

VOL. 328 358

RESTRICTIONS
130089

THE STATE OF TEXAS I
COUNTY OF TRAVIS I

KNOW ALL MEN BY THESE PRESENTS

FILED
At 2:35 o'clock P.M.
JUL 3 1979
Ludell B. Weston
County Clerk, Hays County, Texas
By *Ras Redwine* Deputy

THAT, R. P. INGRUM and E. D. BOHLS, hereinafter sometimes referred to as "Developer", being the owners of that certain 161.74 acres out of the Richard Hailey League in Hays County, Exhibit A attached hereto, which exhibit is hereby specifically referred to and incorporated herein for all purposes, do hereby restrict said property in the manner hereinafter set forth, which restrictions shall be binding upon all owners of any portion of said 161.74 acres, their heirs and assigns, successors, devisees and administrators.

1. There is hereby established the Bear Creek Oaks Protective Committee (hereinafter referred to as "Committee") for the purpose of collecting and disbursing the maintenance fund hereinafter provided for; approving all construction and plot plans; enforcing these covenants and restrictions, however, nothing herein shall prevent the owner of any tract of land from enforcing these restrictions in any manner provided for under law; and amending these restrictions and covenants in any manner that they shall deem appropriate and to the best interest of the land. The initial members of the Committee shall be R.P. Ingram, E. D. Bohls, and Ras Redwine. At such time as all of the land has been sold by the present owners, or sooner at the present owners option, the then members of the Committee shall notify all of the owners of any portion of the subject tract, and the such persons, or their agents, shall elect new members of the Committee. The Committee may then contain any number of members such property owners shall designate and such owners shall promulgate any and all rules and regulations they deem to the best interest of the subject property, including the amendment of these restrictions. At such initial meeting there shall be one vote per individual tract of land, regardless of its size. Such notice shall be sufficient if in writing and delivered in person, or if mailed, postage prepaid to each owner as shown by the records of the Hays County Tax Assessor's office at the address shown on such records.

2. No portion of said premises shall be used or occupied for any purpose other than residential and recreational.

3. All structures on said premises shall be limited to single family dwellings plus any garage, carport, barn, shed or animal pens used in connection with the dwelling.

4. Each dwelling shall be not less than 1,000 square feet, exclusive of basement, garage and porches. Any garage or carport shall be constructed at the same time or subsequent to the constructions of the single family house it is intended to serve. All improvements shall be completed within nine (9) months from the beginning of construction. All residences shall be connected to a septic tank approved by the Texas Department of Health Resources, or such other regulatory body having jurisdiction over construction of septic tanks.

5. No building or other structure shall be erected or placed upon any subdivided tract of said land, nor shall any existing structure be materially altered, until the plans and specifications and plot plan have been submitted to and approved in writing by the Committee, or its duly designated agent. If said plans and speci-

30 days following that date on which the same are submitted for approval, and if no injunction suit shall have been commenced prior to the completion of the work, then proper approval of the building plans and specifications and of the plot plan shall be conclusively presumed to have been had and obtained.

6. All construction shall be new construction on the premises and no building or any portion thereof shall be moved in without the express written consent of the Committee.

7. No building or structure of any kind shall be located nearer than 75 feet from any road on the premises, nor nearer than 20 feet from any side or rear property line.

8. No tract or parcel of land shall be divided, subdivided or resubdivided into any tract or parcel of land containing less than one (1) acres. No portion of any tract upon which a residence or other building has been constructed shall be sold if after such sale the location of any residence or other building shall violate any of these restrictions.

9. It shall be permissible for owners of tracts of at least one (1) acre to possess animals for the owner's personal use and enjoyment only, except, there shall not be maintained on the premises any pigs, hogs, or swine.

10. Pens, sheds, corrals, barns, or any other enclosures may be constructed on the land at any time, however, they shall not be constructed within 150 feet of any road or within 20 feet of any property line. This restriction includes construction of watering troughs and feed troughs.

11. No lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Such materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary lids or covers. No lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street except that new materials used in the construction of improvements erected upon any lot may be placed upon any lot at the time construction is commenced and may be maintained thereon for a reasonable time so long as the construction is in progress.

12. No drilling, mining, exploration or other type of operation for oil and gas and/or other minerals such as sand, gravel, limestone, coal or iron or any other substance, mineral or metal, shall be permitted or be conducted on any lot or tract in the subdivision, except however, drilling operation for oil or gas may be conducted on any tract of twenty (20) acres or more.

13. No vehicle or vehicles in a non-operating condition shall be permitted to remain on any tract longer than sixty (60) days except that however, such vehicle or vehicles may remain longer if they are housed in enclosed storage.

14. No live trees other than cedar trees or mesquite trees that measure five (5) inches in diameter or more, measured one foot above natural ground level may be removed for other than road and driveway construction and site clearing for the construction of buildings and utilities. Driveway culverts, driveways and sidewalks shall not be permitted which do not allow the free flow of water or which cause the backing up of water from normal rainfalls.

15. Firearms shall not be discharged into or through adjoining tracts or used in any manner dangerous to persons not on the Owner's own tract.

16. All advertising signs that exceed ten (10) square feet are prohibited, and there shall be no more than two (2) signs located on any one tract.

17. These restrictions, covenants, and conditions may be enforced by developers or by the owner of any tract of land either by proceedings for injunction or to recover damages from breach thereof, or both.

18. No noxious or offensive activity shall be carried on upon any tract, nor shall anything be done thereon which may be or become a nuisance, or may be construed to be detrimental to the value of any individual tract.

19. All improvements including but not limited to houses, garages, barns, storage sheds, animal pens, animal shelters, stock tanks and any other improvements shall be constructed in a workmanshiplike manner out of quality materials. Said improvements shall be maintained such that their appearance shall not be detrimental in any respect to the entire area. That shall mean that said improvements, if applicable, shall be kept weather-proofed by painting or by such other method as necessary and as may be appropriate. Improvements shall not be allowed to deteriorate. In order to settle disputes regarding the meaning of restrictions, or interpretation thereof, the Committee shall act as an arbitration committee. In the event of a dispute or disagreement as to the meaning or validity of one or more restrictions contained herein or violation thereof, prior to resorting to a lawsuit for final adjudication, said disagreement shall be presented to the Committee and their decision may only be appealed to a court of appropriate jurisdiction.

20. There are certain streams, ponds and creeks on or near subject property, and it is expressly provided that the water flowing or impounded therein is for recreational use only. Each owner will take such precautions as are necessary to prevent contamination or waste of the water. No dams or other structures shall be built which shall unreasonably impound, divert or impede the water from its natural course.

21. The conveyance of any individual tract of land within the subdivision tract of land shall be subject to any and all easements affecting the subject land which have been heretofore recorded in the Deed Records of Hays County, Kansas. There is also hereby reserved an easement ten feet (10') in width across the front, rear, and side property lines of each individual tract of land into which subject land may be divided. Such easements shall exist for the purposes herein provided whether specifically reserved and retained in the individual deed of conveyance or not. The easements shall be for the purpose of construction and the perpetual maintenance of conduits, poles, wires and fixtures for electrical lights, telephones, sanitary and storm sewers, road drains and other public and quasi-public utilities; and for the purpose of trimming any trees which may at any time interfere or threaten to interfere with the maintenance of any such utilities, with the right of ingress to and egress from and across said premises. It shall not be considered a violation of the provisions of these easements if wires or cables carried by such pole lines pass over some portion of said lots not within the reserved ten foot (10') strip as long as such lines do not hinder or interfere with the construction of buildings or use of any individual tract of land. The developer shall have the authority to execute any document which may be required to effect a release or releases of the easements retained herein, provided written petition for such release is made to the developer or the Committee by the owner of the servient property. The decision to release any easement shall be at the sole discretion of the developer and no such release shall be executed if the developer shall deem it to be the best interest of the subdivision not to release such easement, or if such easement shall then be in use. The authority to execute such releases shall be vested in the Committee after the developer has given the notices to the owners as provided in paragraph one (1) hereof.

22. There is hereby assessed against the subject land \$4.00 per acre, or any fraction thereof, per year, to be paid to the committee. Each such assessment shall be due on January 1 of each and every year and such assessment shall be the personal obligation of the person, firm or corporation who shall be the record owner of any such property on such date.

23. The assessments shall be used exclusively to promote recreation, health, safety and welfare of any and all residents on the subject land, including the improvement and maintenance of the road system, right-of-way, easements adjacent to the roads, and any other property not dedicated to the public within the subject property which is not being maintained by public entity. Nothing herein shall be deemed an obligation of any members of the Committee to make any such improvements.

24. The payment of the assessment is hereby secured by a continuing lien on the property which shall, to the full extent permitted by law, bind such property in the hands of the owner, his heirs, devisees, personal representative, successors and assigns. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of ten per cent (10%) per annum, and the Committee may either (1) bring an action at law against the owner or purchaser personally obligated to pay the same, or, (2) foreclose the lien against said property, or both, and, in either event, there shall be added to the amount of such assessment interest as provided and all costs of collection, including reasonable attorney's fees.

25. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any tract of land herein shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to the payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any liability for any assessments thereafter becoming due or the lien thereof. No extinguishment of the lien shall relieve the delinquent lot owner from his or its personal obligation and liability therefor.

26. Should any of the initial members of the Committee die, resign or refuse to serve for any reason whatsoever, the remaining members or member shall appoint a successor or successors.

27. Notwithstanding anything to the contrary contained herein, developer reserved for itself and its designated agent or agents the right to use any unsold portion of the land for a temporary office location and the right to place a sign or signs on any unsold land. Areas of the land that may hereafter be designated by developer as "reserved" or "commercial" by instrument properly recorded in the office of the County Clerk in Hays County, Texas, are not subject to the restrictive covenants or the assessments outlined unless hereafter specifically so provided by developer.

28. These restrictions, covenants and assessments shall run with the land inure to the benefit of, and be binding upon, all parties and their heirs, representatives, successors and assigns until August 1, 1992, after which time they shall be automatically extended for successive periods of 10 years unless an instrument signed by the majority of the property owners in the subject tract is recorded agreeing to change the same in whole or in part.

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29. If any portion of these restrictions, covenants and conditions or the assessment herein provided for shall be declared invalid by judgment or court order, it shall not affect the validity of any other provisions or portions hereof. Failure to enforce any one or more provisions hereof shall not constitute a waiver thereof or invalidate any other provision or provisions.

EXECUTED this 2nd day of MARCH, 1979.

R. P. Ingram
R. P. Ingram

E. D. Bohls
E. D. Bohls

THE STATE OF TEXAS |
 |
COUNTY OF TRAVIS |

BEFORE ME, the undersigned authority, on this day personally appeared R. P. INGRUM and E. D. BOHLS, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of March, 1979.

Kimberly Stephens
NOTARY PUBLIC, TRAVIS COUNTY, TEXAS

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16 Aug 1979