

7852279

VOL. 1105 PAGE 794

RESTRICTIONS
CLEAR CREEK FOREST SUBDIVISION
SECTION 11

Tract 40 DEEDS

THE STATE OF TEXAS)
COUNTY OF MONTGOMERY)

KNOW ALL MEN BY THESE PRESENTS:

THAT, in order to insure to all purchasers of property, in the above described CLEAR CREEK FOREST SUBDIVISION, SECTION 11, a Subdivision in the DORINDA M. GOHEEN Survey, Abstract No. 234, Montgomery County, Texas, according to the map or plat thereof recorded in Volume _____, Page _____, of the Plat Records of Montgomery County, Texas, that all properties situated therein will be developed and maintained in a uniform manner to the mutual benefit of all owners and future owners thereof, MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST (hereinafter called "Subdivider"), a Texas corporation with offices and principal place of business in The Woodlands, Montgomery County, Texas, the present owner of all of said properties, acting herein by and through its duly authorized officers, does hereby ADOPT, ESTABLISH, and IMPOSE the following reservations, restrictions, covenants and conditions upon said properties which shall constitute covenants running with the land, and shall be binding upon and inure to the benefit of present owners, their respective successors and assigns, and to each and every purchaser of any of said properties, their respective heirs, legal representatives, successors and assigns, to-wit:

DURATION, RENEWAL, EXTENSION

These conditions and restrictive covenants shall be binding upon the land and the purchasers thereof until January 1, 1990; and shall be automatically extended for successive ten (10) year periods thereafter unless on or before one (1) month prior to the end of any such period of time three-fourths (3/4ths) of the owners of tracts of land in said subdivision shall agree in writing, properly executed and recorded in the office of the County Clerk of Montgomery County, Texas, to amend or repeal such restrictions.

AMENDMENT

These conditions and restrictions may be amended at any time when three-fourths (3/4ths) of the owners of tracts of land in said

subdivision shall agree in writing, properly executed and recorded in the Office of County Clerk of Montgomery County, Texas, to amend or repeal such restrictions. The three-fourths vote shall be computed on the basis of one vote per tract regardless of ownership of more than one tract.

LAND USE

All numbered lots in Clear Creek Forest, Section 11, shall be used for residential purposes only. No noxious or offensive trades or activities shall be carried on upon any of the lots or tracts in said subdivision, nor shall anything be done thereon which will cause a nuisance or be offensive to residents of usual sensitivities in the area. No lot or tract shall be used or occupied for any vicious or immoral purpose, nor for any use or purpose in violation of the laws of the local, State or Federal governments.

LIVESTOCK, ANIMALS, PETS

No animals shall be raised or maintained on the property in such manner or with such lack of care as to cause offensive odors or noises or so as to otherwise be a nuisance or annoyance to persons of ordinary sensitivity. All livestock, domestic animals, and pets must be raised and maintained in accordance with all applicable County ordinances and must be confined to owner's lot or lots unless personally attended or supervised by the owner or his representative. Permanent boarding of horses is permitted provided that at least three-quarters (3/4) of an acre of enclosed pasture is provided for each horse boarded. Permanent boarding of cows is permitted provided that at least one (1) acre of enclosed pasture is provided for each cow boarded. For the purpose of boarding livestock, fencing along property lines is permitted except that no fencing may be constructed across or within natural drainage swales in such a manner as to impede the flow of water, retain debris, or create or contribute to erosion.

DWELLING SIZE, LOCATION, APPEARANCE

No residence shall be built or maintained in said subdivision having less than twelve hundred square feet of living area, exclusive of garages, patios, or open porches except that no residence having less than sixteen hundred square feet of living area, exclusive of garages,

patios, or open porches shall be built or maintained on the following lots in said subdivision:

<u>BLOCK #</u>	<u>LOT #</u>
1	3
2	1, 11
3	1, 11
4	1, 11, 12
5	1, 9
6	None
7	None
8	30-38
9	133-137

Residences and any and all appurtenant structures shall be set back from the right-of-way line of the dedicated roadways in accordance with the platted building lines. The exterior of each residence shall be finished and, if of a material other than brick, stone, asbestos or other material not commonly decorated or painted, shall be coated with at least two coats of paint or stain. No tent, trailer, bus, basement, shack, barn, portable structure, or other outbuildings shall at any time be used as a residence, either temporarily or permanently. Any approved auxiliary buildings or facilities shall be located to the rear of the residence except that garages may be attached to the residence. No fencing is permitted between building lines and public roadways unless approved as to location and design by the Subdivider under the provisions for Architectural Control.

ARCHITECTURAL CONTROL

Purchasers of lots shall obtain written approval from the Subdivider of the location, character, and design of buildings and any other site improvements before commencement of work, to determine architectural suitability and conformity with restrictions. Purchasers shall submit to Subdivider three copies of all building or improvement plans, said plans to provide not less than the following information or the equivalent thereof: (i) dimensional site plan showing location, shape and size and design of all buildings, fencing, and site improvements; (ii) complete building plans and specifications indicating floor plan(s), structural design, building materials, interior and exterior finishes,

building cross section(s), the height above highest natural grade adjoining the structure of the lowest occupied floor level and elevation views of the front (street facing) and at least one side of all proposed structures. Purchaser's submittal shall include a certified check or money order of not less than \$ _____ (or such other reasonable fee as may be specified by the Subdivider, its successor or assigns for Architectural Control services). Should the Subdivider not disapprove plans so submitted within twenty (20) days from the date of receipt and acceptance by the Subdivider, such plans will be deemed to have been approved. When construction of any improvement has begun, it shall be completed with reasonable diligence and no construction material or equipment shall be stored on the property except as construction is begun and continued with reasonable diligence. Only one main residence and one secondary residence (for guests or servants) shall ever be built or maintained on any tract or building site. Provided, however, that more than one main residence may be built on a tract or building site if the plot plan and architectural plans are first approved in writing by Subdivider. This provision shall not be construed to permit resubdivision of a tract as hereinafter prohibited. The moving of used buildings onto any building site in the subdivision is prohibited unless such building is first inspected and approved in writing by the Subdivider. This right of inspection and right to review and approve all improvement plans may be delegated to a successor by written recorded instrument, and such successor may be a person, persons, corporation or non-profit corporation property owner's association.

SEWAGE DISPOSAL

Whenever a residence is established on any tract it shall provide an inside toilet and shall be connected with a septic tank and drain field until such time as sanitary sewers may be available for use in connection with such tract. The owner shall be responsible for obtaining the necessary permits from the County Health Department. No cesspool shall ever be dug, used or maintained on any parcel of land in said subdivision, and drainage of septic tanks or sewerage into roads, streets, and alleys, ditches, ravines, or upon the open ground shall be prohibited.

DRIVEWAY, CULVERTS

The purchaser of a parcel of land in said subdivision shall, upon constructing any residence upon his tract, or any person making use of his tract of land, place a culvert of sufficient size to permit the free flow of water at a point between the roadway and his property and shall fill in sufficient dirt over and around same to construct a driveway to the premises. The inside bottom of said culvert must be even with or slightly below the level of the ditch. The minimum size of the culvert shall be 18 inches in diameter with not less than 1.75 square foot waterway opening.

VEHICULAR ACCESS

No through road, street or other vehicular passageway shall ever be opened across any tract in said subdivision EXCEPT as may be deemed reasonably necessary by Subdivider, its successors or assigns, for the good development of the subdivision. Both on and off-road vehicles (including, without limitation, motorcycles), are expressly prohibited from operation within the Subdivision except on public rights-of-way or on private driveways or internal access roads and, if on private driveways or internal access roads, only with the express consent of the owners thereof.

UTILITY EASEMENTS

All tracts in said subdivision are sold subject to easements for public utilities as may be already existing, or as may become reasonably necessary for the Subdivider, its successors or assigns, to create in the future, right to do so being hereby reserved, so as to permit good development of the subdivision and provide the necessary utilities. All tracts of land in said subdivision are sold subject to roads, easements and building lines as shown on the plat of said Section 11 of Clear Creek Forest Subdivision as referred to as above.

FLOOD PLAIN AREAS, BUILDING PERMITS

All or portions of certain lots within the Subdivision are within the 100-year flood plain as defined and identified by the County. Development and/or improvement within these areas shall be governed by all provisions of these restrictions and by County Flood Plain Improvement Ordinances presently existing and as amended from time to time.

Approval by Subdivider of an owner's proposed improvement plans does

not relieve such owner of the obligation to obtain necessary building permits from the County, nor does such approval by Subdivider indicate that such plans meet any or all applicable County requirements. Obtaining a building permit from the County does not relieve an owner from the obligation to comply with these restrictions.

MAINTENANCE CHARGE

For the purpose of creating a maintenance fund, there is hereby imposed an annual maintenance charge upon each lot in the subdivision in the amount of One Hundred and No/100 Dollars (\$100.00) per lot per year, SAVE AND EXCEPT that all lots within the subdivision owned by Mitchell Development Corporation of the Southwest, or its successors or assigns, and not conveyed either by Deed or Contract for Deed shall be exempt from such charge until such time as such lots have been conveyed to a purchaser or purchasers by Mitchell Development Corporation of the Southwest, its successors and assigns. The maintenance charge shall be payable annually in advance to Mitchell Development Corporation of the Southwest, its successors or assigns. The maintenance charge, together with the cost of collection thereof, including reasonable attorneys' fees, shall be a charge on each lot in the Subdivision, other than those lots hereinabove expressly excepted, and shall be a continuing lien upon such lots against which such charge is made. Payment of said maintenance charge may be enforced in any manner provided in law or in equity, including foreclosure of the lien and power of sale in like manner as in a mortgage or Deed of Trust. Said lien securing the maintenance charge is hereby declared to be expressly subordinate and inferior to any voluntary lien, including any renewal and/or extension thereof, created on any lot by an owner thereof for the purpose of obtaining a construction or permanent loan, or both, for the purpose of constructing or purchasing a residence or improvements thereto upon such lot. Such subordination of lien shall continue so long as such construction or permanent loan is outstanding. Funds arising from such maintenance charge shall be applied, so far as sufficient, toward the payment of expenses incurred for the maintenance or improvement of streets and roads located within the boundaries of the Subdivision together with that certain right-of-way easement described in deed dated January 31, 1978 from Jasper T. Sheffield to Subdivider, and for payment of maintenance expenses incurred in connection with any or all of the following occurring

only within road right-of-ways, easements, common areas, or reserves: Lighting, signs, sidewalks (if any), paths, recreational facilities, drainage, removal of litter and/or other actions necessary or desirable to keep the subdivision neat and in good order or which Subdivider considers of a general benefit to the owners of lots in the Subdivision. It is understood and agreed that the judgment of Mitchell Development Corporation of the Southwest, its successors or assigns, in the expenditure of the maintenance funds shall be final so long as such judgment is exercised in good faith. Subdivider, its successors or assigns, shall have the right to increase the maintenance charge from time to time in an annual amount equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year next preceeding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Labor Statistics cease to publish the Consumer Price Index - All Items, 1967 equals 100, Subdivider shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items, 1967 equals 100.

PROPERTY OWNERS' ASSOCIATION

Mitchell Development Corporation of the Southwest hereby reserves the right, in its sole discretion, after 60% of all lots in the Subdivision have been sold, to form or cause to be formed a Property Owners' Association, which may be incorporated as a non-profit corporation, and to which each owner of a lot within the Subdivision shall belong. If and when such association is formed, Mitchell Development Corporation of the Southwest, its successors or assigns, shall have the right to assign the obligation to collect and administer the annual maintenance charge to said association, together with the lien securing payment thereof, and from and after such time Mitchell Development Corporation of the Southwest, its successors or assigns, shall have no further obligation to collect or enforce the collection of such maintenance charge, or to perform any maintenance services related thereto.

FIREARMS

The use or discharge of firearms in the subdivision is expressly prohibited.

ENFORCEMENT, SEVERABILITY

The Subdivider, any owner in the subdivision, or the Property Owners' Association, if any, shall have the right to prosecute any proceeding, at law or in equity, against any person violating or attempting to violate any of these covenants or restrictions, and either prevent such person or persons, from so doing by prohibitive or mandatory injunction, and to recover damages for such violation. It is further stipulated that the invalidation of any one or more of these covenants, restrictions or conditions by any judgment or court order shall in no wise affect or invalidate any of the other provisions, but all of such other provisions shall remain in full force and effect.

LIENHOLDERS' CONSENT

Bank of the Southwest National Association, Houston, and Great Southern Life Insurance Company (the "Lienholders") join in the execution hereof to evidence the Lienholders' consent to all of the reservations, restrictions, covenants, and conditions adopted, established and imposed hereby with respect to the hereinabove property.

This instrument may be executed in counterparts.

IN WITNESS WHEREOF, MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST has caused these presents to be executed by its duly authorized officers and its corporate seal to be hereunto affixed on this the 7th day of December, 1978.

ATTEST:

Richard H. Weems
Assistant Secretary

OWNER:

MITCHELL DEVELOPMENT CORPORATION
OF THE SOUTHWEST

By: *Edward Chress*
Senior Vice President

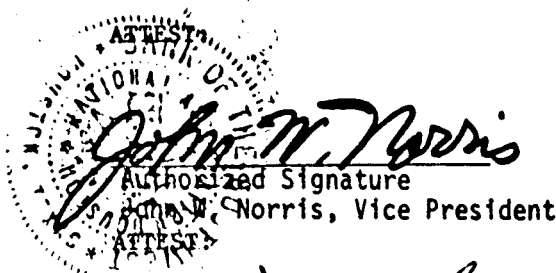
LIENHOLDERS:

BANK OF THE SOUTHWEST, NATIONAL
ASSOCIATION

By: *W. W. Cumberland, Jr.*
Vice President

W. W. Cumberland, Jr.
GREAT SOUTHERN LIFE INSURANCE COMPANY

By: *J. E. Simpson*
Vice President



Galvin W. Norris
Authorized Signature
Galvin W. Norris, Vice President



THE STATE OF TEXAS)
COUNTY OF MONTGOMERY)

BEFORE ME, the undersigned authority, on this day personally appeared Edward Dreiss, known to me to be the person whose name is subscribed to the foregoing instrument as Senior Vice President of MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 7th day of December, A.D. 1978

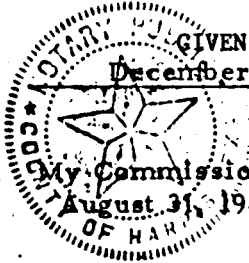


Jennie M. Osborne
Notary Public in and for
Montgomery County, Texas
Jennie M. Osborne

My Commission expires 1-10-80

BEFORE ME, the undersigned authority, on this day personally appeared J. E. Simpson, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of GREAT SOUTHERN LIFE INSURANCE COMPANY, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 7th day of December, A.D. 1978.



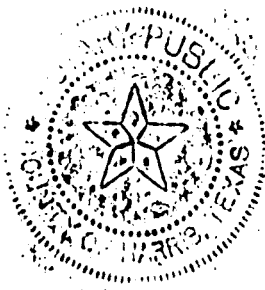
My Commission Expires:
August 31, 1980

Barbara M. Ekblad
Notary Public in and for
Harris County, Texas
Barbara M. Ekblad

THE STATE OF TEXAS)
COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, on this day personally appeared W. W. Cumberland, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of BANK OF THE SOUTHWEST NATL. ASSN, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4th day of December, A.D. 1978.



Dorothy L. Harp
Notary Public in and for
Harris County, Texas
DOROTHY L. HARP, Notary Public
in and for Harris County, Texas

81563111

18008

FILED FOR RECORDE
AT 11:20 O'CLOCK A.M.

DEC 12 1978

ROY HARRIS, Clerk
County Court, Montgomery Co., Tx.
Jimmy Bond Deputy