


Book 00731:1393 Augusta - Richmond County
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\$18.00 DECLARATION RESTRICTIVE COVENA

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AFTER RECORDING RETURN TO:
Carol Geiger
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530

DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENT

THIS DECLARATION is made this 18th day of May 2001 by MIRACLE MAKING MINISTRIES, a Georgia non-profit corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant owns the property described on Exhibit "A" hereto attached and made a part hereof (the "Property"); and

WHEREAS, the Property contains "hazardous substances" as defined under the Georgia Hazardous Site Response Act, O.C.G.A. §12-8-90, *et seq.*, and, accordingly, Declarant desires to restrict the use of the Property and grants to AGLC easements to go on, under, over and through the Property as provided herein.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged and intending to be legally bound, Declarant does hereby subject the Property to the covenants, restrictions, easements and rights hereinafter stated:

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1. Definitions. For purposes of this Declaration, the following terms shall have the following meanings, unless the context requires otherwise:

"AGLC" shall mean Atlanta Gas Light Company, a Georgia corporation, its successors and assigns.

"Director" shall mean the Director of EPD, as hereinafter defined.

"EPD" shall mean the Georgia Department of Natural Resources, Environmental Protection Division, as well as any successor state agency with responsibility for and jurisdiction over environmental matters.

"Hazardous Substances" shall have the same meaning as under HSRA, as hereinafter defined.

"HSRA" shall mean the Hazardous Site Response Act, O.C.G.A. § 12-8-90, *et seq.*

2. Restrictive Covenants. Declarant hereby:

a. prohibits the use of groundwater beneath the Property as a source of drinking water or for any other purpose that could result in human ingestion as defined in the Rules for HSRA, Rule 391-3-19-.02(2)(i), incorporated herein by reference, in effect at the time of this Declaration;

b. restricts the use of the Property to non-residential uses as defined in the Rules for HSRA in effect at the time of this Declaration;

c. prohibits the disturbance of any material stabilized in accordance with the Corrective Action Plan submitted on March 27, 2001 and all modifications submitted thereafter, without prior notice to and approval from EPD; and

d. agrees to install and maintain permanent markers on each side of the Property that delineate the restricted area and prohibits the disturbance or removal of such markers.

This Declaration is made in accordance with Ga. Comp. R. & Regs. 391-3-19-.08(7), which expressly authorizes the use of restrictive covenants to prohibit activities on the Property that may substantially interfere with a remedial action, operation and maintenance, long-term monitoring, or other measures to ensure the integrity of any remedial action. The foregoing are hereinafter collectively referred to as the "Restrictive Covenants."

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3. Easement. Declarant hereby grants to AGLC, and its agents, employees, representatives and contractors, a nonexclusive permanent, perpetual right, privilege and easement in, upon, under, across and through the Property, for purposes of further investigating, remediating, remedying or otherwise taking responsive action, as AGLC deems necessary or desirable, with respect to manufactured gas plant impacts, as identified in the Corrective Action Plan dated March 27, 2001 (the "Easement").

4. Improvements. Any and all improvements located in whole or in part on all or any portion of the Property, and the construction, operation, use and maintenance of the Property and such improvements, shall be subject to and shall comply with the Restrictive Covenants and Easement.

5. Covenants running with the land. Declarant acknowledges and agrees that the Restrictive Covenants and Easement are appurtenant to and run with the land, and shall be binding and enforceable against all future owners of the Property including Declarant, its successors and assigns, and any trustee appointed to manage the Property. Should a transfer or sale of the Property occur before such time as the Restrictive Covenants and Easement have been amended or revoked then said Restrictive Covenants and Easement shall be binding on the transferee(s) or purchaser(s).

The Restrictive Covenants shall inure to the benefit of EPD, AGLC and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns and AGLC or its successors and assigns in a court of competent jurisdiction. The Easement shall inure to the benefit of AGLC and its successors and assigns and shall be enforceable by AGLC, its successors and assigns in a court of competent jurisdiction. The Restrictive Covenants and Easement shall remain in full force and effect in accordance with O.C.G.A. § 44-5-60(c), unless and until the Director determines that the Property meets Type 1 or 2 Risk Reduction Standards, as defined in the Rules for Hazardous Site Response Chapter 391-3-19-.07.

6. Severability. In the event that any of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect in a final ruling or judgment of a court of competent jurisdiction from which no appeal has been or can be taken, the remainder of the Restrictive Covenants and Easement shall not be affected thereby and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

7. Statutory Notice. This property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the

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Georgia Hazardous Site Response Act. This Declaration is a condition of approval for the Corrective Action Plan submitted to EPD on March 27, 2001 and all modifications submitted thereafter for the Property and is a requirement under Consent Order EPD-HW-1390 entered into by AGLC on July 11, 2000.

8. General Provisions.

(a) Headings. The use of headings, captions and numbers in this Declaration is solely for the convenience of identifying and indexing the various provisions in this Declaration and shall in no event be considered otherwise in construing or interpreting any provision in this Declaration.

(b) Non-Waiver. Failure by any party to complain of any action, non-action or breach of any other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach of any other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future.

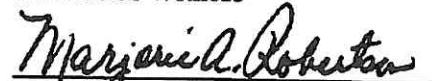
(c) Time of Essence. Time is of the essence of this Declaration.

(d) Applicable Law. This Declaration shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

IN WITNESS WHEREOF, Declarant has signed and sealed this Declaration, all the day, month, and year first above written.

Signed, sealed and delivered
in the presence of:


Unofficial Witness


Notary Public

(NOTARY SEAL)

My Commission Expires:

Dec. 16, 2003

Notary Public, Douglas County, Georgia
My Commission Expires December 16, 2003

DECLARANT:

MIRACLE MAKING MINISTRIES, a
Georgia non-profit corporation

By: 

Name: Robert L. Williams

Title: Pres.

(CORPORATE SEAL)

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EXHIBIT "A"

ALL that lot or parcel of land, with improvements thereon, situate, lying and being in the City of Augusta, Richmond County, Georgia, fronting 40 feet, more or less, on the west side of King Street, and extending back half way towards Jackson Street, a distance of 140 feet, more or less, and being bounded, now or formerly, as follows: On the North, by property now or formerly of Elizabeth O'Keefe; on the East, by King Street; on the South, by property now or formerly of K.G. Mulherin; and on the West, by property now or formerly of Bryson.

SAID property is known and designated as 807-809 King Street according to the system of street numbering currently in use by the City of Augusta, Richmond County, Georgia.

Elaine C. Johnson, Richmond County Clerk of Superior Court

Filed in this office:
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Elaine C. Johnson

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