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BOOK 5410 PAGE 30

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

Steve Jacobs
682-8098

Westchester
Commons

DECLARATION OF COVENANTS
APR -5 PM 12:04

THIS DECLARATION, made this 1st day of March, 1989, by

RUDY BOWEN, INC.

W I T N E S S E T H :

WHEREAS, RUDY BOWEN, INC. (hereinafter referred to as "Declarant") is the owner of the property in a subdivision known as WESTCHESTER COMMONS, UNIT ONE & WESTCHESTER COMMONS, UNIT TWO in Gwinnett County, Georgia, described in Schedule "A" attached hereto and made a part hereof; and,

WHEREAS, said Declarant is developing said lots for the construction of a residential subdivision, Declarant does hereby impose the following protective covenants and restrictions upon said lots to be observed by Declarant, their successors and assigns, namely:

1. That the land subject to these covenants is the property described in Schedule "A" attached hereto.
2. All of the said lots shall be used, known and described as residential lots. Declarant shall have the right to construct and maintain model homes on any of the lots.
3. No lot shall be used except for residential purposes, unless permission from the Architectural Control Committee, as hereinafter established in Paragraph 14, is first obtained.

4. No structure as hereinafter defined in Paragraph 14 shall be erected, altered, placed or permitted to remain on any lots unless approved by the Architectural Control Committee. Declarant shall be exempt from this provision. Single family dwelling houses shall not exceed three stories in height.

5. The living areas of the main structure, exclusive of open porches, garages, carports and breezeways, shall contain the minimum finished square footage allowable under local zoning requirements.

6. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Property owner shall, at all times, maintain its property and all appurtenances thereto in good repair and in a state of neat appearance. Except for flower gardens, shrubs, pine strawed areas and trees which shall be neatly maintained, all open lot areas shall be maintained as lawns; and all lawn areas shall be kept mowed and shall not be permitted to grow to a height in excess of ^{grass} five inches. No radio, T.V. or other antenna or tower of any nature shall be installed on any lot.

includes satellite dishes

7. No structure of a temporary character, trailer, tent or shack shall be used on any lot at any time as a residence either temporarily or permanently.

8. No signs of any kind shall be displayed to the public view on any lot if not approved by the Architectural Control Committee, except one sign of not more than five square feet advertising the property for sale or rent. During the construction and/or sales period, real estate sales and construction offices, displays, signs and special lighting may be erected, maintained and operated by Declarant on any part of the property, and on or in any building or structure now or hereinafter erected thereon.

9. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

10. Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. Storage of any other items shall be within the confines of the rear yards directly behind the house. No accumulation or storage of litter or trash of

any other kind shall be permitted on any lot. Trash, refuse or waste materials shall not be burned and incinerators manufactured or designed for the burning of trash, garbage or waste materials shall not be placed or operated on the property. This provision shall not apply to Declarant during the development and construction of new homes.

11. All fencing for decorative or functional purposes must be submitted to the Architectural Control Committee for prior approval according to the procedure in Paragraph 15 below. No chain link fences will be allowed in this subdivision.

12. No junk vehicles or commercial or industrial vehicles, including but not limited to, moving vans, trucks, trailers, wreckers, hearses, compressors, concrete mixers or buses shall be regularly or habitually parked in front of any lot nor upon any lot. No storage of boating equipment, travel trailers, camping equipment or recreational vehicles shall be allowed. AT ALL

13. Two sets of plans and specifications for any structure intended to be constructed or altered shall be submitted to the Architectural Control Committee for approval or disapproval. The plans and specifications

shall show size, design, color, texture and materials to be used and the proposed location of the structure on the lot. One set of plans and specifications may be retained by the Committee. In the event that said Committee fails to approve or disapprove such plans and specifications and locations within 30 days after said plans and specifications have been received by it, approval will not be required and the applicant will be deemed to have fully complied with this covenant. Any construction or exterior addition or change or alternation made without application having first been made and approval obtained as provided above shall be deemed to be in violation of this covenant and, at the option of the Committee, the property shall be restored to the original condition at the owner's cost. The word "structure" as used herein shall mean all buildings, walls, fences, birdbaths, changes in the grade of the land, and all customary maintenance and refurbishing of the property. A building permit shall be obtained from the appropriate authorities prior to any additions or alternations to a building.

14. The Architectural Control Committee shall be composed of David R. Bowen, Eric Tipton Cape and Thomas Michael Phelps, Jr. whose mailing address is P. O. Box 401, Buford, Georgia 30518. The term of this Owner

appointed Committee, or any successive Committee appointed member, shall terminate upon the sale and closing by Rudy Bowen, Inc. of the last home in the community. A majority of the Committee may designate a representative to act for it. In the event of death, resignation or removal of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to these covenants. At any time after homes have been built on all of the lots described in Schedule "A", as well as additional lots to be contained in this Subdivision as illustrated on the preliminary plan, the terms of the Architectural Control Committee as shown above shall cease, and the then record owners of a majority of the lots shall have the property through a duly recorded written instrument to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties.

15. No lot shall be further divided or subdivided, nor shall any easement or right-of-way be granted without the consent and approval of Declarant or the Architectural Control Committee.

16. These covenants are to run with the land and shall be binding on all parties and on all persons claiming under them for a period of 30 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

17. Declarant, its agents and employees shall have a right of ingress and egress over any lot as required for construction and development of the property.

There shall be and is hereby reserved to Declarant a perpetual and non-exclusive easement over any lot for the purposes of installing, repairing and/or maintaining utility lines and/or structures of any sort, including but not limited to storm drains, surface drainage structures, sanitary sewers, gas lines, electric lines and/or cables, water lines, telephone lines and the like.

There shall be and is hereby reserved the Declarant or its successors in title, a perpetual and non-exclusive easement over all lots for a distance of seven (7') feet behind any lot line which parallels a street for the

purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, mailboxes, entrance features and/or "theme areas", lights, stone, wood or masonry wall features, and/or related landscaping.

If any portion of a lot improvement is contiguous to an adjacent lot, a five (5') foot valid perpetual easement for the maintenance of the same is hereby created and reserved.

There is hereby reserved a permanent five (5') foot use and maintenance easement along the borders of all lots in the subdivision. Adjacent property owners may use this easement to provide access to the remaining portion of their yard, as well as maintenance of structures on the lots.

18. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

19. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain

violation or to recover damages. Any party or parties in title on any of the property described herein shall have the right to seek enforcement of these covenants and in the event such party seeking such enforcement shall be upheld by the Courts, the Defendant and/or Defendants in such case shall be liable for the reasonable attorney's fees sustained by the Plaintiff, together with Court costs of such action and the same shall constitute a lien upon the property of such Defendant and/or Defendants.

one on one

In the event an action is brought under the provisions of this paragraph and the Plaintiff is not upheld by the Courts, the Plaintiff in such case shall be liable for reasonable attorney's fees sustained by Defendant, together with Court costs of such action, and the same shall constitute a lien upon the property of such Plaintiff.

20. Any requirements of these covenants shall be superseded by county or municipality codes.

IN TESTIMONY WHEREOF, RUDY BOWEN, INC. does hereby appoint DAVID R. BOWEN its true and lawful Attorney in fact, to acknowledge and deliver this instrument as the act and deed of WESTCHESTER COMMONS, UNIT ONE and WESTCHESTER COMMONS, UNIT TWO, these covenants having the

seal of the Corporation attached and being signed by the name of the Corporation by its President or other officer, or Attorney in fact.

RUDY BOWEN, INC.

BY: [Signature]

DAVID R. BOWEN
Attorney in fact

(SEAL)

[Signature]
WITNESS

STATE OF GEORGIA
COUNTY OF GWINNETT

On this 1st day of March, 1989, before me, the undersigned, personally appeared DAVID R. BOWEN, who is known to me as the person named as Attorney in fact in the foregoing Declaration of Covenants hereto annexed, and acknowledge that he is the Attorney in fact of RUDY BOWEN, INC. and that such officer is authorized to execute the within instrument by signing the name of the Corporation as Attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]
Notary Public

Notary Public, Gwinnett County, Georgia
My Commission Expires Sept. 27, 1987

SCHEDULE "A"

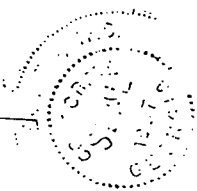
ALL THAT TRACT or parcel of land lying and being in Land Lot 129, 7th District, Gwinnett County, Georgia, and being known as Lots 1-6, Block A: Lots 1-23, Block B: Lots 1-19, Block C: Lots 1-4 & Lots 27-34, Block D: Lots 1-19, Block F: & Lots 1-3 & Lots 37-39, Block G, Westchester Commons, Unit One, as shown on a plat of survey for Westchester Commons, Unit One by Precision Planning, Inc., Registered Land Surveyor, dated September 29, 1987, recorded in Plat Book 43, Page 49, Gwinnett County Plat Records; re-recorded in Plat Book 44, Page 161 and Plat Book 44, Page 191, Gwinnett County Plat Records which plat is hereby referred to, incorporated herein and made a part hereof.

ALL THAT TRACT or parcel of land lying and being in Land Lot 129, 7th District, Gwinnett County, Georgia, being known as Lots 1-16, Block E: Lots 5-26, Block D & Lots 10-21, Block E, Westchester Commons, Unit Two as shown on a plat of survey for Westchester Commons, Unit Two by Precision Planning, Inc., Registered Land Surveyor, dated March 15, 1988, recorded in Plat Book 46, Page 66, Gwinnett County Plat Records, which plat is hereby referred to, incorporated herein and made a part hereof.

the seal of the Corporation attached and being signed by the name of the Corporation by its President or other officer, or Attorney in Fact.

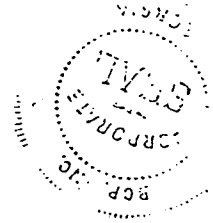
RUDY BOWEN, INC.

BY: [Signature]
DAVID R. BOWEN
Attorney in Fact



BCP, INC.

BY: [Signature]
DAVID R. BOWEN
Attorney in Fact



[Signature]
Witness

STATE OF GEORGIA
COUNTY OF GWINNETT

On this 12th day of October, 1992 before me, the undersigned, personally appeared DAVID R. BOWEN, who is known to me as the person named as Attorney in Fact in the foregoing Declaration of Covenants hereto annexed and acknowledge that he is the Attorney in Fact of RUDY BOWEN, INC. and BCP, INC. and that such officer is authorized to execute the within instrument by signing the name of the Corporations as Attorney in Fact.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]
Notary Public
Notary Seal
10/12/92

EXHIBIT "A"

All lots owned by RUDY BOWEN, INC. and BCP, INC. and being:
ALL THAT TRACT or parcel of land lying and being in Land Lot 129,
7th District, Gwinnett County, Georgia, being Unit One as shown on
a plat of survey recorded in Plat Book 43, Page 45, Gwinnett County
Plat Records; Unit Two as shown on a plat of survey recorded in
Plat Book 46, Page 66; Plat Book 44, Page 161; Plat Book 44, Page
199; and Plat Book 48, Page 128, Gwinnett County Plat Records; Unit
Three as shown on a plat of survey recorded in Plat Book 48, Page
241, Gwinnett County Plat Records; Unit Four as shown on a plat of
survey recorded in Plat Book 50, Page 226; Plat Book 49, Page 176;
and Plat Book 50, Page 160, Gwinnett County Plat Records; Unit Five
as shown on a plat of survey recorded in Plat Book 51, Page 272;
Plat Book 55, Page 101; and Plat Book 52, Page 34, Gwinnett County
Plat Records; and Unit Six as shown on a plat of survey recorded in
Plat Book 58, Page 30, Gwinnett County Plat Records.

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