

Thoroughbred Estates

The undersigned, Fred G. Johnston, being the owner of record of all of the included tracts, do hereby lay off, plat and subdivide the same into lots, streets and common property in accordance with the within plat.

This subdivision shall be known and designated as THOROUGHbred ESTATES an addition to Marion County, Indiana.

- A. **Street Dedication:** All streets shown and not heretofore dedicated are hereby dedicated to the public for its use.
- B. No structure shall be erected, altered, placed or permitted to remain on shown lots other than one single family dwelling, a private garage, and such other outbuildings as are usual and incidental to the use of said real estate as a residential lot. No residence or dwelling shall be constructed on said real estate unless such residence, exclusive of open porches and attached garage, shall have a ground floor area of at least 2,500 square feet, if it is a one-story structure, or 1,800 square feet if it is a higher structure, and in case of a building higher than one-story, there shall be at least 1,200 square feet in addition to the ground floor area.
- (1) The developers reserve the right by contract, to buy back any lot not being built on within one year of signing a contract for and putting a down payment on a lot, at the purchase price plus 10% interest.
- C. Front and side building lines are established as shown on this plat between which lines and the property lines of the street, no structure shall be erected or maintained. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within 10 feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersection unless foliage line is maintained at sufficient height to prevent obstruction of sight line.
- D. No trailer, tent, shack, basement, garage, barn or other outbuilding or temporary structure shall be used for temporary or permanent residential purposes on any lot in this addition.
- E. No structure of any kind on said real estate shall be used for the purposes of carrying on a business, trade or profession.
- F. No lot in this subdivision shall be resubdivided into building lots having an area of less than 74,000 square feet.
- G. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot within this subdivision except dogs, cats or other animals generally and customarily recognized as household pets, which may be kept if not for any commercial purposes.
- H. **Easements:** There are strips of ground as shown on the within plat marked "Drainage and Utility Easements" which are hereby reserved for the use of public utility companies, not including transportation companies for the installation and maintenance of poles, lines, wires, sidewalks, sewers and drains subject at all times to the authority of Marion County, Indiana, and to the easement herein reserved. No building or other structures shall be erected or maintained on said strips. The owners of such lots in this addition, however, shall take their title subject to the rights of the public utilities and to those of the other owners of lots in this addition to such easement herein granted for ingress and egress, in, along and through the same, the ground so reserved.
- I. No residence, garage, servant's quarters or other structure of any kind shall be constructed on said real estate until the building plans, including site plans, specifications, plans for landscaping and any other data or information requested, shall be submitted to the building committee, for its review and its approval. Said building committee shall consist of Fred Johnston + Bob Shepherd. The majority of the committee shall constitute a quorum for approval or disapproval of any plans submitted. The decision of the majority shall be final. The committee shall determine if the proposed plans are suitable from the standpoint of aesthetics and harmony with design with any existing structures in the area, or otherwise, and whether the design and property setback lines are proper. The committee shall indicate its approval or disapproval of plans submitted within 25 days after submission, and if the committee fails to do so, it shall be deemed to approve such plans. No charge shall be made for any purchaser of any real estate in the area for examination or approval of such plans. In the event of the death, disability or resignation of any member of the committee, the remaining member or members shall select the successor or successors to fill the vacancy or vacancies.
- J. No residence, garage, servant's quarters or other structure of any kind shall be constructed on said real estate at an elevation below 315.00 feet above mean sea level.
- K. **Enforcement:** The right to enforce the within provisions, restrictions and covenants by injunction, together with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is hereby dedicated and reserved to the owners of the several lots in this subdivision, their heirs or assigns, who shall be entitled to such relief without being required to show any damage of any kind to any such other owners by or through any such violation or attempted violation. Said provisions shall be in force and effect until March 1, 1993, at which time said covenants shall be automatically extended for successive periods of ten years, unless by a vote of the majority of the then owners of the lots it is agreed to change the covenants in whole or in part. Invalidation of any one of the covenants by judgement or court order shall in way effect any of the other provisions which shall remain in full force and effect. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority, to enforce

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DECLARATION OF RIGHTS OF USE
AND COVENANTS IN RESPECT
TO PRIVATE LAKE

THIS INSTRUMENT, entered into by and between The Indiana National Bank, as Trustee under a certain deed, dated June 17, 1964, and recorded on June 17, 1964, as Instrument No. 64-29419, under a certain deed, dated September 24, 1969, and recorded on October 7, 1969, as Instrument No. 69-52818, and under a certain deed, dated July 27, 1971, and recorded on July 30, 1971, as Instrument No. 71-39077, all in the office of the Recorder of Marion County, Indiana ("Trustee"), Royal Development Corp., an Indiana corporation ("Royal"), The Indiana National Bank, as Executor of the Estate of Frederick B. Cline ("Executor"), Indiana Mortgage Corporation, an Indiana corporation ("IMC"), The Indiana National Bank, a national banking association ("INB"), Charles W. Robertson and Ella Marie Robertson, husband and wife ("Robertsons"), and Paul J. DeVault and Jeanne C. DeVault, husband and wife ("DeVaults"), WITNESSES THAT:

WHEREAS, Trustee holds title, as trustee and in trust with the Estate of Frederick B. Cline as one of the beneficiaries thereof, to certain real estate located in Marion County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by reference made a part hereof ("Real Estate") and which is subject to a certain unrecorded conditional sales contract, dated August 1, 1968, as assigned by instruments, dated December 5, 1969, and January 29, 1971, and recorded on December 24, 1969, and March 28, 1973, as Instrument Nos. 69-66160 and 73-18163, respectively, in the office of the Recorder of Marion County, Indiana, with S & S Materials, Inc., an Indiana corporation ("S & S"), as conditional vendee for the

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excavation of gravel and sand which will in turn create a lake on a portion of the Real Estate as described in Exhibit "B" attached hereto and by reference made a part hereof (such lake as now or hereafter created on such Real Estate being hereinafter referred to as the "Lake"); and

WHEREAS, the owners other than Trustee of all land adjacent to the Lake are listed in Exhibit "C" attached hereto and by reference made a part hereof (with the land owned by each being more particularly described in Addendums "C-1" through C-11", inclusive, to Exhibit "C"); and

WHEREAS, Royal is the owner and developer of certain real estate (Addendums "C-2" and "C-4" purchased from Trustee and Robertsons platted or to be platted as part of Traders Point North, a subdivision ("Traders Point North"); and

WHEREAS, INC is the holder of certain mortgages, dated July 26, 1971, and December 15, 1972, and recorded on July 30, 1971, and on December 22, 1972, as Instrument Nos. 71-39078 and 72-77996, respectively, in the office of the Recorder of Marion County, Indiana, which cover the Real Estate or portions thereof; and

WHEREAS, INB is the holder of certain mortgages, dated September 21, 1970, November 8, 1971, and July 16, 1973, and recorded on September 24, 1970, November 29, 1971, and July 18, 1974, as Instrument Nos. 70-42100, 71-65816 and 74-44438, respectively, in the office of the Recorder of Marion County, Indiana, which cover the real estate described in Addendums "C-2" and "C-4"; and

WHEREAS, in connection with the zoning of the portion of the Real Estate as described in Exhibit "B", certain covenants running with the Real Estate and adjacent land were entered into and agreed upon by Trustee on April 18, 1972, with Metropolitan Development Commission of Marion County, Indiana, and recorded on May 8, 1972, as Instrument No. 72-25397, in the office of the Recorder of Marion County, Indiana (such covenants being hereinafter referred to as the "Covenants"), and a certain judgment entry and

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injunction was entered in Order Book 61, at page 20 et seq., on December 20, 1972, against Trustee, Metropolitan Board of Zoning Appeals of Marion County, Indiana (Division III), S & S and Frederick B. Cline by the Superior Court of Marion County, Indiana (Room No. 7) in Cause No. S772-304, and a certain entry dated January 25, 1972, was made against S & S, Robert Simpson and Frederick B. Cline by the Circuit Court of Boone County, Indiana in Cause No. C 71-188 (such entries and injunction being herein-after referred to as the "Orders"); and

WHEREAS, certain parcels of land on the east side of the Lake owned by Royal and Robertsons are or will be platted as Traders Point North as lots numbered 34, 35, 36, 37, 43, 44, 45, 46, 47, 58, 59, 60 and 61 and each such lot adjacent to the Lake must have a minimum frontage of at least sixty-five (65) feet on the Lake; and

WHEREAS, certain owners are the holders of private, non-exclusive easements and/or grants of riparian rights for access to and use of the Lake in accordance with the following instruments recorded in Marion County, Indiana:

<u>Name</u>	<u>Type of Instrument</u>	<u>Recording Information</u>
Bretsmans	Grant of Easement dated December 1, 1972	Instrument No. 72-78007 Recorded on December 22, 1972
Ashers	Grant of Riparian Lake Front Rights dated January 5, 1973	Instrument No. 73-1687 Recorded on January 9, 1973
Knoxes	Grant of Easement dated December 1, 1972	Instrument No. 72-78008 Recorded on December 22, 1972;

and

WHEREAS, Trustee, Royal and Robertsons, as the present owners of said lots and other real estate adjacent to and having frontage on the east side of the Lake, and the other parties hereto, as the owners of other real estate adjacent to and having frontage on the Lake, (all such owners, and future owners who succeed them, with lots or tracts having a minimum frontage of sixty-five (65) feet on the Lake being hereinafter individually referred to as "Owner" and collectively referred to as the "Owners") desire to declare and grant rights of use in, to and on the Lake and provide for mutual covenants in respect to the use of the Lake as a private recreational facility:

NOW, THEREFORE, in consideration of these premises and

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For other mutual considerations, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Trustee hereby grants and conveys to each of the Owners owning real estate which is adjacent to and with frontage on the Lake (as described in Exhibit "C" and Addendums "C-1" through "C-11", inclusive, thereto) a non-exclusive right of ingress to and egress from the Lake and full riparian rights in and to and the use of the Lake in pari passu with all of the Owners subject to and on the following terms and conditions:

(a) The Lake shall be a private recreational facility to be used only by the Owners for boating, swimming and fishing. No hunting shall be allowed on the Lake.

(b) The Lake shall not be used for public purposes; instead, the use of the Lake shall be restricted to the Owners and the members of their immediate families. Guests shall be allowed only when accompanied by and under the direct supervision of the Owners or members of their immediate families.

(c) No motors except for electric trolling motors shall be allowed or used on the Lake.

(d) No boathouses shall be erected in, over or adjacent to the Lake. Docks and storage facilities with suitable appearance will be allowed but with the following restrictions:

(i) Docks shall not extend beyond twenty feet into the Lake (perpendicular with the Lake) nor shall they exceed thirty feet in width (parallel with the Lake); and

(ii) Storage facilities as part of docks must have dimensions not to exceed twelve (12) feet in length (perpendicular to the Lake) sixteen (16) feet in width (parallel with the Lake) and sixteen (16) feet in height and must be located on or over the land of an Owner and not in or over the water of the Lake.

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All docks and/or storage facilities must be approved as to appearance and construction materials by Royal prior to their construction until such time that the Owners shall form a homeowners' association as specified under paragraph 5 of this Instrument. After such association is formed, it shall act as the sole authority for the approval of all docks and/or storage facilities.

(e) Because of the hazard of pollution and to maintain ecological balance, the Owners are not to use the Lake for any purpose which would result in the pollution of the Lake by refuse, sewage or any other material.

(f) There will be no riparian rights to the public at large or to owners of other real estate in the area of but not adjacent to and with frontage on the Lake.

(g) Reasonable rules and regulations in respect to the maintenance and use of the Lake as may be promulgated by the homeowners' association formed by and comprised of the Owners.

(h) Rules, regulations and restrictions imposed by any governmental authority.

2. The foregoing rights and privileges shall run with the land in favor of the real estate owned by each of the Owners and against the portion of the Real Estate comprising the Lake which is now owned by Trustee and is described in Exhibit "B". All obligations and liabilities of Trustee hereunder shall be enforceable against it only in its capacity as Trustee and not personally.

3. The grant of rights hereunder shall be subject to the terms and provisions of the Covenants and the Orders. The Owners agree that all of the non-exclusive easements and/or grants of riparian rights for access to and the use of the Lake made or granted prior to the full execution of this Instrument are to be interpreted in accordance with the provisions of this Instrument. The restrictions set forth in this Instrument and the rules and regulations adopted pursuant to paragraph 5 hereof shall be

interpreted as regulations respecting the use of the Lake as if adopted by the grantor under the terms of non-exclusive easements and/or grants of riparian rights made or granted prior to the execution of this instrument.

4. Sanitary sewers are not now available to the real estate now owned by the Owners and each of the Owners agree that any septic system utilized on real estate which is now or hereafter adjacent to and with frontage on the Lake will be located on the side of any residential structure which is opposite the Lake and thus substantially reduce the possibility of seepage into and the contamination of the Lake, all subject to the terms and provisions of the Covenants and the Orders in this regard and rules, regulations and restrictions of any governmental authority having jurisdiction.

5. The foregoing rights are granted on the following conditions subsequent:

(a) An association ("Association") of the Owners will be formed as an Indiana not-for-profit corporation on or before such time that S & S shall complete its excavation activities or three (3) residences shall be constructed on real estate adjacent to and with frontage on the Lake, whichever is earlier. The purposes of the Association shall be to adopt and enforce reasonable rules and regulations in respect to the maintenance and use of the Lake and the construction of docks and storage facilities and the promotion and development of the Lake as a private recreational facility subject to the terms and provisions of this Instrument. Upon the completion of excavation activities by S & S and its removal of all equipment from the areas around the Lake and the completion of all reclamation as required under the terms of the Covenants, the Orders and any other agreements between Trustee and S & S, including the release of the S & S bond, the Association shall assume responsibility for the payment of all real estate taxes assessed and allocable to the Lake for the portion of such year and subsequent years, and shall

maintain the Lake, and shall have the responsibility for the procurement and maintenance at its expense of public liability and property damage insurance for the benefit of Trustee and others, including the Owners, providing coverage against liability for injuries to the person and damage to property based upon the acts or omissions of Trustee or its successor in title, as the owner of the Lake, and the Association, such insurance to have minimum limits of Fifty Thousand and no/100 Dollars (\$50,000.00) for injury to property and Five Hundred Thousand and no/100 Dollars (\$500,000.00) for injury to the person, or such other minimum limits as may be agreed upon between Trustee or its successor in title and the Association, and shall be carried with reputable insurers.

(b) The owner of the Lake may convey by quitclaim deed to the Association at any time reserving however right to use the Lake in common with the Owners as provided herein and shall thereafter have no further responsibility concerning the Lake except as shared in common with other Owners as provided herein.

(c) Each Owner hereby releases and indemnifies the Trustee and the Association and each of them and their successors and assigns against liability for any and all claims arising from the use of the Lake by such Owner, the members of his immediate family or permitted guests.

6. This Instrument shall be binding upon all parties hereto and their respective heirs, successors, assigns and legal representatives and shall inure to the benefit of any successor in title to real estate now owned by the Owners which is adjacent to and with the minimum frontage as specified on the Lake.

7. Except as to paragraph 5 hereof, the rights of Owners granted under this Instrument shall be perpetual. The covenants and restrictions in respect to the use of the Lake and its status as a private recreational facility shall continue in full force and until March 1, 1989, at which time they shall be automatically extended for successive periods of ten (10) years each unless

72-25397

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COVENANTS
BY
THE INDIANA NATIONAL BANK,
TRUSTEE, ET AL

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FAYE I. M. WERY
RECORDER
OF MARION CO.

THIS INDENTURE WITNESSETH, That THE INDIANA NATIONAL BANK, as Trustee, the holder of the legal title, and FREDERICK B. CLINE, the beneficial owner (the "Grantors"), of the real estate in Marion County, Indiana, described in Exhibit A attached hereto and made a part hereof (the "real estate"), for a good and valuable consideration, the receipt of which is hereby acknowledged, and as conditions, amendments and covenants proposed by the Grantors in Case No. 72-2-10 pursuant to Rules of Procedure, Article VI of the Metropolitan Development Commission of Marion County, Indiana, make and enter into the following covenants in favor of the Metropolitan Development Commission of Marion County, Indiana, otherwise known as the Metropolitan Plan Commission of Marion County, Indiana (the "Development Commission"), concerning the real estate:

1. Until adequate sanitary sewers are available, the lots within the contemplated subdivision shall be at least one acre in size. If adequate sanitary sewers become available and are used to serve the real estate, then lot sizes may be a minimum of 24,000 square feet or such smaller area, not less than one-half acre, as may be permitted by then applicable zoning laws or regulations.

2. The Grantors shall file and diligently pursue a petition to rezone approximately 10 acres at the southwest corner of Conarrow Road and West 86th Street as a D-1 classification.

10nd. Jg.

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RECORDER

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5-8-72

3. Subject to rights of the Grantors to gravel extraction by a variance granted in Docket 72-UV3-4 by the Metropolitan Board of Zoning Appeals of Marion County, Indiana, Division Three, the lake on the real estate shall be a private lake, and the weeds on the north, west and south sides thereof shall be kept out.

4. The covenants herein set forth shall be effective until January 19, 1987.

5. These covenants shall run to and in favor of the Development Commission, and such Commission or its successor shall have the right to enforce them in courts of competent jurisdiction whenever violation thereof occurs. These covenants shall run with the land and shall be binding upon the Grantor, the Grantee, and their successors and assigns. Frederick B. Cline is signing this instrument for the sole purpose of binding his interest in the real estate.

EXECUTED April 18th, 1972.

THE INDIANA NATIONAL BANK, TRUSTEE

By [Signature]

Its VICE PRESIDENT

Attest:

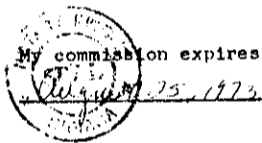
[Signature]
Its REGISTER

[Signature]
FREDERICK B. CLINE

STATE OF INDIANA }
COUNTY OF MARION } SS:

Before me, a notary public in and for said county and state, appeared THE INDIANA NATIONAL BANK, as Trustee, by William C. Fournier, its Vice President, and Larry H. C. Neal, its Asst. Cashier, this 19th day of April, 1972, and acknowledged the execution of the foregoing instrument to be its voluntary act and deed.

Witness my hand and notarial seal.



Jean L. Helgeson
Notary Public
JEAN L. HELGESON, Notary Public
My Commission Expires August 25, 1973

STATE OF INDIANA }
COUNTY OF MARION } SS:

Before me, a notary public in and for said county and state, personally appeared FREDERICK B. CLINE, this 11th day of April, 1972, and acknowledged the execution of the foregoing instrument to be his voluntary act and deed.

Witness my hand and notarial seal.

My commission expires
Feb. 1, 1975

Maurine Jagusch
MAURINE JAGUSCH Notary Public

This instrument was prepared by
Charles G. Castor and Kurt F.
Pantzer, Jr.

72 25397

ENGINEERING
AND SURVEYING

PAUL I. CRIFE, INC.
150 E. MARKET STREET
INDIANAPOLIS, IND. 46204
636-5411

SUBDIVISION DESIGN
BUILDING DESIGN

7051

December 7, 1971

ZONING - CONARROE

Part of Section 22, Township 17 North, Range 2 East and part of the Northwest Quarter of Section 23, Township 17 North, Range 2 East in Marion County, Indiana, more particularly described as follows:

Beginning on the South line of the Northeast Quarter of the said Section 22, at the center line of Conarroe Road, which lies 20.79 feet West of the Southeast corner of the said Northeast Quarter Section; thence West along the South line of the said Northeast Quarter Section 1300 feet to the Northeast corner of the West Half of the Southeast Quarter of the said Section 22; thence South along the East line of the said West Half Quarter Section 1600 feet to a point which lies North 1039.50 feet from the South line of the said West Half Quarter Section; thence West parallel with said South line 1191.40 feet; thence North 9.9 feet; thence West parallel with said South line 650 feet to the Southeast corner of land conveyed to Katharine M. Ryan by deed set out in Deed Record 959, page 445; thence North 310 feet; thence North 3 degrees 51 minutes East, 577.27 feet; thence West 50 feet to the East bank of Eagle Creek; thence Northerly and Easterly along the said East bank 2000 feet to the South line of 190 acre tract conveyed to Orlow Babcock as set out in Land Record "H", page 140; thence West to the center of the bed of Big Eagle Creek; thence Northerly along the center of the bed of said creek 2000 feet to the North line of the said Section 22; thence East along the said North line 1230 feet to a point which lies West 720 feet from the Northeast corner of the said Section 22; thence South deflecting 90 degrees 00 minutes right, 335 feet; thence Easterly, deflecting 62 degrees 00 minutes left, 385 feet; thence Southeasterly, deflecting 24 degrees 00 minutes right, 220 feet; thence Easterly, deflecting 35 degrees 00 minutes left, 320 feet to the center line of Conarroe Road; thence Southerly along the said center line 875 feet to the East line of the said Section 22; thence South along the said East line 735 feet to a point which lies North 543.20 feet from the Southeast corner of the Northeast Quarter of the said Section 22; thence West, deflecting 90 degrees 00 minutes right, 143.3 feet to the center line of the said Conarroe Road; thence Southerly along the said center line 572.8 feet to the place of beginning, containing 203 acres, more or less.

EXHIBIT A

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TO LACK OF LAKE ACCESS

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

CROSS REFERENCE

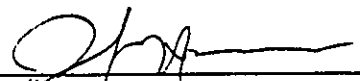
The undersigned, having been first duly sworn, upon his oath states:

1. He is the duly elected and acting President of Fox-Eagle Lake Association, Inc., an Indiana not-for-profit corporation ("Fox-Eagle"), which owns real estate upon which Fox-Eagle Lake (the "Lake") is situated.
2. This affidavit is executed by the undersigned in his capacity as President of Fox-Eagle.
3. The Lake is a private recreational facility whose use is restricted to certain owners of real estate adjacent to the Lake and to certain holders of easements who are members of Fox-Eagle, all pursuant to a certain Declaration of Rights of Use and Covenants in Respect to Private Lake which was recorded on May 12, 1975, as Instrument No. 75-22986, in the office of the Recorder of Marion County, Indiana.
4. Fox-Eagle also owns certain real estate which is adjacent to the Lake and Thoroughbred Estates, an addition in Marion County, Indiana, as per the plat thereof recorded on August 30, 1984, as Instrument No. 84-68303, in the office of the Recorder of Marion County, Indiana (the "Subdivision").
5. The plat of the Subdivision provides in part:
"L. Lake Access: No owner of any lot in this subdivision, other than the owners of Lots 7 and 9, shall have access to or rights of use to a certain private lake located southwest of this subdivision and governed by a certain declaration recorded on May 12, 1975, as Instrument #75-22986, in the Office of the Recorder of Marion County, Indiana."
6. The referenced plat provision was negotiated with Fred Johnston, Jr. ("Johnston"), and Robert Shepard ("Shepard"), the general partners of Thoroughbred Estates, and Indiana general partnership and the owner of the Subdivision ("Thoroughbred Estates"), based upon a certain memorandum of agreement, dated

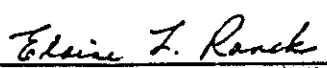
September 14, 1983 (the "Agreement"), under the terms of which Johnston and Shepard on behalf of Thoroughbred Estates agreed to purchase from Fox-Eagle certain real estate which would give access to the Lake for Lots No. 7 and 9 of the Subdivision only.


7. Johnston and Snepard, as general partners, and Thoroughbred Estates have failed to complete the transactions contemplated by the Agreement, yet have refused to execute and record the Owners' Affidavit and Certificate of Correction attached hereto as Exhibit "A" and by reference made a part of this Affidavit.

8. This Affidavit is executed for the purpose of providing record notice to any purchaser of a lot in the Subdivision, including Lots No. 7 and 9, that no lot has any rights of access to or the use of the Lake.

✓ 
Jerry L. House

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 6th day of October, 1986.


(ELAINE L. RANCK) Notary Public

 My Commission Expires:

16 NOV 88

My County of Residence is:

Marion

8601015-10

This Instrument was prepared by John C. Stark, Attorney.

EXHIBIT "A"

OWNERS' AFFIDAVIT AND CERTIFICATE
OF CORRECTION

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

FRED G. JOHNSTON, JR. and ROBERT E. SHEPARD, being first duly sworn, upon their oaths state and certify that they are the general partners of Thoroughbred Estates, an Indiana general partnership ("Thoroughbred"); that Thoroughbred is the owner of Lots 7 and 9 in Thoroughbred Estates, an addition in Marion County, Indiana, as per the plat thereof recorded on August 30, 1984, in the Office of the Recorder of Marion County, Indiana as Instrument No. 84-68303 (the "Subdivision"); and that, notwithstanding the above-referenced plat, Lots 7 and 9 in the Subdivision have no rights of access to or the use of a certain private lake located southwest of the Subdivision and governed by a certain declaration recorded on May 13, 1975, as Instrument No. 75-22986, in the Office of the Recorder of Marion County, Indiana.

Fred G. Johnston, Jr.

Robert E. Shepard

Subscribed and sworn to before me, a Notary Public in and for said County and State, this ____ day of September, 1986.

) Notary Public

My Commission Expires:

860101510

My County of Residence is:

This Instrument was prepared by Brian J. Tuohy, Attorney.