

**THIRD AMENDMENT AND RESTATEMENT OF
EASEMENTS, PROTECTIVE COVENANT, RESTRICTIONS,
AND LIMITATIONS FOR BLUE CREEK, AN ADDITION IN
ABOITE TOWNSHIP, ALLEN COUNTY, INDIANA**

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Recorded
07/14/2005 16:01:26
RECORDER
PATRICIA J CRICK
ALLEN COUNTY, IN
Receipt No. 21116
DCFD 5.00
MISL 34.00
MISL 1.00
MISL 1.00
Total 39.00

This Third Amendment and Restatement is made this 15 day of August, 1999.

WHEREAS, the Final Plat and Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana, were recorded in Plat Book 43, at pages 76-79, as Document No. 79-37468 in the office of the Recorder of Allen County, Indiana on December 7, 1979 (the "Covenants");

WHEREAS, certain setback restrictions in the Plat and Covenants were amended by the terms of the Amendment to Plat of and Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite township, Allen County, Indiana, which was recorded in the office of the Recorder of Allen County, Indiana as document No. 86-026753 on July 25, 1986;

WHEREAS, certain provisions in the Covenants concerning the subdivision of lots were amended by the Amendment of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, which was recorded on April 3, 1998 as Document No. 980021679; and

WHEREAS, the owners of the lots in Blue Creek desire to further amend and restate the Covenants.

NOW THEREFORE, the undersigned persons, constituting not less than 85 percent of the owners of the lots in Blue Creek, hereby amend and restate the Covenants as follow:

All of the lots in the plat of Blue Creek, shall be subject to and impressed with the easements and protective covenants, restrictions and limitation hereinafter set forth, which shall be considered a part of every conveyance of any lot or portion thereof in the Addition without being written therein. The provisions herein contained are for the mutual benefit and protection of the owners and occupiers, present and future, of any and all lots in said Addition and they shall run with and bind the land and shall inure to the benefit of and be enforceable by the owners and occupiers of any lot or lots in the Addition of and be enforceable by the owners and occupiers of any lot or lots in the Addition and their respective legal representative, heirs, successors, grantees and assigns. The owners and occupiers, present or future, of any lot or lots in the Addition shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof and also to damages for any injury resulting from any violation thereof; but there shall be no right of reversion, re-entry or forfeiture of title resulting from any violation. As used in this instrument, the word "Addition" means Blue Creek, an Addition in Aboite Township, Allen County, Indiana.

1. Use. All lots in the addition shall be used only for single family residential purposes, by domestic servants employed by a resident owner may also reside in the dwelling. No more than one single-family dwelling with attached and closed two-car garage,

*NAI Harding Dahm
118 E. Ludwig Rd Ste 100
41185*

AUDITOR'S OFFICE
Duly entered for taxation. Subject to final acceptance for transfer.
JUL 14 2005
ALLEN COUNTY AUDITORS NUMBER
05-17495
Elizabeth A. Brown
AUDITOR OF ALLEN COUNTY

STALE

with a minimum of 2,000 square feet of living area, shall be constructed or maintained on a lot. All such dwellings in the Addition shall be solely owner occupied, however this restriction shall not be intended to prevent the temporary residence of any dwelling by a person other than the owner for purposes of security or maintenance of the dwelling during the temporary absence of the owner.

2. Square Footage. If a person is building his own home, in Blue Creek, the minimum square footage will be 2,000 square feet of living space. If a home is being built for "spec", a minimum of 2,500 square feet of living space will be required

3. Gutters, Downspouts, and Underground Drainage. All homes must have gutters, with downspouts, and underground drainage.

4. Subdivision of Lots. No lot may be subdivided.

5. Architectural Control.

a) The Architectural Committee shall be composed of the presiding Officers of the Corporation with the assistance of the Resident Manager. The contracting of a licensed Architect will be at the direction of the Committee. Only members of the committee may vote on the acquisition of a licensed Architect.

(b) No dwelling shall be constructed, placed or altered on any lot until the plans and specifications thereof, including a plot plan showing the location of the proposed construction, placement or alteration and its grade elevation on the lot, have been approved by the original Architect or the Architectural Control Committee ("Committee") as to the quality of workmanship and materials, harmony of external design with existing structures in the Addition, and location with respect to topography and to finished grade elevations established by the Committee.

(c) The Architect or the Committee shall approve or disapprove construction plans and specifications and locations of structures as provided in this paragraph 3. The Architect's or the Committee's approval or disapproval shall be in writing. If the Architect or the Committee, or their designated representative, fails to approve or disapprove them, as required by these provisions, within thirty days after the plans and specifications and plot plan have been submitted, and if no suit to enjoin the construction is commenced prior to the completion thereof, approval will not be required and the applicable provisions hereof shall be deemed to have been fully complied with.

(d) Every new home, must submit a landscape plan, with a building plan, to the Architectural Committee, prior to construction of the home.

(e) The garage area shall be at least 20' x 22' in size, with an 18' size door, and not a 16' size door.

(f) The builder must provide a trash container, and keep it emptied at proper times.

6. Platted Utility Easements. All lots in the Addition shall be subject to the easements indicated upon the recorded plat, which may be used, subject to the provisions of paragraph 9 below, for the installation, construction, maintenance, operation, servicing, repair,

removal, and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity of light, power, telephone and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipelines for supplying gas, water and heat, and (v) for any other municipal, public or quasi-public utility. Any municipal, public or quasi-public utility engaged in supplying one or more of the above utility services shall have the right to enter upon the strips of land subject to said easements for any purpose for which said easements may be used. All structures, shrubbery, trees and other installations located within said easements shall be subject to the paramount right of each such utility to use said easements as provided herein and the removal of any obstruction by any utility shall in no way obligate the utility in damages or to restore the structure.

7. Utility Easements in Streets. Utility easements in all platted streets are reserved for use, subject to the provisions of paragraph 8 below, by municipal, public and quasi-public utilities and by the Developer, and its successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal, and replacement of utility plant, subject to reasonable regulation by any government body having jurisdiction of the streets and subject to the obligation of any such utility which installs plant in any street to repair and return the pavement of such street to at least as good a condition as existed prior to such work.

8. Prohibition of Overhead Utility Facilities. All utility wires, cables, conduits, pipes and other facilities within the Addition shall be located underground within the utility easements provided hereby, except that:

(a) Poles and overhead facilities may be used to the extent reasonably necessary at those places where distribution facilities enter and leave the Addition, and

(b) Housings, pedestals and other facilities may be above the surface of the ground to the extent permitted by paragraph 9 below and to the extent otherwise necessary for installation and operation of the utility service, but shall be constructed and maintained at as low a height and in as inconspicuous a manner as is practicable.

9. Utility Service Entrances. All utility service entrances running from any utility plant within a platted easement or a street to any structure on a lot shall be located underground, except for such housing, pedestals or other facilities as may be appropriate or necessary for connection, servicing and maintenance of such utility service entrance. Such housings, pedestals and other facilities shall be constructed and maintained at as low a height and inconspicuous a manner as is practicable. Each owner shall, at the time of the installation of any such service entrance, furnish to the utility for its record a drawing or other description accurately showing the location underground of the service entrance from the easement or street to the owner's structure. Each utility having plant in any easement or street shall have control over the installation of all connections to its plant for service entrances serving lots. Each such installation shall be left open for inspection and approval by the utility.

10. Sewer System. Sewers on lots in said Addition shall be connected to the sanitary sewage system according to the plans and specifications of the Developer.

11. Blue Creek Association.

(a) The Developer shall cause an Indiana Not-For-Profit Corporation to be formed with the name Blue Creek Association. The owners of each lot in Blue Creek shall be deemed to be a member of the Association and all owners of each lot shall be entitled to one vote for each lot owned by them.

(b) The Association shall have responsibility and authority for proper maintenance and repair of the common areas in the Addition, including streets, pond areas, dams, culverts, driveways, walks, and any areas in the Addition to which it may have title. Such responsibility shall include the cutting of all grass and weeds, the removal of snow and ice and the installation, maintenance and operation of street lights if such installation is approved by the owners of a majority of the lots in the Addition.

(c) The Association may make contracts to carry out its responsibilities and shall have power to pay taxes and other charges on land and other property owned by it from time to time.

(d) From time to time the Association shall make an assessment upon each lot in the Addition for the expenses incurred in carrying out its responsibilities. Expenses of the Association shall be allocated among lots as follows:

1) Expenses with respect to the pond areas, any community area referred to in paragraph 11, trash removal and liability insurance shall be allocated equally to each lot.

2) A monthly fee of one-twelfth (1/12) of the estimated annual expenses outlined in paragraph (1) above, may be billed monthly by the Developer or the Association to each lot owner. Such monthly fees may be adjusted annually to reflect changes in the costs of such expenses. Fees may be invoiced quarterly subject to the approval of the Association.

3) The minimum monthly assessment for maintenance shall be Eighty-five Dollars (\$85.00) per month per lot.

Any disputes concerning allocation of expenses hereunder which are not resolved by the Association within three months after the dispute arises shall be resolved by the Developer or, if the Developer is not in existence, then by an arbitrator chosen by the Board of Directors of the Association, which determination shall be conclusively binding upon all persons.

The Association may also make assessment on each lot in the Addition in order to raise funds in advance to enable the Association to perform its responsibilities, such assessments to be allocated to the extent feasible in the manner provided above.

(e) Records shall be kept by the Secretary of the Association of all action taken by the Association, including all contracts entered into and all expenses incurred.

12. Lien for Lot Assessments, and Payment. Assessments against a lot in the Addition pursuant to paragraph 11 above shall be payable by the owner thereof to the Treasurer of the Association within 60 days from the time that notice of such assessment has been mailed to the owner. Each assessment shall be and remain a lien upon the lot until full payment thereof, subject only to first mortgages, real estate taxes, public improvement assessments, and easements created hereby. All payments of assessments shall be noted on the books of the Association and, on request, the Treasurer or other authorized officer of the Association shall furnish to any owner of a lot in the Addition a certificate showing whether any assessment against any lot remains unpaid or has been paid. Such certificate may be relied upon by the lot owner, any prospective purchaser and any mortgagee. The lien of any past-due assessment may be foreclosed in the same manner as mortgages are foreclosed. Assessment shall be payable without relief from valuation and appraisal laws and with reasonable attorney fees.

13. Ponds and Community Area. Owners of lots in the Addition shall have the privilege of using the ponds platted as a part of the Addition. The ponds shall be for the exclusive use of owners, occupiers and invitees of lots, which are contiguous to the lake or to any community area platted as a part of any such plats. The Developer reserves the right to convey the ponds and any community area to the Association for the benefit of said owners and occupiers and their invitees. No motorized watercraft or vehicles shall be permitted on the ponds.

14. Outdoor Lighting. No freestanding outdoor light source shall be located more than three (3) feet above ground level, except in the case of lights installed in or attached to and located underneath the eaves of a structure. All outdoor light sources in excess of 1200 lumens shall be installed so that the direct rays therefrom are confined to the lot upon which the source is located. No outdoor light source shall exceed 4500 lumens. All outdoor light sources located within 25 feet of each other shall be deemed to be one light source for the purposes of this paragraph. A light source shall be deemed to be outdoor unless it is located within a completely enclosed building. The provisions of the second sentence of this paragraph shall not apply to street lighting installed by the Developer of the Association. Only miniature white lights will be permitted for outdoor holiday decorations, in front and back, of all homes, and in common areas.

15. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which is or may become any annoyance or nuisance to the neighborhood.

16. Animals. No animal of any kind shall be kept, raised or bred on any lot except that dog, cats and other household pets may be kept, provided that they are not kept, raised or bred for commercial purposes. Owner's pets, must be confined on homeowner's property, or on a leash at all times.

17. Signs. No signs of any kind shall be displayed to public view on any lot after the conveyance of said lot by the Developer to the first owner.

18. Storage tanks. All fuel and other storage tanks shall be installed underground or concealed within the dwelling or garage.

19. No Hunting, Shooting. No hunting or shooting shall be allowed in the Addition. The Developer may trap to prevent damage to the lake and this right may be transferred to the Association.

20. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage or other out-building shall be used or maintained on any lot at any time as a residence, either temporarily or permanently; nor shall any building be moved into or upon any lot for such purpose.

21. Storing of Equipment. No truck, boat, motor home, camping or other trailer, or recreational vehicle of any kind, or other equipment or machinery of any kind shall be kept on any lot for a period in excess of forty-eight consecutive hours.

22. Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other refuse or debris and the same shall be kept in sanitary containers while awaiting removal from the premises. All incinerators or other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall either be located within the dwelling or garage or underground or shall be fully screened from public view by an appropriate fence or screen.

23. Driveways. All driveways must be dust proof and paved.

24. Outdoor Burning of Materials. The outdoor burning of papers, grass and any other materials shall not be allowed.

25. Completion of Utilities before Occupation. All street drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Developer with the Allen County Plan Commission shall be installed before any dwelling house on that lot in the Addition is used or occupied.

26. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the applicable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

27. Duration and Alteration.

(a) These protective covenants, restrictions and limitations shall be construed as and shall be covenants running with the land and shall be binding upon all owners of any land within the Addition and all persons claiming under them; and except as provided in subparagraph (b) below, shall continue in existence for a period of 25 years from the date of the recording hereof and thereafter shall be automatically extended for successive periods of 10 years each; provided, however, that nothing contained on this paragraph 27 shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

(b) These protective covenants, restrictions and limitation may be changed by the written agreement of all of the owner of at least 85% of the lots in the Addition subject in each case, however, to such approvals of governmental authorities as may be required by law at

any item. The provisions of any amendment shall become effective upon the recording of a copy of the agreement making such amendment in the office of the Recorder of Allen County, Indiana.

28. Investigation and Compliance. The Developer and the officers of the Association shall have the right of access to all lots at all reasonable times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

29. No Waiver. The failure of any interested party to enforce the provisions of these covenants shall not constitute a waiver of the right to enforce them on another occasion and no delay in enforcement shall constitute a waiver of the right of enforcement so long as a violation continues.

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

IN WITNESS WHEREOF, I the undersigned do hereby execute this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana and certify to the truth of the facts herein stated this 15 day of August, 1999.

Robert McCampbell
(Written Signature)

Robert McCampbell
(Printed Signature)

President of Blue Creek

Condominium Association

NOTARY ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 15 day of August, 1999, personally appeared Robert McCampbell, President of Blue Creek Condominium Association, which executed the foregoing instrument, signed the same and acknowledged to me that they did so sign the same in the name and on behalf of said corporation as such officers, respectively; that the same is their free act and deed as such officers, respectively, and the free and corporate act and deed of said corporation; and that they were duly authorized thereunto by the Board of Directors of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

Chris Koch
Notary Public

My commission expires: March 19, 2008

WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15 day of August, 1999.

Robert McCampbell
Robert McCampbell

Beverly McCampbell
Beverly McCampbell

NOTARY

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 15th day of October, 1999, personally appeared Robert and Beverly McCampbell which executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and fixed my notarial seal, this 15th day of October, 1999.

Chris Koch
Notary Public

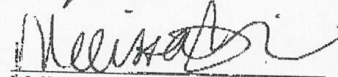
My commission expires: March 19, 2008

Allen County



WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Abate Township, Allen County, Indiana this 30 day of Sept, 1999.


Douglas Pinner


Melissa Pinner

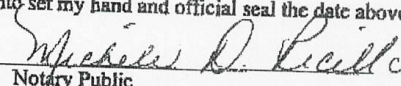
NOTARY

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 30 day of Sept, 19 99, personally appeared Douglas Pinner and Melissa Pinner executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

My commission expires: 8/5/00


Notary Public

MICHELE D PICILLO
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP. AUG. 5, 2000



WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15 day of OCTOBER, 1999.

Robert F. Kimbrough
Robert Kimbrough

Joan Kimbrough
Joan Kimbrough

NOTARY

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 15th day of OCTOBER, 1999, personally appeared Robert Kimbrough and Joan Kimbrough which executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

Chris Koch
Notary Public

My commission expires: March 19, 2008

Allen County



WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15th day of OCTOBER 1999.

Carelton Keck
Carelton Keck

Betty Keck
Betty Keck

NOTARY

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

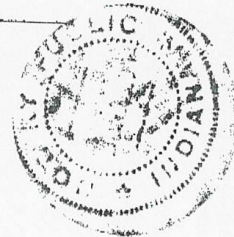
Before me, the undersigned, a Notary Public in and for said county and state, this 15th day of OCTOBER, 1999, personally appeared Carelton Keck and Betty Keck which executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

My commission expires March 19, 2008

Chris Koch
Notary Public

Allen County



WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15th day of October, 1999.

Larry Stoppenhagen
Larry Stoppenhagen

Jo Ann Stoppenhagen
Jo Ann Stoppenhagen

NOTARY

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 15th day of OCTOBER, 1999, personally appeared Larry Stoppenhagen and Jo Ann Stoppenhagen which executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

My commission expires:

March 19, 2008

Notary Public

Allen County



WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15th day of OCTOBER, 1999.

Don Lahrman
Don Lahrman

Carolyn Lahrman
Carol Lahrman

NOTARY

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 15th day of OCTOBER, 1999, personally appeared Don Lahrman and Carol Lahrman executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

My commission expires: March 19, 2008

Chris Koch
Notary Public

Allen County



I THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15th day of October, 1999.

G. Irving Latz
G. Irving Latz

NOTARY

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 15th day of October, 1999, personally appeared G. Irving Latz executed the foregoing instrument, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

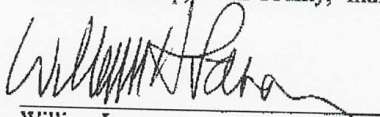
Chris Koch
Notary Public


My commission expires: March 19, 2009

Allen County



WE THE UNDERSIGNED, do hereby accept this Third Amendment and Restatement of Easements, Protective Covenants, Restrictions, and Limitations for Blue Creek, an Addition in Aboite Township, Allen County, Indiana this 15 day of NOV, 1999.


William Lawson


Ruth Lawson

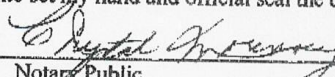
NOTARY

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, this 5th day of November, 1999, personally appeared William Lawson and Ruth Lawson executed the foregoing instrument, who acknowledged that (he) (they) did sign the foregoing instrument and that the same is (his) (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date above written.

My commission expires: June 7, 2001


Notary Public
Allen County



Prepared by: Dr. Robert Kimbrough

