

RECIPROCAL EASEMENT AND OPERATING DECLARATION

THIS DECLARATION is made the 18 day of November, 1992 by The Forest L.P., an Indiana Limited Partnership (the "Declarant").

Statement of Facts

A. Declarant is the owner of a tract of real estate located in St. Joseph County legally described on Exhibit A (the "Tract").

B. A portion of the Tract is currently being developed as single-family, residential condominiums which development may include some or all of the real estate described on Exhibit B (the "Townhome Tract").

C. Another portion of the Tract is currently being developed as single-family, residential duplexes, which development may include some or all of the real estate described on Exhibit C (the "Carriage Home Tract").

D. The parcel of land contiguous to and north of the Townhome Tract is legally described on Exhibit D (the "Future Development Tract") and is currently owned by Cressy Land Planning Associates, an Indiana General Partnership ("CLPA") subject to being developed at some point in the future for an as yet undetermined use.

E. There are certain common areas that mutually benefit the Townhome Tract, the Carriage Home Tract and the Future Development Tract.

ST. JOSEPH COUNTY RECORDER
FILE NO. MARIANNE SEACH
RECORDED

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ST. JOSEPH CO.
INDIANA
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F. The Townhome Tract and the Carriage Home Tract each contain certain man-made lakes that serve as amenities to the respective developments and also function as part of an integrated storm water drainage system as depicted on Exhibit E.

G. The Declarant desires to provide for the perpetual maintenance of the storm water drainage system and associated mechanical facilities as well as the other common areas.

NOW, THEREFORE, the Declarant declares that the Tract shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the Covenants and Restrictions hereinafter set forth expressly for the use and benefit of the members of The Forest Condominium Association, Inc. and the members of the Forest Carriage Home Association, Inc. (hereinafter collectively sometimes collectively referred to as the "Associations") acting by and through their respective Associations but not in their individual capacity. The Associations shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof; but there shall be no right of reversion or forfeiture of title resulting from such violations.

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- a. "Associations" means The Forest Condominium Association, Inc. and The Forest Carriage Home Association, Inc. each of which are or will be Indiana Not-for-Profit Corporations.
- b. "Carriage Home Lakes" means Cedar Lake, Lake Rockwood, Sunrise Bay, Lake George and Little Lake George as illustrated on Exhibit E.

- c. "Carriage Home Tract" means the real estate described in Exhibit C attached hereto.
- d. "CLPA" means Cressy Land Planning Associates or any successor to it in title to the Future Development Tract.
- e. "Common Areas" means the Common Areas and facilities appurtenant to the Tract as described in paragraph 6 of this Declaration.
-  f. "Common Expenses" means all expenses of administration, maintenance, repair, or replacement of the Common Areas, and expenses agreed upon as Common Expenses by the Associations.
- g. "Declarant" is The Forest L.P., an Indiana Limited Partnership, or any successor to it in title to the Tract, or any mortgagee acquiring title to all or any portion of the Tract pursuant to a mortgage executed by the Declarant.
- h. "Declaration" means this Declaration and exhibits hereto.
- i. "Future Development Tract" means the real estate described in Exhibit D hereto.
- j. "Lakes" means the Carriage Home Lakes and Townhome Lakes as defined herein and illustrated on Exhibit E hereto.
- k. "Townhome Lakes" means Edison Lake, Partridge Creek, Hartwell's Pond, Emerald Bay and Mary's Creek as illustrated Exhibit D.
- l. "Townhome Tract" means the real estate described in Exhibit B attached hereto.
- m. "Tract" means the real estate described in Exhibit A attached hereto.

2. Declaration. Declarant hereby expressly declares that the Tract shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the Covenants and Restrictions hereinafter set forth expressly for the use and

benefit of the members of the Associations acting by and through their respective Associations.

3. Lake Easements. There is reserved to the Declarant, the Associations and CLPA, their successors and assigns, an easement upon, across, under and through that portion of the Tract that lies within the boundaries of the Lakes to construct and maintain the Lakes at the locations identified on Exhibit E hereof provided, however, that if the actual boundaries of any Lake, as built, varies from the boundaries of the Lakes on the attached exhibits, then the easement granted herein shall extend to the boundaries of the Lakes as built.

* 4. Maintenance of Lakes. The Lakes shall be kept free of debris and maintained at all times in a reasonably clean condition. Maintenance of the Lakes shall include (i) providing such aeration and chemical treatments as are necessary or appropriate to retard stagnation and control weed and algae growth and (ii) repairing or replacing any liners and (iii) such other actions as may be reasonably necessary to maintain the water level and quality within reasonably acceptable variances.

5. Maintenance Easement. There is reserved to the Declarant, the Associations and CLPA, and their successors and assigns, an easement upon, across, under and through so much of the Tract as may be necessary to construct, operate, maintain, improve and repair the Lakes and their environs including any underground pipes connecting the Lakes.

6. Common Area Easements. There is reserved to the Declarant, the Associations and their successors and assigns, an easement upon, across, under and through those portions of the Tract identified on Exhibit E for the installation and maintenance of common facilities including but not necessarily limited to:

- a. Landscape treatments on or about the entrance ways to the Tract and any median strips within Park Place;
- b. Signs identifying "The Forest at Edison Lakes" and any associated lighting; and
- c. Suitable irrigation systems;

hereinafter the "Common Areas."

CLPA joins in executing this Declaration for purposes of establishing the easement identified on Exhibit E as the "CLPA Sign Easement."

7. Maintenance of Common Areas. The Associations shall jointly and severally have the duty and responsibility, to keep the Common Areas in a well maintained clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- a. Removing litter, trash, refuse and waste;
- b. Mowing of lawn no less often than when the grass is more than four (4") inches high;
- c. Pruning of trees and shrubbery;
- d. Watering and fertilizing;
- e. Keeping exterior lighting and signs in a condition of good repair;
- f. Keeping lawn and landscaped areas alive, free of weeds and attractive;

g. Keeping all sight irrigation systems in good repair and working order.

8. Common Expenses. The Common Expenses shall include

~~X~~ the following:

a. The cost and expense of maintaining the Lakes in accordance with paragraph 4;

b. The cost and expense of repairing or replacing any mechanical facilities associated with any of the Lakes including, but not limited to any pumping stations and/or pipes connecting two or more of the Lakes.

c. The cost and expense of electricity for operating any mechanical facilities associated with the Lakes;

d. The cost and expense of electricity for any site lighting in the Common Areas.

e. The cost and expense of maintaining the Common Areas in accordance with paragraph 7;

f. The cost and expense of maintaining, repairing or replacing any irrigation system servicing the Common Areas.

g. Any other expenses agreed upon by the Associations.

9. Allocation of Expenses. The expenses of maintaining the Lakes, any associated mechanical facilities, and the Common Areas shall be allocated between the Townhome Association and the Carriage Home Association in the proportion that the number of dwelling units subject to the Townhome Declaration (or Carriage Home Declaration as the case may be) bears to the total number of units then subject to the Townhome Declaration and the Carriage Home Declaration (the "Proportional Contribution"). The Proportional Contribution shall be determined as of January

1 of each year and revised as necessary on January 1 of each succeeding year.

10. Assessments. The Associations covenant and agree to contribute to the Common Expenses as provided herein.

K a. Annual Assessments. Each Association shall designate one or more representatives to meet with representatives of the other Association on an annual basis to establish a proposed annual budget for the ensuing year estimating the total amount of the Common Expenses for the ensuing year. The budget shall set forth the Proportional Contribution of each Association determined in accordance with the provisions of this Declaration. Each Association shall include the amount of its Proportional Contribution as part of that Association's overall budget for the year and shall assess its members accordingly.

b. Special Assessment. From time to time expenses of an unusual or extraordinary nature or not otherwise anticipated may arise, including but not limited to assessments for such things as repairing liners to the Lakes and/or repairing or replacing mechanical pumping facilities. At such time, the representatives of the Associations shall agree upon an appropriate course of action and shall arrange for the repair or remediation of the condition. Each Association shall make their Proportional Contribution to the cost and expense thereof. If necessary, each Association shall specially assess its members to fund its Proportional Contribution in respect of any such repairs and/or remediation.

c. Emergencies. In the case of a bona-fide emergency, either Association shall have the right to act unilaterally to take reasonable corrective measures to remedy the problem including having any necessary work performed by a responsible contractor. In such event, the Associations shall make their Proportional Contribution toward the cost and expense of any such emergency repairs.

d. Arbitration. Any dispute between the Associations arising out of this Declaration shall at the option of either Association, be settled by arbitration. Within ten (10) days after either party shall have requested arbitration in writing,

the parties shall agree on an impartial arbitrator who shall be a property manager who is a member of the St. Joseph County Board of Realtors and doing business in St. Joseph County, Indiana. Failing agreement, such arbitrator shall be selected by the American Arbitration Association at the request of either party. The arbitration shall be conducted in accordance with the then current rules of the American Arbitration Association and judgment upon the award granted by the arbitrator may be entered in any court having jurisdiction thereof. Fees, costs and expenses of the arbitrator and reasonable attorney's fees shall be borne by the party against whom the arbitration shall be determined, or in such proportions as the arbitrator shall designate.

11. Drainage Easement. CLPA, its successors and assigns, is hereby granted an easement to discharge storm water run-off from the Future Development Parcel into the Lakes.

12. Enforcement. The provisions of this Declaration may be enforced by either Association through court proceedings for injunctive relief, for damages or both. In addition, CLPA may enforce the provisions hereof through court proceedings for injunctive relief, for damages or both in the event either Association commits a breach of its obligations hereunder which in any way impairs the easement and rights granted to CLPA in Paragraph 11 hereof.

13. Termination and Modification. This Declaration, or any provisions hereof, or any covenant, condition, or standard contained herein, may be terminated, extended, modified or amended, only upon the written consent of both Associations. No such termination, extension, modification, or amendment shall be effective until a proper instrument, in writing, has been

executed and acknowledged by the duly authorized president of each Association and recorded in the Office of the St. Joseph County Recorder. Notwithstanding the foregoing, any termination, extension, modification or amendment with respect to the provisions of paragraph 11 shall not be effective unless such instrument has also been executed by the owner of the Future Development Tract.

14. Benefits and Burdens. The terms and provisions contained in this Declaration shall bind and inure to the benefit of the Declarant, the Associations, CLPA the owners of any portion of the Tract and the Future Development Tract and their respective heirs, successors, personal representatives and assigns.

15. Failure to Enforce Not a Waiver of Rights. Any waiver or failure to enforce any provisions of this Declaration in a particular situation shall not be deemed a waiver or abandonment of such provision as it may apply in any other situation or to the same or a similar situation. The failure of any party to enforce any covenants or restrictions herein contained shall in no event be deemed to be waiver of the right to do so thereafter nor of the right to enforce any other covenant or restriction.

16. Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title, or interest in and to any portion of the Townhome Tract or Carriage Home Tract is and shall be conclusively deemed to have consented and

agreed to every covenant, condition, or restriction contained in this Declaration whether or not the instrument by which such person acquired an interest in said property expressly incorporates this Declaration.

17. Severability. Invalidation of any one or more of these covenants and restrictions or portion(s) thereof by judgment or court order shall, in no way, effect any other provision which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed on the date and year first above written.

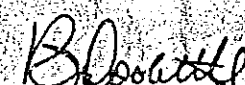
THE FOREST L.P.
an Indiana Limited Partnership

By: Forest Development Corporation,
Its General Partner

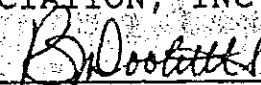

By: Richard J. Doolittle
Its: President

Agreeing to be bound by the terms hereof, the Associations have joined in this Declaration on the date and year first above written.

THE FOREST CONDOMINIUM ASSOCIATION,
INC.


By: Richard J. Doolittle
Its: President

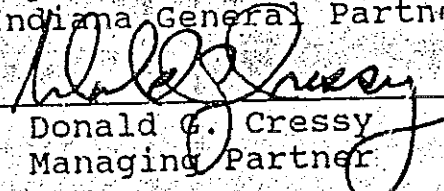
THE FOREST CARRIAGE HOME
ASSOCIATION, INC.


By: Richard J. Doolittle
Its: President

Agreeing to the granting of the "CLPA Sign Easement" described in paragraph 6 hereof, CLPA joins in executing this Declaration.

"CLPA"

Cressy Land Planning Associates
an Indiana General Partnership


By: Donald G. Cressy
Its: Managing Partner

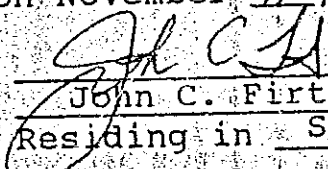
STATE OF INDIANA)

COUNTY OF ST. JOSEPH)

) SS:

Before me, a Notary Public in and for said County and State, personally appeared Richard J. Doolittle, the President of Forest Development Corporation, who acknowledged the execution of the foregoing Reciprocal Easement and Operating Declaration for and on behalf of The Forest L.P. and who having been duly sworn stated The Forest Development Corporation is the General Partner of The Forest L.P. on November 18, 1992.

My Commission Expires:
February 6, 1993


John C. Firth, Notary Public
Residing in St. Joseph County

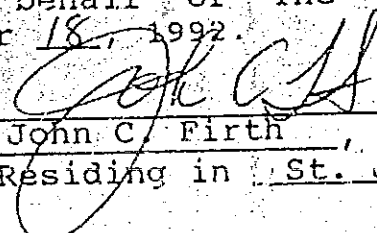
STATE OF INDIANA)

COUNTY OF ST. JOSEPH)

) SS:

Before me, a Notary Public in and for said County and State, personally appeared Richard J. Doolittle, the President of The Forest Condominium Association, Inc., who acknowledged the execution of the foregoing Reciprocal Easement and Operating Declaration for and on behalf of The Forest Condominium Association, Inc. on November 18, 1992.

My Commission Expires:
February 6, 1993


John C. Firth, Notary Public
Residing in St. Joseph County

STATE OF INDIANA

COUNTY OF ST. JOSEPH

)
) SS:
)

Before me, a Notary Public in and for said County and State, personally appeared Richard J. Doolittle, the President of The Forest Carriage Home Association, Inc., who acknowledged the execution of the foregoing Reciprocal Easement and Operating Declaration for and on behalf of The Forest Carriage Home Association, Inc. on November 18, 1992.

My Commission Expires:

February 6, 1993


John C. Firth, Notary Public
Residing in St. Joseph County

STATE OF INDIANA

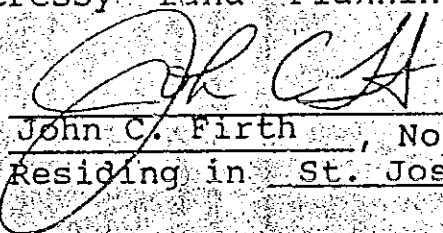
COUNTY OF ST. JOSEPH

)
) SS:
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Before me, a Notary Public in and for said County and State, personally appeared Donald G. Cressy, the Managing Partner of Cressy Land Planning Associates, who acknowledged the execution of the foregoing Reciprocal Easement and Operating Declaration for and on behalf of Cressy Land Planning Associates on November 18, 1992.

Expires:

February 6, 1993


John C. Firth, Notary Public
Residing in St. Joseph County

THIS INSTRUMENT PREPARED BY: John C. Firth, Sopko & Firth, 419 W. Jefferson Blvd., P.O. Box 928, South Bend, Indiana 46624.

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EXHIBIT

The Tract

PARCEL I: Part of the Southwest 1/4 of the Southeast 1/4 of Section 34, Township 38 North, Range 3 East, Mishawaka, Indiana, described as follows:
Commencing at the Southwest corner of the Southwest 1/4 of the Southeast 1/4 of Section 34, Township 38 North, Range 3 East, Mishawaka, Indiana; thence North 00 degrees 19'06" West (bearing assumed) on the West line of the Southwest 1/4 of the Southeast 1/4 of said Section 34, a distance of 118.56 feet; thence North 89 degrees 40'54" East, a distance of 80.00 feet; thence North 00 degrees 19'06" West, a distance of 30.00 feet to the point of beginning; thence South 89 degrees 40'54" West, a distance of 25.00 feet; thence North 45 degrees 19'06" West, a distance of 35.36 feet to the East right-of-way line of Filbert Road; thence North 00 degrees 19'06" West on said East right-of-way line and parallel to and 30.00 feet East of the West line of the Southwest 1/4 of the Southeast 1/4 of said Section 34, a distance of 676.84 feet; thence North 89 degrees 51'37" East, a distance of 755.25 feet; thence Southeasterly on a curve to the left having a radius of 330.00 feet, a delta of 02 degrees 32' 58", a chord distance of 14.68 feet, an arc distance of 14.68 feet; thence South 18 degrees 00'00" East, a distance of 108.51 feet; thence Southerly on a curve to the right having a radius of 270.00 feet, a delta of 18 degrees 00'00", a chord distance of 84.47 feet, an arc distance of 84.82 feet; thence South 00 degrees 00'00" West, a distance of 131.46 feet; thence southwesterly on a curve to the right having a radius of 270.00 feet, a delta of 37 degrees 14'18", a chord distance of 172.41 feet, an arc distance of 175.48 feet; thence South 37 degrees 14'18" West, a distance of 226.29 feet; thence Southwesterly on a curve to the right having a radius of 290.00 feet, a delta of 51 degrees 38'05", a chord distance of 252.59 feet, an arc distance of 261.35 feet; thence Northwesterly on a curve to the right having a radius of 370.00 feet, a delta of 24 degrees 08'26", a chord distance of 154.74 feet, an arc distance of 155.89 feet; thence North 66 degrees 59'11" West, a distance of 100.00 feet; thence Westerly on a curve to the left having a radius of 230.00 feet, a delta of 23 degrees 19'55", a chord distance of 93.01 feet, an arc distance of 93.66 feet to the point of beginning.

and

PARCEL II: Part of the South 1/2 of the Southeast 1/4 of Section 34, Township 38 North, Range 3 East and part of the North 1/2 of the Northeast 1/4 of Section 3, Township 37 North, Range 3 East, all in the City of Mishawaka, Indiana, described as follows:

Beginning at the Northwest corner of the Southwest 1/4 of the Southeast 1/4 of Section 34, Township 38 North, Range 3 East; thence North 89 degrees 51'37" East (bearing assumed) on the North line of the South 1/2 of the Southeast 1/4 of said Section 34, a distance of 1323.29 feet to the Northeast corner of the Southwest 1/4 of the Southeast 1/4 of said Section 34; thence North 89 degrees 49'17" East on the North line of the South 1/2 of the Southeast 1/4 of said Section 34, a distance of 48.53 feet to a point that is 1276.00 feet West of the Northeast corner of the South 1/2 of the Southeast 1/4 of said Section 34; thence South 00 degrees 16'19" West, a distance of 40.00 feet to the point of beginning; thence continuing South 00 degrees 16'19" West, a distance of 620.00 feet; thence North 89 degrees 49'17" East, a distance of 250.0075 feet; thence South 00 degrees 16'19" West, a distance of 1330.28 feet; thence North 88 degrees 26'59" West, a distance of 1168.515 feet; thence North 01 degrees 04'57" West, a distance of 636.69 feet; thence Northeasterly on a curve to the left having a radius of 350.00 feet, a delta of 50 degrees 05'43", a chord distance of 296.36 feet, an arc distance of 306.01 feet; thence North 37 degrees 14'18" East, a distance of 226.29 feet; thence Northeasterly on a curve to the left having a radius of 330.00 feet, a delta of 37 degrees 14'18", a chord distance of 210.72 feet, an arc distance of 214.48 feet; thence North 00 degrees 00'00" East, a distance of 131.47 feet; thence Northwesterly on a curve to the left having a radius of 330.00 feet, a delta of 18 degrees 00'00", a chord distance of 103.25 feet, an arc distance of 103.67 feet; thence North 18 degrees 00'00" West, a distance of 108.51 feet; thence Northwesterly on a curve to the right having a radius of 270.00 feet, a delta of 17 degrees 51'37", a chord distance of 83.82 feet, an arc distance of 84.16 feet; thence North 00 degrees 08'23" West, a distance of 317.86 feet; thence North 44 degrees 51'37" East, a distance of 35.35 feet; thence North 89 degrees 51'37" East, a distance of 463.30 feet; thence North 89 degrees 49'17" East, a distance of 48.23 feet to the point of beginning.

EXHIBIT B

The Townhome Tract

Lot 1 and Out Lot A as shown on the recorded Plat of The Forest at Edison Lakes, Section 1, recorded March 25, 1992 as Document Number 9209773 in the Office of the Recorder of St. Joseph County, Indiana.

EXHIBIT C

The Carriage Home Tract

Part of the South 1/2 of the Southeast 1/4 of Section 34, Township 38 North, Range 3 East and part of the North 1/2 of the Northeast 1/4 of Section 3, Township 37 North, Range 3 East, all in the City of Mishawaka, Indiana, described as follows:

Beginning at the Northwest corner of the Southwest 1/4 of the Southeast 1/4 of Section 34, Township 38 North, Range 3 East; thence North 89 degrees 51'37" East (bearing assumed) on the North line of the South 1/2 of the Southeast 1/4 of said Section 34, a distance of 1323.29 feet to the Northeast corner of the Southwest 1/4 of the Southeast 1/4 of said Section 34; thence North 89 degrees 49'17" East on the North line of the South 1/2 of the Southeast 1/4 of said Section 34, a distance of 48.53 feet to a point that is 1276.00 feet West of the Northeast corner of the South 1/2 of the Southeast 1/4 of said Section 34; thence South 00 degrees 16'19" West, a distance of 40.00 feet to the point of beginning; thence continuing South 00 degrees 16'19" West, a distance of 620.00 feet; thence North 89 degrees 49'17" East, a distance of 250.0075 feet; thence South 00 degrees 16'19" West, a distance of 1330.28 feet; thence North 88 degrees 26'59" West, a distance of 1168.515 feet; thence North 01 degrees 04'57" West, a distance of 636.69 feet; thence Northeasterly on a curve to the left having a radius of 350.00 feet, a delta of 50 degrees 05'43", a chord distance of 296.36 feet, an arc distance of 306.01 feet; thence North 37 degrees 14'18" East, a distance of 226.29 feet; thence Northeasterly on a curve to the left having a radius of 330.00 feet, a delta of 37 degrees 14'18", a chord distance of 210.72 feet, an arc distance of 214.48 feet; thence North 00 degrees 00'00" East, a distance of 131.47 feet; thence Northwesterly on a curve to the left having a radius of 330.00 feet, a delta of 18 degrees 00'00", a chord distance of 103.25 feet, an arc distance of 103.67 feet; thence North 18 degrees 00'00" West, a distance of 108.51 feet; thence Northwesterly on a curve to the right having a radius of 270.00 feet, a delta of 17 degrees 51'37", a chord distance of 83.82 feet, an arc distance of 84.16 feet; thence North 00 degrees 08'23" West, a distance of 317.86 feet; thence North 44 degrees 51'37" East, a distance of 35.35 feet; thence North 89 degrees 51'37" East, a distance of 463.30 feet; thence North 89 degrees 49'17" East, a distance of 48.23 feet to the point of beginning.

EXHIBIT D

[Future Development Tract]

Lot 2 as shown on the recorded Plat of The Forest at Edison Lakes, Section 1, recorded March 25, 1992 as Document Number 9209773 in the Office of the Recorder of St. Joseph County, Indiana.

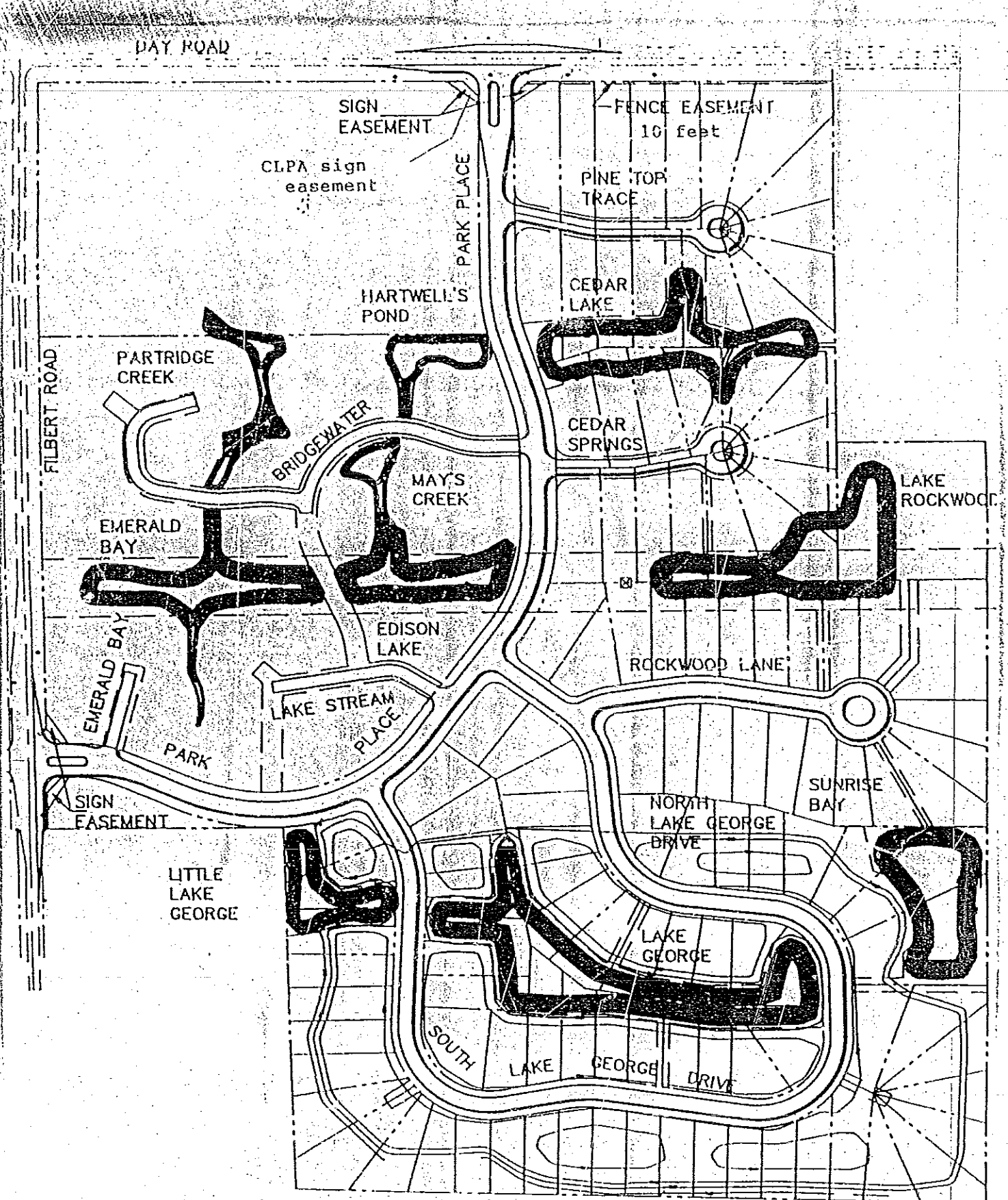


EXHIBIT E

EXHIBIT D

COMPUTATION AND ALLOCATION OF FRACTIONAL INTERESTS

A. METHOD OF COMPUTING FRACTIONAL INTERESTS

The Fractional Interest which shall appertain to each Unit, as the Regime may be expanded from time to time by Declarant in accordance with the terms of the Declaration shall be an equal fraction for each Unit. To determine the Fractional Interest for each Unit, the number 1 will be divided by the total number of Units which from time to time have been subjected and submitted to this Declaration and then constitute a part of this Regime.

B. ALLOCATION OF FRACTIONAL INTERESTS

<u>Unit</u>	<u>Fractional Interest</u>
Building #1	
Unit A	1/12
Unit B	1/12
Unit C	1/12
Unit D	1/12
Building #2	
Unit A	1/12
Unit B	1/12
Unit C	1/12
Unit D	1/12
Building #13	
Unit A	1/12
Unit B	1/12
Unit C	1/12
Unit D	1/12

C. ADDITIONAL UNITS

The Fractional Interest which will appertain to each Unit added to the Regime shall be computed in accordance with paragraph 1 of this Exhibit C and in each such event the Fractional Interest of each Unit specified above will decrease proportionately.

EXHIBIT C

By-Laws

EXHIBIT E

Gary Weaver Affidavit