

JAN 20 10 33 AM '82

RECORDED  
HILLSBOROUGH COUNTY  
REGISTRY OF DEEDS

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

ORANGE BLOSSOM ESTATES, MERRIMACK, NEW HAMPSHIRE

THIS DECLARATION, made this 19<sup>th</sup> day of January, 1982, by Strazzulla Brothers Co., Inc., a Florida corporation with a place of business at P. O. Box 3151, Fort Pierce, Florida, hereinafter called the Developer.

WITNESSETH:

Whereas, Developer is the owner of real property described in Article II of this Declaration and desires to create thereon a residential community with permanent open spaces for the benefit of said community, and to promote the conservation of the natural environment; and

Whereas, Developer desires to provide for the preservation of the values in said community and for the maintenance of said open spaces; and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, assessments and charges, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

Whereas, Developer has deemed it desirable for the efficient preservation of the values in said community to have created an agency to which should be delegated and assigned the powers of maintaining and administering the common land and the common drives, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and,

Whereas, Developer has planned the incorporation under the laws of the State of New Hampshire, as a non-profit corporation. The Orange Blossom Estates Association, for the purpose of exercising the functions aforesaid;

Now therefore, the Developer declares that the real property described in Article II, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, assessments and charges hereinafter set forth.

ARTICLE I

DEFINITIONS

The following words when used in this Declaration shall have the following meanings:

- (a) "Association" shall mean and refer to The Orange Blossom Estates Association.
- (b) "The Properties" shall mean and refer to the real property described in Article II hereof.
- (c) "Common Land" shall mean and refer to those areas of land on the recorded subdivision plan of The Properties designated as "Open Space", the "Common Land" is intended to be devoted to the common use and enjoyment of the owners.

(d) "Lot" shall mean and refer to any one of the forty-nine (49) lots shown as Lots 6D-520-1 through 6D-520-49 upon the recorded subdivision plan of The Properties.

(e) "Owner" shall mean and refer to the record owner, whether acquired by deed, inheritance or devise, and whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties; but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired fee simple title pursuant to foreclosure or any proceedings in lieu of foreclosure.

(f) "Common Drives" shall mean and refer to those areas of land on the recorded subdivision plan of The Properties designated as A through L, and shall also mean and refer to the common driveways to be located thereon. The common driveways shall be maintained as private ways by the Association.

## ARTICLE II

### THE PROPERTIES

The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Merrimack, Hillsborough County, New Hampshire, and is more particularly described as the entirety of the premises as shown on a plan of land entitled "Residential Cluster Development Plan, Orange Blossom Estates, Merrimack, N.H." dated March 23, 1980, and recorded in the Hillsborough County Registry of Deeds as Plan #

## ARTICLE III

### THE ASSOCIATION AND THE COMMON LAND

1. As soon as five (5) of the Lots have been purchased by Owners, the Owners must then incorporate The Orange Blossom Estates Association. Said Association is to be formed by the Owners at that time for the purpose of maintaining and administering the Common Land and the common drives, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges as contained herein.

2. Upon acceptance of title to any Lot, the Owner agrees to become a member of the Association, once formed. Membership in the Association shall be compulsory, and once the Association has been formed, the Association shall have the financial and legal responsibility for the maintenance of the Common Land and the common drives.

3. The developer shall retain the legal title to the Common Land and Common Drives until such time as the Association has been formed; the Developer must then convey the legal title to the Common Land and Common Drives to the Association. However, in the event that the Town of Merrimack Conservation Commission desires to obtain legal title to Lot 6D-520-51, it shall be conveyed to said Conservation Commission by the Developer or the Association, as the case may be.

4. The Association shall have one class of voting membership; each Lot, regardless of the number of Owners of said Lot, shall be entitled to one vote.

5. Subject to the terms of this Declaration, each Owner shall have in common with other Owners a right and easement of enjoyment in and to the Common Land, and such easement shall be appurtenant to and shall pass with the title to every Lot. The rights and easements of enjoyment in and to the Common Land shall be subject to the following:

(a) The right of the Association to publish and enforce rules and regulations governing the rights and easements.

(b) The right of the Association to levy assessments and charges, and the right of the Association to impose liens on the Lots for delinquent assessments.

(c) The right of the Association to suspend the enjoyment rights of any Owner for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

(d) Other easements, restrictions, agreements and reservations of record, insofar as the same may be in force and applicable.

6. Each Lot shall be assessed an annual charge for the maintenance and upkeep of the Common Land and the Common Drives. The terms and conditions governing the annual charge and the collection thereof shall be determined by the Association; however, the minimum assessment per Lot shall be fifty (\$50.00) dollars per year. Said assessment, as well as the requirement of membership in the Association, shall not be applicable to or binding upon the Developer with respect to Lots standing in the name of the Developer not occupied or used for residential purposes.

In addition to the foregoing, each Lot within the subdivision shall be susceptible to taxation by the Town of Merrimack based on the assessment of two categories of fair market value: the first category being the assessment of the fee simple ownership of said Lot, and the second being the assessment of the undivided interest which the Owner of each Lot enjoys with respect to the Common Land and the Common Drives. Each Owner agrees that the failure to pay the assessment of the fee simple estate in each Lot, as well as the undivided interest associated with the ownership of each Lot, will create a lien against the individual Lot for reason of non-payment, as opposed to a lien against the Common Land and the Common Drives. Each Owner further agrees that Owner's undivided interest shall never be separated from Owner's fee simple ownership of said Lot.

7. The Common Land shall be restricted to recreation and conservation uses for the enjoyment of all of the Owners. No structures shall be erected on the Common Land except in conjunction with said recreation and conservation uses.

8. No snow mobiles, motorcycles, motorbikes, or other form of motor vehicles shall be allowed in or upon the Common Land.

9. No nuisances shall be maintained on the Common Land.

10. No commercial activities of any kind shall be conducted upon the Common Land.

X

ARTICLE IV

GENERAL PROVISIONS

1. No temporary structure, including trailers and mobile homes, shall be left upon any Lot other than those necessary to be used in the course of construction of permanent buildings and all such temporary structures shall be removed promptly upon completion of a permanent building.

2. No animals of any kind other than usual household pets shall be kept or maintained on any Lot.

3. No building, fence, wall or other structure shall be commenced, erected or maintained on any Lot, nor shall any exterior addition thereto or change or alteration therein be made until the plan or rendering showing the details in relation to same have been submitted to and approved in writing by the Developer or the Association.

4. No part of any Lot shall be in any way used or occupied so as to affect injuriously the use, possession, or value of the other Lots.

5. No noxious or offensive activity shall be carried on upon any Lot.

6. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed to the last known address of the person who appears as the Owner on the records of the Association at the time of said mailing.

7. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots has been recorded agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

8. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages; and, failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9. Invalidation of any one of these covenants or restrictions or any portion thereof by judgment, court order, or otherwise, shall in no way affect the other provisions of this Declaration, all of which shall remain in full force and effect.

10. The Association and each Owner shall comply with all ordinances and regulations of the Town of Merrimack as may exist or may be enacted from time to time.

IN WITNESS WHEREOF, the Developer by its duly authorized agent, has caused these presents to be signed in its corporate name and its corporate seal affixed on the day and year first above written.

Witness:

STRAZZULLA BROTHERS CO., INC.

Tim Epperson

By

Joseph P. Strazzulla

AMENDMENTS OF COVENANTS AND RESTRICTIONS

FOR

ORANGE BLOSSOM ESTATES, MERRIMACK, N.H.

WHEREAS, on January 19, 1982, Strazzula Brothers, Co., Inc. executed and caused to be recorded in the Hillsborough County Registry of Deeds, Book 2897, Page 599, - a certain Declaration of Covenants and Restrictions for Orange Blossom Estates, Merrimack, New Hampshire; and

WHEREAS, said Declaration of Covenants and Restrictions for Orange Blossom Estates was amended by a certain instrument entitled "Amendment of Covenants and Restrictions for Orange Blossom Estates, Merrimack, N.H.", said amendment recorded in said Registry of Deeds at Book 3128, page 403; and

WHEREAS, Jade Realty Corporation is the sole owner of Orange Blossom Estates, Merrimack, N.H.; and

WHEREAS, Jade Realty Corporation desires to make certain amendments to the Declaration of Covenants and Restrictions.

NOW THEREFORE, Jade Realty Corporation hereby amends the said Declaration of Covenants and Restrictions as follows:

By deleting the words "Orange Blossom Estates" from wherever they may appear in said Declaration of Covenants and Restrictions and substituting in their place the words "Bramber", it being the intention of Jade Realty Corporation to rename Orange Blossom Estates with the new name of Bramber.

In all other respects the provisions of the Declaration

"12. At the time of the conveyance by the Developer of each Lot, the Developer shall contribute the sum of One Hundred Dollars (\$100.00) to a Capital Reserve Fund to be held in the name of and for the benefit of The Orange Blossom Estates Association. The Capital Reserve Fund shall be administered by the Board of Directors of The Orange Blossom Estates Association and shall be expended for items of a capital improvement nature and not for normal maintenance or upkeep."

(4) Article IV is amended by adding the following paragraph at the end thereof:

"11. This Declaration of Covenants and Restrictions may be amended by a vote of two-thirds or more of the Lot owners at a regular or special meeting of the Lot owners as provided in the Bylaws of the Orange Blossom Estates Association; provided, however, that no amendment of these Declaration of Covenants and Restrictions shall be effective until such time as said amendment is approved by the Planning Board of the Town of Merrimack."

(5) The following is added as Article V:

"ARTICLE V

ASTHETIC CONTROL

1. No owner shall paint or roof any structure situated on the owner's lot in a color other than the original paint color or roofing material color without the prior written approval of the Board of Directors of the Association."

(6) In all other respects the provisions of the Declaration of the Declaration of Covenants and Restrictions for the Orange Blossom Estates, Merrimack, New Hampshire, is hereby ratified and confirmed and declared to be in full force and effect.

IN WITNESS WHEREOF, Jade Realty Corporation has caused this Amendment to be executed by its undersigned duly authorized officer on this 17th day of February, 1984.

WITNESS JADE REALTY CORPORATION

Janet C. Lee

BY: JoAnn D. Fillmore  
JoAnn D. Fillmore

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

Personally appeared on this 17th day of February, 1984, before me, the above-named JoAnn D. Fillmore, Treasurer of Jade Realty Corporation, and executed the within instrument on behalf of Jade Realty Corporation, for the purposes provided therein.

Janet C. Lee  
Notary Public / Justices of the Peace  
My commission expires: 4/21/87

843128 950404



of Covenants and Restrictions for Orange Blossom Estates, Merrimack, N. H., is hereby ratified and confirmed and declared to be in full force and effect.

IN WITNESS WHEREOF, Jade Realty Corporation has caused this amendment to be executed by its undersigned duly authorized officer on this        day of March, 1984.

WITNESS:

JADE REALTY CORPORATION

\_\_\_\_\_

By: \_\_\_\_\_

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

Personally appeared on this        day of March, 1984,  
before me, the above-named  
of Jade Realty Corporation, and executed the within instrument on  
behalf of Jade Realty Corporation for the purposes provided therein.

\_\_\_\_\_  
Notary Public/Justice of the Peace