compel compliance and/or recover damages.

IN WITNESS WHEREOF, the undersigned has caused this Declaration of Restrictions to be executed this 9th day of June, 1971.

 (SEAL)  
Carl A. Hoffmann

STATE OF WISCONSIN )  
                                  ) SS.  
MILWAUKEE COUNTY )

Personally came before me, this 9th day of June, A.D., 1971, Carl A. Hoffmann, to me known to be the person who executed the

foregoing instrument and acknowledged the same.

Kathleen Falt

Notary Public, Milw. County, Wis.

My commission 2/19/74



This instrument was drafted by Frederick A. Muth, Jr.

## Exhibit B

Document Number	AMENDMENT TO DECLARATION OF RESTRICTIONS Document Title							
<p><b>THIS AMENDMENT TO DECLARATION OF RESTRICTIONS</b> is made this ____ day of June, 2023 by Blue Boys Real Estate LLC, a Wisconsin limited liability company (hereinafter the "Fee Owner") and the City of Wauwatosa (hereinafter the "City").</p> <p><b>WHEREAS</b>, Fee Owner is the owner of that real property legally described on the attached <b>Exhibit A</b> (the "Parcel").</p> <p><b>WHEREAS</b>, the Parcel is subject to that certain Declaration of Restrictions dated June 9, 1971 and recorded with the Register of Deeds for Milwaukee County on June 21, 1971 as Document No. 4600358 (the "Declaration") in which certain restrictions on the development of the Parcel were declared and which such restrictions may only be amended with the City.</p> <p><b>WHEREAS</b>, the Fee Owner and City desire for the Parcel to be developed in accordance with that Final Planned Unit Development approved by the City for the Parcel.</p> <p><b>NOW THEREFORE</b>, the Fee Owner and City hereby consent to, and approve, the deletion of Section 1 of the Declaration in its entirety. Upon execution and recordation of this instrument, the Declaration shall be deemed amended to reflect the same.</p> <p><b>IN WITNESS WHEREOF</b>, I have hereunto set my hand and seal as of the date first written above.</p> <p><b>FEE OWNER:</b> Blue Boys Real Estate LLC</p> <p><b>CITY OF WAUWATOSA:</b></p> <p>By: _____ Adam McCarthy, Manager</p> <p>By: _____ , (Mayor/City Clerk)</p> <p><b>ACKNOWLEDGMENTS</b></p> <table><tbody><tr><td>STATE OF WISCONSIN )</td><td>STATE OF WISCONSIN )</td></tr><tr><td>)SS.</td><td>)SS.</td></tr><tr><td>MILWAUKEE COUNTY )</td><td>MILWAUKEE COUNTY )</td></tr></tbody></table> <p>Personally came before me this ____ day of June, 2023, the above- named Adam McCarthy, as Manager of Blue Boys Real Estate LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.</p> <p>Personally came before me this ____ day of June, 2023, the above- named _____, as (Mayor/City Clerk) of the City of Wauwatosa, to me known to be the persons who executed the foregoing instrument and acknowledged the same.</p> <p>_____ Notary Public, State of Wisconsin My commission expires: _____</p> <p>_____ Notary Public, State of Wisconsin My commission expires: _____</p>		STATE OF WISCONSIN )	STATE OF WISCONSIN )	)SS.	)SS.	MILWAUKEE COUNTY )	MILWAUKEE COUNTY )	<p>Recording Area</p> <p>Name and Return Address: Daniel J. Fiorenza Lichtsinn &amp; Haensel, s.c. 111 East Wisconsin Ave., Suite 1800 Milwaukee, WI 53202</p> <p>Tax Key Number: 411-0175-003</p>
STATE OF WISCONSIN )	STATE OF WISCONSIN )							
)SS.	)SS.							
MILWAUKEE COUNTY )	MILWAUKEE COUNTY )							

## **EXHIBIT A**

### **Legal Description**

PARCEL 2 OF CERTIFIED SURVEY MAP NO. 1588, BEING A REDIVISION OF A PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 963 AND LOTS 7 AND 8, IN BLOCK "D" IN GRAND AVENUE HIGHLANDS, IN THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 21 EAST, IN THE CITY OF WAUWATOSA, COUNTY OF MILWAUKEE, STATE OF WISCONSIN, RECORDED JUNE 21, 1971, ON REEL 592, IMAGE 2150 TO 2154 INCLUSIVE, AS DOCUMENT NO. 4600357.

*For informational purposes only:*

*Property Address: 11430 West Bluemound Road, Wauwatosa, WI 53226*

*Tax Key Number: 411-0175-003*