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McLean County, IL
Ruth Weber Recorder
File 2003-00035187

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**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
TO THE FIRST ADDITION TO HERSHEY GROVE SUBDIVISION**

Mercer Turner, as Trustee of Land Trust No. HG-1 dated the 15th day of April, 2002, hereinafter called the "Declarant", is setting forth the following covenants, conditions, and restrictions, pursuant to the request and direction of the sole owner of the beneficial interest in the above described McLean County land trust. These covenants, conditions and restrictions apply to certain real property located in McLean County, Illinois, described as follows:

Lots 34 and 35 in the First Addition to Hershey Grove Subdivision, Bloomington, Illinois, according to the Plat thereof recorded June 23, 2003 as Document No. 2003-29788.

P.I.N. U/L 5) 21-13-100-003

For the purpose of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting such subdivision, Declarant hereby declares that all of the real property described above and each part thereof shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof. The Declarant reserves that right to cause additional real estate

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to be subject to terms and conditions which are similar to those provided for herein by filing with the McLean County Recorder of Deeds one or more additional declarations of covenants, conditions, and restrictions making reference to the original Declaration of Covenants, Conditions and Restrictions. This is intended to be construed as adding additional real estate to the Declaration of Covenants, Conditions and Restrictions for Hershey Grove Subdivision recorded as Document No. 2003-4888 in McLean County, Illinois.

ARTICLE I. DEFINITIONS:

Section 1. "Association" shall mean and refer to the HERSHEY GROVE HOMEOWNERS ASSOCIATION OF BLOOMINGTON, INC., an Illinois not-for-profit corporation, and its successors and assigns.

Section 2. "Common area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 3. "Declarant" shall mean MERCER TURNER, Bloomington, Illinois, as Trustee under the Provisions of a Trust Agreement dated the 15th day of April, 2002, and known as Land Trust No. HG-1.

Section 4. "Lot" shall mean any plot of land shown on the recorded subdivision map referred to above, with the exception of the common area.

Section 5. "Maintenance" shall mean the exercise of reasonable care to keep buildings, roads, landscaping, lighting, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden-management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

Section 6. "Member" shall mean every person or entity who holds membership in the Association.

Section 7. "Mortgage" shall mean a conventional mortgage or a deed in trust.

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Section 8. "Mortgage" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed in trust.

Section 9. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the subdivision, and shall include contract sellers, but shall not include those holding title merely as security for performance of obligation.

Section 10. "Subdivision" shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

ARTICLE II. MEMBERSHIP IN ASSOCIATION; VOTING RIGHTS:

Section 1. Every owner of a lot shall be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a lot.

Section 2. The Association shall have two classes of voting members as follows:

Class A. Class A members shall be all owners with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in a given lot, all such persons shall be members and vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot owned by Class A members.

Class B. The Class B member shall be Declarant, who shall be entitled to exercise 3 votes for each lot owned. The Class B membership shall cease and be converted to Class A membership when total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or on the 1st day of January, 2010, whichever first occurs.

ARTICLE III. ASSESSMENTS:

Section 1. Lien and personal obligation of assessments. Declarant hereby covenants for each final platted lot within the subdivision, and each owner of a lot, other than Declarant, is hereby deemed to covenant by acceptance of his deed for such lot, whether or not it shall be so expressed

in his deed, to pay to the Association (1) annual assessments and (2) special assessments for capital improvements. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and a continuing lien on each lot against which such an assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees incurred to collect same shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due. Declarant is exempt from paying any assessment for a lot owned by Declarant until such time as a Declarant completes a dwelling on such lot.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the health, safety, welfare, and recreation of the residents in the Subdivision, and for the improvement and maintenance of the common areas and of the homes situated within the Subdivision. Annual assessments shall include, and the Association shall acquire and pay for out of the funds derived from annual assessments, the following:

- (a) Maintenance and repair of the common area;
- (b) Water, sewage, garbage, electrical, lighting, telephone, gas and other necessary utility service for the common area, if any;
- (c) Acquisition of furnishings and equipment for the common area as may be determined by the Association, including without limitation all equipment, furnishings, and personnel necessary or proper for use of the recreational facilities, if any;
- (d) Maintenance and repair of storm drains, sanitary sewers, and private streets, if any, within the confines of the Subdivision.
- (e) Fire insurance covering the full insurable replacement value of the common area with extended coverage, if any.
- (f) Liability insurance insuring the Association against any and all liability to the public, to any owners, or to the invitees or tenants of any owner arising out of their occupation and/or use of the common area. The policy limits shall be set by the Association,

and shall be reviewed at least annually and increased or decreased at the discretion of the Association.

(g) Workmen's compensation insurance to the extent necessary to comply with the Workers Compensation Act of the State of Illinois and any other insurance deemed necessary by the Board of Directors of the Association.

(h) A standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in an amount to be determined by the Board of Directors.

(i) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay pursuant to the terms of this declaration or by law, or which shall be necessary or proper in the opinion of the Board of Directors of the Association for the operation of the common areas, for the benefit of lot owners, or for the enforcement of these restrictions.

Section 3. Maximum Annual Assessment.

(a) Until December 31 of the year immediately following the conveyance of the first lot by Declarant to an owner, the maximum annual assessment shall be \$150.00 per lot.

(b) From and after January 1st of the year immediately following the conveyance of the first lot by Declarant to an owner, the maximum annual assessment may be increased by the vote or written assent of a majority of all votes entitled to be cast under Article II above.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments or Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on the common area, including fixtures and personal property related thereto. Any such assessment must be

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approved by a majority of each class of members.

Section 5. Notice and Quorum for Action Authorized Under Article III, Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized by Section 3 or 4 of Article III shall be sent to all members not less than thirty (30) nor more than forty-five (45) days in advance of such meeting. In the event the proposed action is favored by a majority of the votes cast in such meeting, but less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing within ten (10) days after the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots.

Section 7. The Commencement and Collection of Annual Assessments. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the subject lot to the owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least sixty (60) days in advance of the due date thereof and shall fix the dates such amounts become due. Assessments may be made payable monthly. Notice of the annual assessments shall be sent to every owner subject thereto. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessments against a specific lot have been paid, and shall, on or before January 1 of each year, cause to be recorded in the Recorder's Office of McLean County, Illinois, a list of delinquent assessments as of the date.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate of nine percent (9%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the property. The Owner shall also be obligated to pay the reasonable attorney fee

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incurred by the Association to collect said delinquent assessments, together with costs of the action. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 9. Subordination of Assessment Lien to Mortgages. The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV - PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner of a lot shall have a right and easement of enjoyment in and to and an obligation for maintenance of the common area which shall be appurtenant to and shall pass with the title to such lot, subject to the following rights of the Association.

(a) The right to dedicate or transfer all or any part of the common area, if any, to any municipality, public agency authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument executed by 2/3 of each class of members agreeing to such dedication or transfer has been duly recorded.

Section 2. Delegation of Use. Subject to such limitations as may be imposed by the by-laws, each owner may delegate his right of enjoyment in and to the common areas and facilities, if any, to the members of his family, his guests, tenants, and invitees.

Section 3. Easements of Encroachment. There shall exist reciprocal appurtenant easements as between adjacent lots and between each lot and any portion or portions of the common area adjacent thereto for any encroachment due to the unwillful placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon, provided such construction,

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reconstruction, or alteration is in accordance with the terms of this declaration. Such easements shall exist to a distance of not more than one foot as measured from any point on the common boundary between adjacent lots, and between each lot and any adjacent portion of the common area, along a line perpendicular to such boundary at such point. No easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of an owner.

Section 4. Other Easements

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements. The easement area of each lot and all improvements therein shall be continuously maintained by the owner of such lot, except for improvements or maintenance of which a public authority or utility company is responsible.

(b) No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation or right-of-way, and such easements, reservations, and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees, and contractors, and shall also be open and accessible to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements, reservations and rights-of-way are reserved.

Section 5. Right of Entry. The Association, through its duly authorized employees and contractors, shall have the right after reasonable notice to the owner thereof, to enter any lot at any reasonable hour on any day to perform such maintenance as may be authorized herein.

Section 6. No Partition. There shall be no judicial partition of the common area, nor shall Declarant, or any owner of any other person acquiring any interest in the subdivision or any part thereof, seek judicial partition thereof. However, nothing contained herein shall be construed to

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prevent judicial partition of any lot owned in co-tenancy.

ARTICLE V. USE RESTRICTIONS:

The subdivision shall be occupied and used only as follows:

Section 1. Each lot shall be used as a residence for a single family and for no other purpose.

Section 2. No business of any kind shall be conducted at any residence with the exception of the business of Declarant and the transferees of Declarant in developing all of the lots.

Section 3. No noxious or offensive activity shall be carried on in or on any lot with the exception of the business of Declarant and the transferees of Declarant in developing all of the lots.

Section 4. No sign of any kind shall be displayed to public view on a lot or the common area without the prior written consent of the Association, except customary name and address signs and lawn signs of not more than ten (10) square feet in size advertising a property for sale or rent.

Section 5. Nothing shall be done or kept on a lot or on the common area which would increase the rate of insurance relating thereto without the prior written consent of the Association, and no owner shall permit anything to be done or kept on his lot or the common area which would result in the cancellation of insurance on any other residence or on any part of the common area, or which would be in violation of any law.

Section 6. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot or on the common area. However, dogs, cats, and other household pets may be kept on the lots, subject to such rules and regulations as may be adopted by the Association, so long as they are not kept, bred or maintained for commercial purposes.

Section 7. No rubbish, trash, garbage or other waste material shall be kept or permitted on any lot or on the common area except in sanitary containers located in appropriate areas concealed from public view.

Section 8. No fence, hedge, wall or other dividing instrumentality over six (6) feet in height measured from the ground on which it stands shall be construed or maintained on any lot.

Section 9. No outbuilding, basement, tent, shack, garage, trailer, shed, or temporary building of any kind shall be used as a residence, either temporarily or permanently.

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Section 10. Nothing shall be altered in, constructed on or removed from the common area except on the written consent of the Association.

Section 11. All front yards of each lot shall be maintained to have a full stand of grass within six (6) months after completion of the construction of a home.

Section 12. Each lot shall be planted with two (2) hardwood trees, which are two (2) inches in diameter, within one (1) year after a lot is in possession of a Class A member after sale by the Declarant.

Section 13. No "used materials", except brick and stone, shall be used for or in the construction of this property, and no previously built structure of any kind shall be moved upon said premises. No garage, trailer, basement, tent, shack or other building except the residence itself erected on said tract shall at any time be used as a residence, either temporarily or permanently.

Section 14. All single-family residence structures erected upon said subdivision shall have a minimum of 1,600 square feet of livable floor area, exclusive of any area for garage, breezeway or basement where the home consists of only one floor, and shall have a minimum of 2,000 square feet of livable floor area, exclusive of any area for garage, breezeway or basement where the home consists of two floors. No completely modular building shall be permissible; however, precut or preassembled components may be used. Every dwelling unit shall have at least a two-car attached garage. No duplex structures shall be permitted.

Section 15. The Declarant or his representative must approve in writing building placement on the lot, grade lines and building elevations prior to obtaining any building or excavation permit.

Section 16. No truck, travel trailer, recreational type vehicle, mobile home, boat, trailer, motor bike or trail bikes, etc. shall be kept on the lot or in the subdivision except entirely within an enclosed structure.

Section 17. The installation or construction of any satellite dish or receiver greater than 24 inches in diameter on any lot is prohibited. Any dish must be placed in rear of house and attached to the house.

Section 18. All grass and weeds shall be kept mowed, and rubbish and other unsightly

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objects shall not be allowed to accumulate on the property.

Section 19. Any boundary fence constructed upon the premises must be a minimum of six (6) inches inside the property line and constructed of any decorative material. Chain link fencing may, however, only be constructed in the rear yard of any lot not closer to the front line than a line formed by an imaginary exterior of the residence facing the rear yard.

Section 20. No excavated material shall be moved from the subdivision without the written consent of the Declarant.

Section 21. Before the commencement of any construction on any lot, the building design, location, construction plans, and construction materials must be approved by the Architectural Review Committee, which has been established by the Declarant.

Section 22. No building or storage shed may be constructed or installed which is disconnected from their residence; except, gazebos and similar type structures, and pump houses for pools may be allowed with written permission of Declarant.

Section 23. No clothesline, whether temporary or permanent, shall be used or installed in the yard or any other area outside the residence.

Section 24. Declarant or the transferees of Declarant shall undertake the work of developing all lots included within the subdivision. The completion of that work, and the sale, rental, or other disposition of residential units is essential to the welfare of the subdivision as an ongoing residential community. In order that such work may be completed and the Subdivision be established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from doing on any part or parts of the subdivision owned or controlled by Declarant or Declarant's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work;

(b) Prevent Declarant, Declarant's transferees, or the employees, contractors, or

subcontractors of Declarant or Declarant's transferees from doing on any part or parts of the Subdivision owned or controlled by Declarant or Declarant's transferees or their representatives, such structures as may be reasonably necessary for the completion of such work, the establishment of the subdivision as a residential community, and the disposition of lots by sale, lease or otherwise.

(c) Prevent Declarant, Declarant's transferees, or the employees, contractors, subcontractors of Declarant or Declarant's transferees from conducting on any part or parts of the subdivision property owned or controlled by Declarant or Declarant's transferees or their representatives the business of completing such work, of establishing the subdivision as a residential community, and of disposing of lots by sale, lease or otherwise; or

(d) Prevent Declarant, Declarant's transferees, or the employees, contractors, subcontractors of Declarant or Declarant's transferees from maintaining such sign or signs on any of the lots owned or controlled by any of them as may be necessary in connection with the sale, lease or other disposition of subdivision lots.

As used in this section, the words "its transferees" specifically exclude purchasers of lots improved with completed residences.

Section 25. The Owner shall be responsible for completing construction of a home within at least a one-year period immediately after the date construction has commenced. Construction shall be deemed to have commenced when any grading or excavation has been performed on a lot.

Section 26. If the Declarant determines that a lot owner, or a lot owner's builder, disposes of building wastes and/or concrete in an area in the subdivision, the lot owner shall be personally liable for the cost of properly disposing of same. Declarant, as a remedy, may do one or more of the following:

- (a) file a lien on the lot of the guilty lot owner for the cost of proper disposal;
- (b) include in said lien the cost of reasonable attorney fees incurred to collect

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the cost of proper disposal; and

- (c) file suit against the guilty lot owner to foreclose said lien and to collect from the lot owner personally the cost of the proper disposal, plus attorney fees.

ARTICLE VI. OWNER'S OBLIGATION TO REPAIR

Each Owner shall, at said Owner's sole cost and expense, repair said Owner's residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

ARTICLE VII. OWNER'S OBLIGATION TO REBUILD

If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all diligence, to rebuild, repair, or reconstruct such residence in a manner, which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs, and shall be completed within twelve (12) months after the damage occurs, unless prevented by causes beyond the control of the Owner or Owners.

ARTICLE VIII. OWNER'S OBLIGATION FOR SIDEWALKS, CURBS, GUTTER DAMAGE, AND GRADING OF YARDS

Each Owner shall, at his sole cost and expense, be responsible for the condition of the sidewalk, curb, gutter, and yard grade of the premises. In the event that same is in any way damaged or disturbed during any construction on the premises, the Owner agrees to assume the responsibility of same, so as to comply with these restrictions, and the ordinances or law of any other governmental unit. Should the Owner not comply with the provisions herein within thirty (30) days, the Declarant hereby authorizes the Association to make said repairs and pay the costs of same, and the Association shall be entitled to a lien on the property for such repairs, until such time as the member reimburses the Association.

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ARTICLE IX. ANNEXATION OF ADDITIONAL PROPERTY

The Declarant hereby reserves the right to add additional members to the Hershey Grove Homeowners Association of Bloomington, Inc. by recording one or more sets of additional covenants similar to this document for single-family lots adjacent to the original Hershey Grove Subdivision for the future Addition to the Hershey Grove Subdivision. Said recording or recordings shall refer to this Article IX.

**ARTICLE X. MAINTENANCE OF
THE BERM AND THE BOULEVARDS**

The Declarant hereby obligates the Association to maintain the earthen berm and the boulevards in the Hershey Grove Subdivision and any additions thereto. The Association shall employ the Declarant, or his representative, to conduct this maintenance, until such time as the Association decides to employ an alternative party. The Association shall pay a reasonable fee to the Declarant for such maintenance.

ARTICLE XI. GENERAL PROVISIONS

Section 1. Enforcement. Declarant, the Association, or any owner shall have the right to enforce by any proceeding at law or equity, all restrictions, conditions, covenants, easements, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendments. Covenants and restrictions of this Declaration may be amended by duly recording an instrument executed and acknowledged by not less than 3/4 of each class of members.

Section 4. Subordination. No breach of any of the conditions herein contained or re-entry by

AGREEMENT

Snyder Properties Trust, the beneficiary of McLean County Land Trust HG-1, developer of the Hershey Grove Subdivision ("Subdivision") in the City of Bloomington and all additions thereto ("Developer") and the Hershey Grove Homeowners Association, Inc., and Illinois not-for-profit association ("Association"), hereby agree as follows:

Recitals

1. The Association has elected a homeowner-based board of directors to conduct its affairs
2. The Association is responsible for maintaining all improvements in the common areas of the Subdivision.
3. The Developer has erected an opaque white fence along a portion of the west boundary line of the Subdivision, which fence was recently damaged by high winds.
4. The Developer is willing to bear the cost of repair of the storm damage to said fence, the maintenance responsibility for which belongs to the Association, but wishes to end its responsibility therefor.

Agreement

1. The Developer agrees to repair, at its sole expense and at no cost to the Association, the storm damage to the fence constructed along the west side of the Subdivision.
2. The Association agrees, effective upon completion of said repairs, to assume all maintenance responsibility for said fence. The parties understand that obtaining insurance for damage to said fence is the responsibility of the Association.
3. Although the Developer will repair the fence in a good and workmanlike manner, it expressly disclaims any and all warranties with respect to the original construction of and any and all repairs to said fence, and upon completion of repairs to said fence, is absolved of any and all responsibility for said fence, whether based on tort, contract or any type of warranty.

Dated this 25th day of July, 2010.

Snyder Properties Trust

By: 

By: 

Hershey Grove Homeowners Association, Inc.

By:  President 7/21/10

By:  Treas.

By: 