

DECLARATION OF COVENANTS
AND RESTRICTIONS

ENGLE HIGHLANDS
(THE HIGHLANDS - SECTION II)

This Declaration made this 7th day of December, 1987, by Ecks-Verwoegens-Verwaltungs-GmbH, formerly known as Erste-Ecks-Verwoegens-Verwaltungs-GmbH, a corporation organized and existing under the laws of the German Federal Republic.

WITNESSETH:

WHEREAS, the following facts are true:

- A. Declarant is the sole owner of the fee simple title to the real estate located in Marion County, Indiana, more particularly described on sheet 1 of 2 attached hereto and incorporated herein by this reference, upon which Declarant may, but is not obligated to, construct residential, office and commercial facilities.
- B. Declarant desires to provide for the preservation and enhancement of the property values in Eagle Highlands, and to this end desires to subject the Property to the covenants, restrictions and easements set forth herein, each and all of which are for the benefit and complement of the lands in the Property and the future owners thereof.

TOW, THEREFORE, Declarant hereby declares that all of the lands in the Property as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following Restrictions, all of which are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole. All of the restrictions shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to the Property or any part or parts thereof.

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

- (a) "D.M.D." means the Department of Metropolitan Development of Marion County, Indiana, its successors or assigns of any or all of its rights under this Declaration.
- (b) "Declarant" means Erste-Ecks-Verwoegens-Verwaltungs-GmbH, the owner of the Property at the time of the recording of this Declaration, its successors and assigns to its interest, or any person designated by it in a recorded instrument as having its rights hereunder, other than persons purchasing the Property or parts thereof by deed from Declarant, unless the conveyance indicated an intent that the grantee assume the rights and obligations of Declarant.
- (c) "Eagle Highlands" means the name of the Declarant's development of which the Property is a part thereof.
- (d) "Owner" means every person or persons or entity or entities who is the record owner of a fee or undivided fee interest in the Property, their heirs, successors, legal representatives or assignees.
- (e) "Property" means the real estate described on sheet 1 of 2.
- (f) "Restrictions" means the covenants, conditions, easements and restrictions and all other provisions set forth in this Declaration, as the same may from time to time be amended.

2. Declaration. Declarant hereby expressly declares that the Property be held, transferred, sold, conveyed and occupied subject to the Restrictions.

3. Utility Easements. There is hereby reserved for the purpose of installing and maintaining municipal and public utility facilities, and for such other purposes incidental to the development of the Property, to be perpetual hereof, from the date of this instrument by the Declarant, its successors and assignees, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable TV), and such other further public service facilities as Declarant may deem necessary. Provided, however, Declarant shall restore the disturbed area as nearly as is possible to the condition in which it was found. No permanent structures shall be constructed within an easement area.

4. Plans, Specifications and Locations of Buildings. No building or structure of any kind, including additions, alterations, fences, screens and walls, shall be erected or placed on the Property until the plans and specifications, location and plot plan thereof, in detail and to scale, shall have been submitted to and approved by Declarant in writing before any construction has begun. The plans and specifications of and location of all construction shall be in compliance with the building, plumbing and electrical requirements of all applicable regulatory codes. Refusal of approval of plans and specifications, location and plot plan by Declarant may be based on any ground included purely aesthetic grounds, in the sole and absolute discretion of Declarant. Declarant shall not be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

The plans and specifications submitted to Declarant shall contain a plot plan to scale with adequate provision for landscaping, including the planting of trees and shrubs. The determination of whether adequate provision has been made for landscaping shall be at the sole discretion of Declarant. The required landscaping and all parking strips and driveways shall be completed at the time of completion of the building, or as soon as weather and season permit.

All areas not covered by buildings, structures, paved parking facilities or sidewalks shall be maintained as landscaped areas and shall be maintained to the pavement edge of any abutting streets.

5. Use Restriction. No use shall be permitted on the Property other than those permitted in the Park Perimeter - Special District Two (PK-2), of the Park District Zoning Ordinance of Marion County, Indiana, provided, however, that thirty (30) days notice be given to the Declarant of any hearing before the Metropolitan Plan Commission on any proposed use and site and development plan for the Property.

6. Signs. No billboards or advertising signs of any character shall be exhibited in any way on or above the Property or any part thereof or on any improvement thereon without the written approval of Declarant except one profession sign of not more than one (1) square foot, or one sign of not more than six (6) square feet advertising the parcel for sale or rent.

7. Setback Lines. Front building setback lines are hereby established on this plat; no building shall be erected or maintained between the established setback lines and the property lines of the streets.

No residence or attached accessory building shall be erected closer to the side of any lot than 5 feet, with a total aggregate of 13 feet at the building line, whichever is the lesser, except fences, nor shall any residence or attached accessory building be erected closer than 20 feet to the rear yard line. In the event a building is erected on more than one single lot, this restriction shall apply to the side lines of the extreme boundary of the multiple lots.

8. Utility Lines and Antennas. All electrical service, telephone and other utility lines shall be placed underground, but this restriction may be waived in writing by Declarant. No outside antennas, poles, masts or towers shall be permitted unless approved in writing by Declarant.

9. Accessory or Temporary Buildings. No tents and no accessory or temporary buildings or structures shall be permitted unless approved in writing by Declarant.

10. Oil and Gas Tanks; Air Conditioners. All oil tanks and bottled gas tanks and bottled gas tanks must be underground or placed in walled-in areas so that they shall not be visible from any street or adjacent properties. Any stationary air-conditioning units must be similarly walled-in, screened or appropriately landscaped.

11. Maintenance of Premises. In order to maintain the standards of the Property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any land, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall warrant the Declarant or D.M.D. to cut weeds or clear the refuse from the Property at the expense of the Owner, and there shall be a lien against said Property for the expense thereof.

12. Nuisances. No nuisance shall be permitted to exist or operate upon the Property.

13. Site Visibility. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (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 twenty-five (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 sightline limitations shall apply to any lot within ten (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 intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

14. Lot Access. All lots shall be accessed from the interior streets of this subdivision. No access is permitted from Eagle Creek Parkway or from Inland Drive.

15. Boats, Trucks, etc. No boats, campers, trailers of any kind, recreational vehicles or commercial vehicles of any kind shall be permitted to park on the Property for more than four (4) hours unless fully enclosed inside a building, or unless the same is necessary and incident to the business on the Property.

16. Trash and Garbage Containers. All trash and garbage containers must be placed in walled-in areas so that they shall not be visible from any street or adjacent properties except on days of collection.

17. Clothes Drying Area. No outdoor clothes drying area or apparatus shall be allowed.

18. Animals. No farm animals, fowls or domestic animals for commercial purposes shall be permitted on the Property. Generally recognized house pets are permitted in reasonable numbers; all pets when outside must be kept under control by their owners and must not become a nuisance to other residents.

19. Enforcement. Any Owner, Declarant, or D.M.D. shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, or covenants, imposed by this Declaration, but Declarant shall not be liable for damages of any kind to any person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any person to enforce any of the Restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the Restrictions. In the event that Declarant or D.M.D. shall deem it necessary to enforce any Restriction, the Owner shall pay reasonable attorneys' fees and court costs if Declarant shall prevail in said litigation.

20. Duration. The foregoing covenants and restrictions and any amendments thereto, are for the mutual benefit and protection of all present and future Owners of the property or any part thereof and shall run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2000, at which time the said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by majority vote of those persons who are then the Owners of the Property.

21. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or shall lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other of the Restrictions.

22. The developer, his successors and assigns forever reserves the right to amend any of the above contained restrictions so long as developer owns fee simple title to not more than six of the lots encumbered by the restrictions herein. Any such amendment shall be effective upon the execution of same by developer hereon and the filing of same among the public records of Marion County, Indiana.

23. The streets are hereby dedicated to the public.

THE HIGHLANDS
at Eagle
Section

Mid-States
Engineering
Civil Engineering • Photography
107 North Penn.
Indianapolis, IN
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Eagle Creek

Section II

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Engineering Co., Inc.

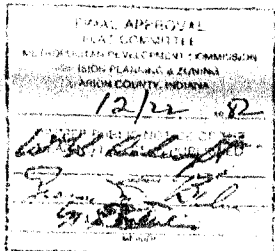
Photogrammetry • Surveying
100 North Pennsylvania Street
Indianapolis, Indiana 46204
317-634-6235

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RECEIVED FOR RECORD
LUCILLE CAMP
RECORDER-MARION CO. IN.
DEC 22 2 55 PM '82

FILED
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RECORDED
INDEXED
27th
December 29 1982
H. J. R. Roberts



RECEIVED

COVENANTS LAKE AREA A

1. Lake Area A, comprising 0.829 acres, shall be owned and controlled as tenants in common of an undivided 1/11th interest by the owners of Lots 61 through 64 as shown on this plat of The Highlands, Section Two, and lots 2 through 5 and 58 (Instrument No. 82-19955).
2. The owners of said lots 61 through 64 of The Highlands Section Two and lots 2 through 5 and 58 through 60 of The Highlands Section One, together with guests in their presence, shall have the exclusive rights to the use and enjoyment of the recreational facilities afforded said lake.
3. Until such time as six lots are sold adjacent to said lake, it shall be the responsibility of the present owner, its successors and assigns, for the maintenance, repair and upkeep of said lake. To this end, such owner shall distribute to each lot purchaser reasonable rules and regulations concerning use of the lake.
4. Upon conveyance of seven lots adjacent to the lake, the co-owners shall form an association in which each lot owner shall have one vote in the selection of a Board of Managers which shall consist of not less than three nor more than five members. Thereafter, on the first Saturday in March of each calendar year, the voting members shall elect the Board of Managers for the ensuing year to a term commencing April 1st and expiring March 31st.
5. The Board of Managers shall thereafter be responsible for establishing rules and regulations pertaining to lake usage as well as establishing an annual budget to assure adequate maintenance, upkeep and repair of the lake property including the easement adjacent thereto. Such budget shall be established annually on or before April 1st of each year for the ensuing twelve (12) month period.
6. Assessments shall be equally paid by each voting member within thirty days from date of billing, and there shall be a late charge of 2% per month on all delinquent payments.
7. Assessments for maintenance shall be a lien upon the properties subordinate only to the lien of a first mortgage, which lien can be enforced by the Board of Managers or any individual property owner subject to these Lake Covenants. By acceptance of deed of title to these properties, the grantee consents to the lien of assessment and its enforcement provisions together with the costs of collection including reasonable attorney's fees.
8. In the event of a dispute arising from the maintenance, repair and upkeep of the lake, any voting member upon giving notice in writing designating a time and place not less than seven (7) days from date of notice, which time may be shortened in case of dire emergency, at which meeting, by a majority vote, such dispute shall be resolved.
9. The Board of Managers shall not be held personally liable in the discharge of their official duties except for willful and wanton misconduct, and there may be included in the maintenance budget a sufficient sum to provide insurance from liability in favor of the Board of Managers as well as public liability and property damage insurance covering all voting members for liabilities incurred by reason of lake ownership.
10. No voting member or third party shall do or permit to be done any action or activity which could result in pollution of the lake, diversion of water, elevation of lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse affect upon water quality, drainage or proper lake management.

The Board of Managers, in behalf of the property owners or any property owner subject to these Lake Covenants, and the Department of Public Works of the City of Indianapolis, Indiana, shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of any damage caused to the lake or interference with the drainage system, together with any damages incurred, and upon recovery of judgment shall be entitled to costs together with reasonable attorney's fees.

COVENANTS LAKE AREA B

1. Lake Area B, comprising 0.885 acres, shall be owned and controlled as tenants in common of an undivided 1/15th interest by the owners of lots 86 through 90, and 94 and 95, as shown on this plat of The Highlands Section Two, and seven (7) additional lots as shall be designated by lot numbers in a future plat recording, which said seven (7) lots shall be generally located along the remaining perimeter boundary of Lake Area B.
2. The owners of said Lots 86 through 90, and 94 and 95 of The Highlands Section Two, and seven additional lots as shall be designated by lot numbers in a future plat recording, which said seven (7) lots shall be generally located along the remaining perimeter boundary of Lake Area B, together with guests in their presence, shall have the exclusive rights to the use and enjoyment of the recreational facilities afforded said lake.
3. Until such time as eight lots are sold adjacent to said lake, it shall be the responsibility of the present owner, its successors and assigns, for the maintenance, repair and upkeep of said lake. To this end, such owner shall distribute to each lot purchaser reasonable rules and regulations concerning use of the lake.
4. Upon conveyance of nine lots adjacent to the lake, the co-owners shall form an association in which each lot owner shall have one vote in the selection of a Board of Managers which shall consist of not less than three nor more than five members. Thereafter, on the first Saturday in March of each calendar year, the voting members shall elect the Board of Managers for the ensuing year to a term commencing April 1st and expiring March 31st.
5. The Board of Managers shall thereafter be responsible for establishing rules and regulations pertaining to lake usage as well as establishing an annual budget to assure adequate maintenance, upkeep and repair of the lake property including the easement adjacent thereto. Such budget shall be established annually on or before April 1st of each year for the ensuing twelve (12) month period.
6. Assessments shall be equally paid by each voting member within thirty days from date of billing, and there shall be a late charge of 2% per month on all delinquent payments.
7. Assessments for maintenance shall be a lien upon the properties subordinate only to the lien of a first mortgage, which lien can be enforced by the Board of Managers or any individual property owner subject to these Lake Covenants. By acceptance of deed of title to these properties, the grantee consents to the lien of assessment and its enforcement provisions together with the costs of collection including reasonable attorney's fees.
8. In the event of a dispute arising from the maintenance, repair and upkeep of the lake, any voting member upon giving notice in writing designating a time and place not less than seven (7) days from date of notice, which time may be shortened in case of dire emergency, at which meeting, by a majority vote, such dispute shall be resolved.
9. The Board of Managers shall not be held personally liable in the discharge of their official duties except for willful and wanton misconduct, and there may be included in the maintenance budget a sufficient sum to provide insurance from liability in favor of the Board of Managers as well as public liability and property damage insurance covering all voting members for liabilities incurred by reason of lake ownership.
10. No voting member or third party shall do or permit to be done any action or activity which could result in pollution of the lake, diversion of water, elevation of lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse affect upon water quality, drainage or proper lake management.

The Board of Managers, in behalf of the property owners or any property owner subject to these Lake Covenants, and the Department of Public Works of the City of Indianapolis, Indiana, shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of any damage caused to the lake or interference with the drainage system, together with any damages incurred, and upon recovery of judgment shall be entitled to costs together with reasonable attorney's fees.

IN TESTIMONY WHEREOF, witness the signature of Declarant this 7th day of December, 1982.

By: Jackson McDaniel
Pursuant to a Power of Attorney Recorded
1982, an Instrument number _____ in the Office
of the Recorder of Marion County, Indiana.

Also: As Joiner
Eagle Highlands Venture

By: Jackson McDaniel
Jackson McDaniel, Managing Director

STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for said County and State, personally appeared Jackson McDaniel, as attorney-in-fact, Erbes-Vermögens-Verwaltungs-GmbH, formerly known as Erste-Eckes-Vermögens-Verwaltungs-GmbH, a corporation organized and existing under the laws of the German Federal Republic, and as managing partner for Eagle Highland Ventures.

WITNESS my hand and Notarial Seal this _____ day of _____ 1982.

Notary Public

Printed: Deborah L. Stokes

My Commission Expires
December 30, 1985

County of Residence of Notary Public:
Benedicks