



## Zoning Case No. C14-2007-0056

**RESTRICTIVE COVENANT**

OWNER: 112 Academy, LLC,  
a Texas limited liability company

ADDRESS: 600 Congress Avenue, Suite 200, Austin, Texas 78701

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: All of Block 72, Fairview Park Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 1, Page 46, of the Plat Records of Travis County, Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Hotel-motel use is a permitted use of the Property provided there are no more than 14 guest rooms on the Property.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

6-21-07  
# 129

**CONSENT OF LIENHOLDER**

**THE UNDERSIGNED**, being the holder of a vendor's lien pursuant to that certain General Warranty Deed dated October 10, 2006, recorded under Instrument No. 2006197905 of the Official Public Records of Travis County, Texas, further secured by that certain Deed of Trust dated October 10, 2006, recorded under Instrument No. 2006197906 of the Official Public Records of Travis County, Texas, securing the payment of an obligation in the amount of \$1,116,500.00, hereby consents to the Restrictive Covenant in connection with City of Austin zoning case no. C14-2007-0056 (the "Restrictive Covenant") and agrees that its lien is subject to and subordinate to the Restrictive Covenant, and that the undersigned has authority to execute and deliver this Consent of Lienholder, and that all necessary acts necessary to bind the Lienholder have been taken.

**NAME OF LIENHOLDER:**

**TEXAS CAPITAL BANK, NATIONAL  
ASSOCIATION**

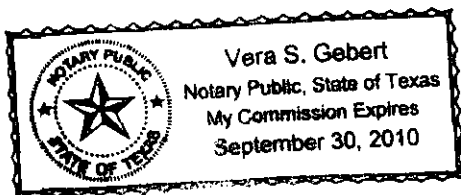
By: *Chris Wheeler*  
Name: *Chris Wheeler*  
Title: *Sen. Vice President*

Date: June *21*, 2007

STATE OF TEXAS   §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this *21* day of June, 2007 by *Chris Wheeler*, *Senior Vice President* of Texas Capital Bank, National Association, a national banking association, on behalf of said banking association.




*Vera S. Gebert*  
Notary Public, State of Texas

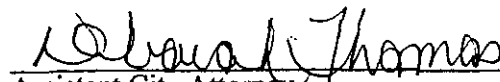
EXECUTED this the 21<sup>st</sup> day of June, 2007.

**OWNER:**

**112 Academy, LLC,  
A Texas limited liability company**

  
Gregory Marchbanks, Manager

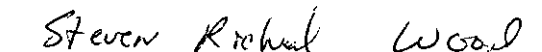
**APPROVED AS TO FORM:**

  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS §**

**COUNTY OF TRAVIS §**

This instrument was acknowledged before me on this the 21<sup>st</sup> day of June, 2007,  
by Gregory Marchbanks, Manager, of 112 Academy, LLC, a Texas limited liability company, on  
its behalf.

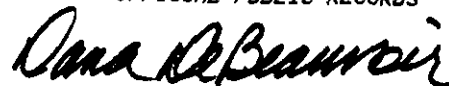
  
Notary Public, State of Texas

After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Diana Minter, Legal Assistant



**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS



2007 Jun 27 03:29 PM 2007118421

RANEYJ \$24.00

DANA DEBEAUVOIR COUNTY CLERK  
TRAVIS COUNTY TEXAS

**Recorders Memorandum-**At the time of recordation  
this instrument was found to be inadequate for the best  
reproduction, because of illegibility, carbon or  
photocopy, discolored paper, etc. All blockouts,  
additions and changes were present at the time the  
instrument was filed and recorded.