

102769

*Ret. To Wikox*  
*153098-90-22*

TICOR TITLE INSURANCE  
Crown Point, Indiana

TICOR TITLE INSURANCE  
107 N. Main St. P.O. Box 320  
Crown Point, Indiana 46307

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

~~Document is~~  
~~FAIRFIELD SUBDIVISION UNIT 1~~  
**NOT OFFICIAL!**

**This Document is the property of  
the Lake County Recorder!**

**STOP**



TICOR TITLE INSURANCE  
Crown Point, Indiana

MAY 25 1 28 PM '90

ROBERT RECORDERS

STATE OF INDIANA/S.S. NO.  
1 AXI 10 2 20 1990

**FILED**

MAY 25 1990

*Key 9-411-17020*

*Anna N. Antone*

AUDITOR LAKE COUNTY

*23.50*  
*TC*

031648

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS  
OF  
FAIRFIELD SUBDIVISION UNIT 1

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF FAIRFIELD, is made this 23 day of May, by David J. Wilcox, Trustee of Trust Number 146536-89 (hereinafter referred to as "Declarant"),

WITNESSES:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property" or the "Development").

WHEREAS, Declarant intends by this Declaration to impose upon the Development mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within Fairfield and the planned unit development made subject to this Declaration (and amendments hereto) by the recording of this Declaration; and

WHEREAS, Declarant desires to provide a flexible and reasonable procedure for the overall development of the Development, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such property subject to this Declaration; and

WHEREAS, Declarant anticipates that certain aspects of the overall Development will be of benefit to the Owners, including, but not limited to, streets, pond, drainage system, central landscaping features, and

NOW, THEREFORE, Declarant hereby declares that all the Development described in Exhibit "A" shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions (hereinafter sometimes referred to as the "Restrictions") which are for the purpose of protecting the value and desirability of and which shall run with, the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Development or any part thereof, their heirs, successors, successors-in-title, and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

Section 1.1 Lot. Lot shall mean a portion of the Development intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the Plats of survey or Plans filed with this Declaration, amendments thereto and any Supplemental Declaration. Where the context indicates or requires, the term Lot includes any structure on the Lot. The term "Lot" includes "Unit" and "Residential Unit."

Section 1.2 Majority. Majority means those Eligible Votes, Owners, or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

Section 1.3 Owner. Owner shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is part of the Development, but excluding any party holding the fee simple title merely as security for the performance of an obligation. Owner shall include the Declarant.

Section 1.4 Person. Person means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 1.5 Plats and Plans. Plat, Plats, and Plans shall collectively mean those plats of survey of all or any portion of the Development making reference hereto which have been or hereafter may be recorded in the office of the Recorder of Lake County, Indiana, as the same may be amended or supplemented by replats or otherwise.

Section 1.6 Property. Property or Development shall mean and refer to the real property referenced on page one of this Declaration.

Section 1.7 Residential Unit or Unit. Residential Unit or Unit shall mean a structure situated upon a portion of the Development intended for any type of independent ownership for use and occupancy as a residence by a single family. For the purposes of this Declaration, a Residential Unit or Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the appropriate agency of Lake County or other local governmental entity.

Section 1.8 Supplemental Declaration. Supplemental Declaration shall mean an amendment to this Declaration which imposes additional restriction on all or any portion of the Development.

ARTICLE II  
PROPERTY RIGHTS

Section 2.1 Exterior Lighting. The Developer or Declarant shall adopt and designate a standard location for exterior light fixtures. Each Owner a of Lot in the Development shall cause such standard exterior light fixture to be installed and maintained, at such Owner's expense. Exterior light fixtures shall be on and illuminated from dusk to dawn. No exterior lighting fixtures, other than those fixtures approved by the Architectural Control Committee or installed by Declarant shall be installed on the exterior of any Residential Lot. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of exterior lighting must be approved in writing by the Architectural Control Committee, in advance, as provided in Section 4.2 of this Declaration.

Section 2.2 Use of Lots. (a) Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage, and, in addition, servants employed in and upon the residence; no trade or business of any kind may be conducted on any Lot. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, and the rules and regulations adopted hereunder.

Section 2.3 New Home Construction. No new home construction will be allowed without one of three (3) exclusive builders selected by the Developer, being chosen by the lot owner as the general contractor for said construction. At the time of the writing of this covenant the 3 exclusive builders are: T-K Builders, American Heritage, Bryant Construction. The lot owner acknowledges that this restriction shall also be imposed in the form of a deed restriction at the time of conveyance. The Developer has the right to replace any or all of the selected builders from time to time and as needed in accordance with any agreements the Developer may have with the builders.

Section 2.4 Signs. Except as hereinafter provided for Declarant, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the property subject to this Declaration (except for signs designating the sale of a residence), or those used for in the marketing of "Fairfield" by the declarant or any of the exclusive builders.

Section 2.5 Storage and Parking of Vehicles. There shall be no outside storage or parking upon any Lot for a period in excess of twenty-four (24) hours, of any automobile, commercial vehicle, truck, tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat, or other watercraft, boat trailer, or any other transportation device of any kind, except within the parking spaces in Owner's garage (with door closed), two automobiles in the driveway, and for visitors temporarily parking in spaces. No Owners or tenants shall repair or restore any vehicle of any kind upon any Lot except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alternation is less than the number of automobiles that could have been reasonably parked in the garage originally constructed.

Section 2.6 Pets. No animals, livestock, or poultry of any kind be raised, bred, or kept on the Development, except that no more than a total of three (3) normal household pets may be kept in residences, provided that such pets are not kept, bred, or maintained for any commercial purposes.

Section 2.7 Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the (ACC), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Declarant, or any Owner in the Development in any manner provided at law or in equity. The cost or expense abatement, including court costs and attorney fees, shall become a charge or lien upon the Offending Owner's Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. Neither the Declarant, any agent, employee or contractor thereof, or any Owner enforcing the provisions of this Paragraph shall be liable for any damage which may result from enforcement hereto.

Section 2.8 Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in Section 2.9 below.

Section 2.9 Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the time when refuse collections are being made.

Section 2.10 Model Homes. No Owner of any Lot in the Development other than Declarant or the exclusive builders shall build, or permit the building upon any such lot of any dwelling that is to be used as a model home or exhibit house.

Section 2.11 Temporary Structures. No temporary house, trailer, tent, garage, or other out building shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot.

Section 2.12 Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the city of Crown Point. No septic tanks shall be installed on any of the Lots.

Section 2.13 Antennas and Solar Heat Panels. No exposed C.B. or Ham antennas or solar heat panels shall be allowed on any Lot or on any Residence on any Lot which is visible from outside such residence.

Section 2.14 Sidewalks. Each owner shall be responsible for installing, at Owner's expense, sidewalks required by the City Code, and approved under Article IV herein. The preliminary plat as approved by the Plan Commission of Crown Point.

Section 2.15 Erosion Control. Each owner or owners builder shall provide for erosion control during and after construction of any home to prevent soil from washing on to the streets or into the retention area.

Section 2.16 Trees. Each owner shall be responsible for planting, at Owner's expense, 2 trees in the parkway of not less than 2 1/2 inches in trunk diameter and of a type allowed by City Code.

Section 3.1 Individual Insurance. By virtue of taking title to a Residential Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners that each individual Owner shall carry all-risk casualty insurance. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Residential Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

ARTICLE IV

ARCHITECTURAL STANDARDS

Section 4.1 Architectural Standards Jurisdiction. The Architectural Control Committee (ACC) shall have the authority and standing, on behalf of the Declarant, to enforce in courts of competent jurisdiction decisions of the Architectural Committee established in Sections 4.2. No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no planting or removal of plants, trees, or shrubs, fences, walls, or other structure shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the ACC has been obtained.

Section 4.2 Architectural Control Committee. The Architectural Control Committee (ACC) shall have exclusive jurisdiction over all original construction on any portion of the Development. The ACC shall prepare and, on behalf of the Declarant, shall promulgate design guidelines and application procedures, provided, however, the minimum sizes for a single story and two story home shall contain no less than One Thousand Seven Hundred (1,700) square feet and Two Thousand (2,000) square feet, respectively, of living area excluding basements. The standards and procedures shall be those of the Declarant, and the ACC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Development and who shall conduct their operations strictly in accordance therewith. Until all the real estate included has been conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the ACC, which shall consist of at least four (4), persons. The beginning committee shall include an agent of the Declarant and one representative from each of the three exclusive builders. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, Property owners in Fairfield subdivision, shall elect by the majority of the Lot owners, the members.

Section 4.3 Procedures for Approval. Approvals required by this Article shall be obtained only after written application has been made to the ACC by the Owner of the Lot requesting authorization from such Committee (or such Owner's duly authorized representative). Such written application shall be in the manner and form prescribed from time to time by the Committee and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction, along with a letter acknowledging that the house constructed will be completed by one of the three (3) exclusive builders as provided in Section 2.3 of the Declaration. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvements proposed to be constructed or placed upon the Lot, each properly and clearly designated, if applicable. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may reasonably require. All plans and drawings required to submit to the Committee shall be drawn to such scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

Section 4.4 Power of Disapproval. The ACC Committee may refuse to grant approvals required under this Article when:

(a) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete which makes it impossible to determine whether or not such plans, etc., comply with [the covenants].

(b) The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot, with adjacent buildings or structures, or with Community-Wide Standards, all as determined in the sole discretion of the Committee. Examples of such Standards can be found in Briarwood Subdivision Units 5 through 16 and Briar Estates Subdivision, Crown Point, Indiana. Further, no dwelling with less than 40% of its front area of exterior showing brick or stone construction shall be erected. A special exception for reason of incompatibility with the style of the dwelling may be granted by the ACC through a written application to them by the builder or lot owner.

Section 4.5 Liability of Committee. The ACC nor any agent thereof, Developer nor Declarant, shall be responsible in any way for any defects in any plans, specifications, or other material submitted to it, nor for any defects in any work done according thereto, nor for any damages associated with their approval or disapproval of any matters subject to this Article.



Section 4.6 Inspection. The ACC or their duly authorized agents, may inspect work being performed with their permission to assure compliance with these Restrictions, the requirements of the applicable Supplemental Declaration and any applicable regulations of the Association.

Section 4.7 Declarant Improvements. The ACC shall have no powers with respect to any construction, undertaken by the Declarant (or any assignee of Declarant if the Declarant has approved the plans therefor).

Section 4.8 Remedies for Failure to Obtain Approval. In the event any construction is made without first obtaining approval of the appropriate Committee as required herein, the Committee shall have the powers of enforcement granted to the Declarant generally for purposes of this Declaration and may require any modifications, construction, changes or improvements undertaken or installed without the approval of the applicable Committee to be removed or renovated by whatever means the Committee deem appropriate, with the costs thereof, including costs of collection and attorneys fees to become a lien against the defaulting Owner's lot.

ARTICLE V  
GENERAL PROVISIONS

Section 5.1 Duration. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law; provided, however, so long as Indiana law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law, provided such renewal or extension is approved by at least a majority of the Owners present or represented by proxy are entitled to cast at a meeting duly called for such purpose. Further, no such renewal or extension shall be effective unless there is filed for record in the Office of the Clerk of the Superior Court of Lake County, Indiana, on or before the effective date thereof an instrument executed by the President and Secretary of the Association which shall state the terms of such renewal or extension and which shall contain a certification by such Secretary that such extension and renewal was duly approved by the Owners. Every purchaser or grantee or any interest in any real property subject to this declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 5.2 Amendment. (1) This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal Housing Administration, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Unit unless any such Unit owner shall consent thereto in writing. Further, so long as Declarant owns any property in the Development or capable of being annexed thereto, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Unit Owner hereunder, nor shall it adversely affect title to any Unit without the consent of the affected Unit Owner. (2) In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the Owners and the consent of the Declarant, so long as Declarant has an unexpired option to subject property to this Declaration. Amendments to this Declaration shall become effective upon recordation in the Lake County, Indiana records, unless a later effective date is specified therein.

Section 5.3 Gender and Grammar. The singular, wherever uses herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 5.4 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 5.5 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining limiting, extending, or otherwise modifying or adding to the particular Article or Section in which they refer.

Section 5.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of the Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, Queen of England.

ARTICLE VI  
ENFORCEMENT

Section 6.1 In General. Any party to whose benefit these Restrictions inure, including Declarant, and any Owner, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but Declarant shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

Section 6.2 Government Enforcement. The City of Crown Point, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the City of Crown Point, Indiana.

Section 6.3 Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of the Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

ARTICLE VII  
RIGHT OF FIRST REFUSAL

Section 7.1 Right Of First Refusal. Whenever the owner of any vacant numbered lot in the subdivision shall receive a bona fide offer to purchase said lot, which offer is acceptable to said owner, said owner shall offer to sell said lot, at the price and on the terms contained in said bona fide offer, to the Developer or its assigns offeree. Said offeree shall have 10 days within which to accept or refuse such offer. If said offeree refuses to purchase said lot at the price and on the terms proposed by said owner, said owner shall be free to sell said lot to the party who shall have made said bona fide offer at a price and on terms identical to those offered, as aforesaid, to the Developer or its assigns. The Rights Of First Refusal shall apply only to the sale of vacant lots and shall extinguish when the last lot in the subdivision has been built upon.

ARTICLE VIII  
LIMITATION ON DEVELOPER'S LIABILITY

Section 8.1 Limitation on Developer's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot or Unit and becoming an Owner acknowledges and agrees, that neither Developer (including without limitation any assignee of interest of Developer hereunder) nor any director, officer or shareholder of Developer (or any partner, officer, director, or shareholder in any such assignee) shall have any personal liability to any Owner, Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration except, in the case of Developer (or its assignee), to the extent of its interest in the Property; and, in event of a judgement no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets of the judgement debtor.

**This Document is the property of  
the Lake County Recorder!**

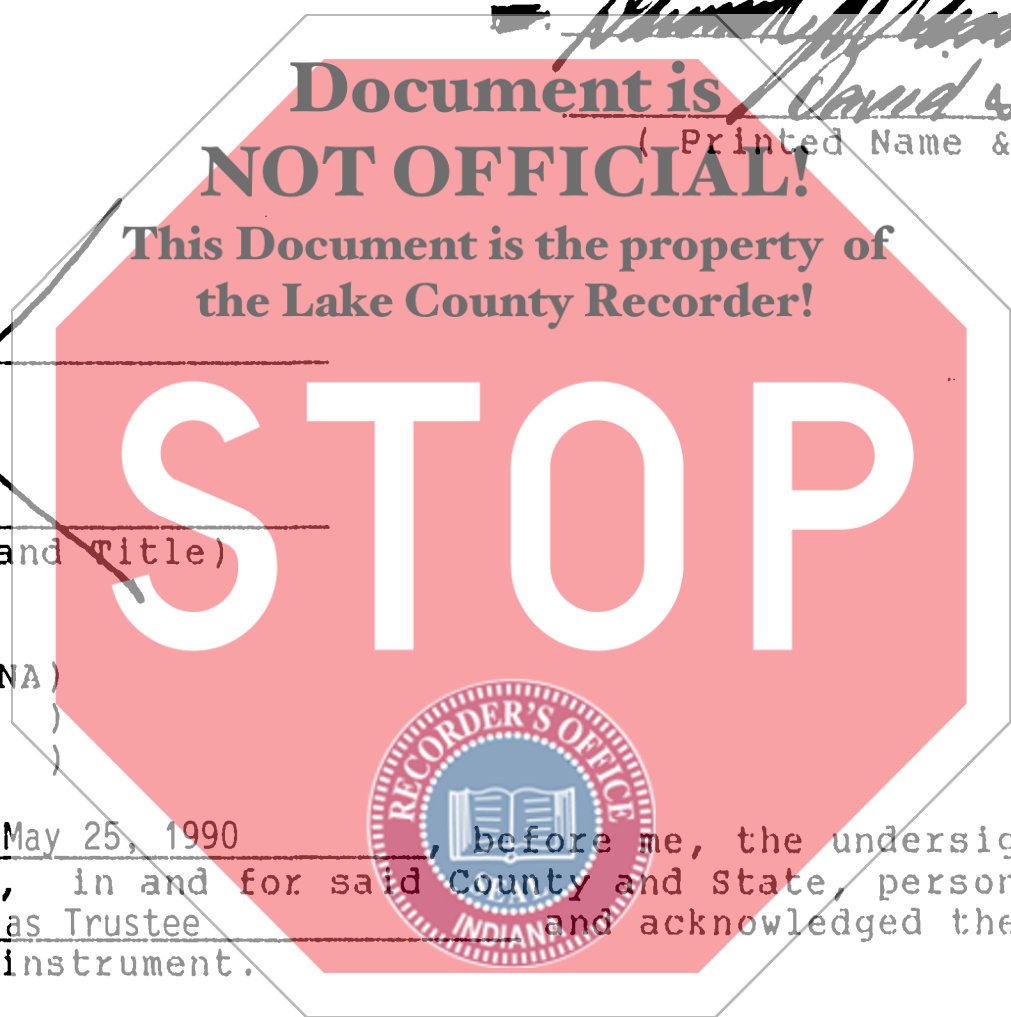
**STOP**



IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this MAY 25, 1990

DAVID J. WILCOX, As  
Trustee Of Trust  
# 146536-89

*[Signature]*  
David J. Wilcox as Trustee  
( Printed Name & Title )



Attest:

Signature

(Printed Name and Title)

STATE OF INDIANA )

COUNTY OF LAKE )

On May 25, 1990, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared David J. Wilcox, as Trustee and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal.

My Commission expires 5-14-93

*[Signature]*  
Notary Public Hazel J. Gardin  
Resident of Lake

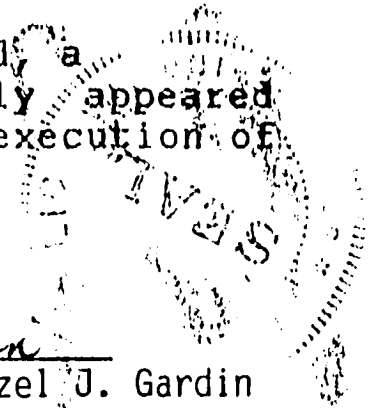


Exhibit "A"

DESCRIPTION OF PROPERTY: Part of the South 1/2 of the SW 1/4 of Section 8 Township 34 North, Range 8 West of the 2nd P.M., in the City of Crown Point, Lake County, Indiana, described as follows: Commencing at the Southwest corner of said Section 8 thence North 00°01'00" West along the West line thereof 526.02 feet; thence North 88°53'30" East, 160.40 feet to the Point of Beginning; thence continuing North 88°53'30" East along the South line of George Schmal Estates, as shown in Plat Book 30, page 73, in the Office of the Recorder of Lake County, Indiana, 680.00 feet; thence South 00°01'00" East, 210.01 feet; thence South 88°53'30" West, 40.24 feet; thence South 00°01'00" East, 156.15 feet; thence South 90°00'00" West, 161.02 feet; thence South 00°01'00" East, 175.34 feet to the South line of said Section 8; thence South 90°00'00" West, 87.00 feet; thence North 00°01'00" West, 175.34 feet; thence South 90°00'00" West, 87.0 feet; thence South 00°01'00" East, 60.34 feet; thence North 90°00'00" West, 125.0 feet; thence South 00°01'00" East, 115.00 feet to the South line of said Section 8; thence South 90°00'00" West, 340.0 feet more or less to the Southwest corner of said Section 8; thence North 00°01'00" West, 400.02 feet; thence North 88°53'30" East, 155.00 feet; thence North 08°03'30" East, 38.49 feet; thence North 00°01'18" West, 87.99 feet more or less to the Point of Beginning, containing 8.207 acres more or less.

