

dg pg. 6 ✓
GPO
6

2004-31252
CAUSE NO. 805,467

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS

Judge
31752
SS W

FREDDY WIRT,

Plaintiffs,

V.

ROSE MARIE PORTER, JANICE WILBORN,
AND SHARON L. MUNRO, AS MEMBERS
OF THE PETITION COMMITTEE OF
CYPRESS/ COUNTRY II SUBDIVISION, et al.

Defendant.

Y545391
06/27/05 300843824

\$31.75

125TH JUDICIAL DISTRICT

AGREED FINAL JUDGMENT

It being announced to the Court that PLAINTIFF, FREDDY WIRT ("Plaintiff"), and DEFENDANTS, ROSE MARIE PORTER, JANICE WILBORN, SHARON L. MUNRO, *As Members of the Petition Committee of Cypress/ Country II Subdivision*, and all individually named Defendants, identified as owners of property located in the Cypress/Country II Subdivision, DAVID CROSSLAND and LISA CROSSLAND (*successors in interest to Callie Muse*), EDWARD JIMENEZ and MARIA JIMENEZ, SHARYL N. NIXON, DANNY NOVOSAD, KEITH SWANSON and VALERIE SWANSON, TOM GREEN and LINDA GREEN, LEONARD CERNUCHII, JOHN MAY, EFTON BRADLEY and DAWN BRADLEY, ANDREW MUNRO ROBERT PORTER, KENNETH CAVNAR, BRECK POWERS and JEANNINE POWERS, DANNY WILBURN, JESSE HUBBARD, DURWOOD DODD and PHYLLIS DODD, PEGGY SPEDALE, TERRY WILIE and BRENDA WILIE, BETHESDA LUTHERNAN (*successor in interest to Ruby Miles*), and DARREL FOWLER and ANTHIANETTE FOWLER (collectively referred to herein as "Defendants"), have agreed upon an entry of this judgment on all claims between them. The Court finds that Cypress/ Country II Subdivision is comprised of Lots 23

(31)
102
302
402
402
402
402
502
302
302

13635954-2-2-4-4

through 44, inclusive. All of the property owners in Cypress/ Country II have either appeared in this case, or they have signed a No Objection Statement which has been filed with the Court. The No Objection Statement provides, in pertinent part, that such land owners have no objection to any of the relief that Plaintiff has requested in this lawsuit, and specifically requests the Court to grant all of the relief that Plaintiff has requested or that he ultimately requests in this suit, including but not limited to a judicial declaration that Lot 39 is not encumbered by or excluded from the Restrictions and Reservations of Cypress/Country II. The Court finds that such No Objection Statement is supported by adequate consideration. With respect to Lot 23, in addition to the No Objection Statement, Tommie W. Becker has signed an Affidavit which has been filed with the Court, confirming that he has inherited the legal and equitable interest of his deceased wife, Martha Becker. Further, all of the Defendants appearing in this case have agreed to this Agreed Final Judgment, as evidenced by the signature of their attorney of record. Accordingly, it is, therefore,

ORDERED, ADJUDGED and DECREED all of Plaintiff's claims against the individual Defendants are DISMISSED WITH PREJUDICE as to refiling same or any part thereof.; it is, further,

ORDERED, ADJUDGED and DECREED that the Restrictions & Reservations of Cypress/Country II Subdivision are held to be valid and enforceable.; it is, further

ORDERED, ADJUDGED and DECREED that Plaintiff shall not challenge the Restrictions & Reservations of Cypress/Country II Subdivision on any other lot in Cypress Country, Cypress/Country II and Cypress/Country South.; it is, further

AGREED FINAL JUDGMENT

2025 RELEASE UNDER E.O. 14176
Certified Document Number: 13635954 - Page 2 of 6

ORDERED, ADJUDGED and DECREED that the sole basis for this variance is the size and location of Lot 39. No other variance(s) will be granted on any other lots which are not the same size (or larger) as Lot 39, and which are not similarly situated (*i.e.* located on a corner lot on a major intersection of two (2) crossing roads), and which are currently being used for residential purposes.; it is, further

ORDERED, ADJUDGED and DECREED that Plaintiff shall execute Defendants' petition to amend the deed restrictions in his capacity as owner of Lot 39, to extend the deed restrictions beyond 2016 and to make the deed restrictions perpetual in duration, provided that is legal, and provided further that this paragraph shall not prevent Plaintiff and/or his successors and assigns from opting out of any future restrictions imposed upon any lots in Cypress/ Country II; it is, further

ORDERED, ADJUDGED and DECREED that this Agreed Final Judgment shall run with Lot 39, and shall bind and obligate Plaintiff's successors, affiliates and assigns for so long as the Restrictions & Reservations of Cypress/Country II Subdivision shall remain in effect.; it is, further

ORDERED, ADJUDGED and DECREED Defendants shall grant a specific variance on Lot 39 to allow for the construction of a single story professional office building, not to exceed 20,000 square feet in size (gross), subject to the following additional conditions:

Plaintiff covenants and agrees that no more than one (1) building will be constructed on Lot 39. Furthermore, the composition of such building shall be constructed to at least Class B standards, made of either 100% brick veneer or Austin Stone with metal roof. In addition, no more than sixty (60) parking spaces shall be constructed on Lot 39. Plaintiff shall construct a fence of at least six (6) feet to eight (8) feet in height along the boundaries of its property adjoining Lots 36, 37, 38 and 40 (up to the front building set back lines on such lots); and the fence shall be constructed of brick, stone or concrete. The fence will be constructed in such a way as to not impede the

AGREED FINAL JUDGMENT

natural flow of surface water which currently drains from adjoining properties. Plaintiff shall leave the existing foliage in place, and allow it to continue to grow for so long as the professional office building is on Lot 39, along the 20 foot strip of property which runs along such side and rear property boundaries. (The agreement and obligation to retain the existing foliage and allow it to continue to grow is limited to the extent that any of the foliage must be removed to construct the required privacy wall. Also, where there are gaps in the foliage, Plaintiff will plant similar native vegetation to fill such gaps. This obligation to fill gaps in the native vegetation shall be limited in scope, to the extent that Plaintiff will not be required to spend more than \$2500 to fill any such gaps in the foliage barrier). All construction plans and specifications shall be subject to ACC final approval by the Defendants' then current Architectural Control Committee, which approval shall not be unreasonably withheld. Any signage on the property will also have to be approved by Defendants' Architectural Control Committee, which approval shall not be unreasonably withheld. Signage which is higher than the tallest point on the professional office building structure will not be allowed. This variance shall have no effect on the existing front, side and rear building set back lines on Lot 39.

It is, further,

ORDERED, ADJUDGED and DECREED that Defendants are hereby awarded the following payments from Plaintiff: (a) for reimbursement of Defendants' legal fees in the sum of \$5,560, by check payable to the order of "JOHNSON DELUCA KENNEDY & KURISKY, P.C."; (b) for compensation of the three (3) adjoining property owners in the amount of \$15,000, by check payable to the order of "Cypress Country II Association and its attorney of record, Daniel J. Kasprzak"; and (c) as retainer fee for future services to be rendered to the association, a third check in the amount of \$5,000 payable to the order of "JOHNSON DELUCA KENNEDY & KURISKY, P.C.". Such payments shall be made within ten (10) days from date of this Judgment, and shall be delivered to office of Defendants' attorney, Daniel J. Kasprzak.

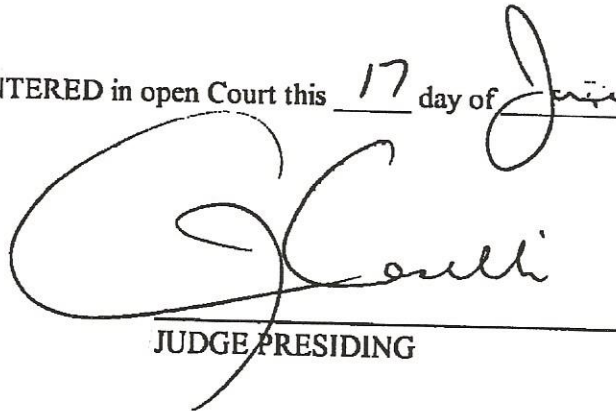
AGREED FINAL JUDGMENT

Each party shall pay their own costs of court.

This Judgment is final and disposes of all claims and all parties.

Any relief not herein granted as between Plaintiff and Defendants is hereby specifically denied.

SIGNED and ENTERED in open Court this 17 day of June, 2005.


JUDGE PRESIDING

APPROVED AS TO FORM AND ENTRY REQUESTED:

JOHNSON DELUCA KENNEDY & KURISKY, P.C.

By: 

DANIEL J. KASPRZAK
Texas State Bar No. 11105300
4 Houston Center
1221 Lamar, Suite 1000
Houston, Texas 77010
(713) 652-2525 - Telephone
(713) 652-5130 - Telecopy

ATTORNEYS FOR DEFENDANTS,
CYPRESS/COUNTRY II SUBDIVISION

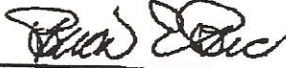
AGREED FINAL JUDGMENT

13635954-2005-06-17
Certified Document Number: 13635954 - Page 5 of 6

1221 Lamar, Suite 1000
Houston, Texas 77010
(713) 652-2525 - Telephone
(713) 652-5130 - Telecopy

ATTORNEYS FOR DEFENDANTS,
CYPRESS/COUNTRY II SUBDIVISION

LAW OFFICES OF BRIAN E. BRO

By: 
BRIAN E. BRO
Texas State Bar No. 03030000
3200 Southwest Freeway, Suite 2200
Houston, Texas 77027
(713) 961-3111 - Telephone
(281) 265-9181 - Telecopy

ATTORNEY FOR PLAINTIFF,
FREDDY WIRT

2005-06-15 11:52:45 AM

Certified Document Number: 13635954 - Page 6 of 6

AGREED FINAL JUDGMENT

E:\DJKIMUNRO\Agreed Final Judgment (Revisions per Judge Connell).wpd



I, Charles Bacarisse, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office this June 27, 2005

Certified Document Number: 13635954 (Total Pages 6)

Charles Bacarisse

CHARLES BACARISSE, DISTRICT CLERK
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED. In the Official Public Records of Real Property of Harris County, Texas on

JUN 27 2005



Dorely B. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

Dorely B. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

05 JUN 27 AM 8:48

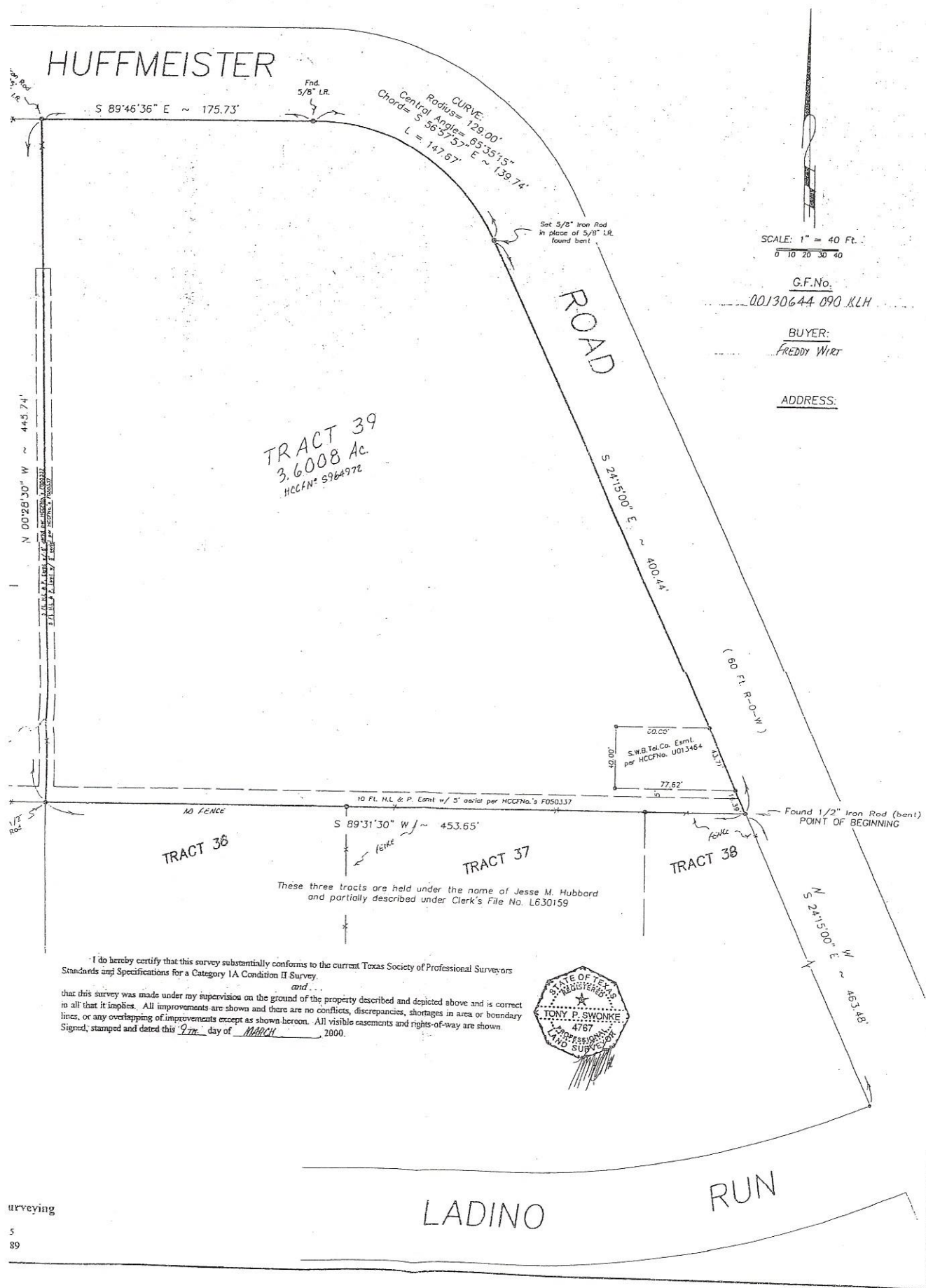
FILED

AFTER RECORDING
RETURN TO ✓
BRIAN E. BRO
LAW OFFICES OF BRIAN E. BRO
3911 WOODPARK
SUGARLAND, TEXAS 77479
281-772-3064

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

03-2-54-299

A plat of a 3.6008 acre tract of land in the J. S. Ricketts Survey, Abstract No. 671, in Harris County, Texas, and also being known as Tract 39 of CYPRESS COUNTRY II, an unrecorded subdivision containing 49.9439 acres out of that certain 95.1353 acre tract of land under Clerk's File No. E471995 of the Official Public Records of Real Property of Harris County, Texas (OPRRPHCoTx).



SCALE: 1" = 40 Ft.
0 10 20 30 40

G.F.No.
00130644 090 KLH

BUYER:
FREDDY WIRT

ADDRESS:

I do hereby certify that this survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A Condition II Survey.

and... that this survey was made under my supervision on the ground of the property described and depicted above and is correct in all that it implies. All improvements are shown and there are no conflicts, discrepancies, shortages in area or boundary lines, or any overlapping of improvements except as shown hereon. All visible easements and rights-of-way are shown. Signed, stamped and dated this 9th day of MARCH, 2000.