

DECLARANT'S ADDRESS:  
P. O. Box 12789  
Tallahassee, FL 32308

KENMARE COMMONS

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, Made on the date hereinafter set forth by  
KILLEARN PROPERTIES, INC., a Florida corporation, hereinafter  
referred to as "Declarant";

OR 1505 PC 2088

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property in Leon County, Florida, more particularly described on Exhibit "A" attached hereto, and

WHEREAS, Declarant is desirous of creating and maintaining a residential neighborhood upon said proper and it is to the interest, benefit and advantage of those who hereafter purchase and own individual lots in said neighborhood that certain protective covenants and restrictions be adopted to govern and regulate the development, use and occupancy of such lots;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, developed, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1. "Association" shall mean and refer to KENMARE COMMONS HOMEOWNERS ASSOCIATION, INC., which shall be a Florida non-profit corporation, its successors and assigns.
2. "Owner" shall mean and refer to the record owner whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.
3. "Properties" shall mean and refer to that certain real property described in Exhibit "A" hereof, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
4. "Common Area" shall mean all real property and/or easement rights (including any improvements thereof) owned by the Association and intended to be used for the common use and enjoyment of the Owners. The Common Area which will be owned by the Association shall consist of the easements described in this Declaration and any areas depicted on the Plat of Kenmare Commons as Common Areas which have not been dedicated and accepted by the local government authority. The Declarant shall deed any Common Areas to the Association on or before such time as seventy percent (70%) of the lots have been sold and conveyed by the Declarant. Additional real property may be conveyed to the Association for the common use and enjoyment of the Owners as the Properties are developed.
5. "Lot" shall mean and refer to each lot designated on the Plat of Kenmare Commons.
6. "Building Setback Line" shall mean an imaginary line or lines parallel to any property line specifying the closest point

PREPARED BY: Jaunice M. Hagan

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CLERK OF CIRCUIT COURT

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from any property line that a structure may be located 1505 PC 2089

7. "Declarant" shall mean Killearn Properties, Inc., its grantors, successors and assigns.

8. "Rules and Regulations" shall mean the rules and regulations adopted by the Association.

9. "By-Laws" shall mean the by-laws of the Association.

10. "Directors" shall mean the directors of the Association.

11. "Assessment" shall mean that sum of money determined by the Board of Directors of the Association which shall be levied against each Owner for the maintenance, upkeep and preservation of the Properties and Restricted Area pursuant to these covenants, the By-Laws and the Rules and Regulations adopted by the Association.

## ARTICLE II

### USE RESTRICTIONS

1. Residential Only. The Declarant intends for the Properties to be developed as a residential community. Accordingly, the Lots and any structures thereon shall be used solely for residential purposes. The Declarant may, however, use and develop a Lot or Lots as a model homesite and for display and sales offices.

2. Conformance with Zoning. All structures constructed on a Lot shall conform to the Tallahassee-Leon County Zoning Code as it exists at the time of construction and shall be placed on the Lot in conformance with its requirements.

3. Temporary Residences Prohibited. No structure of a temporary character, such as, but not limited to, a mobile home, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. Boats, trailers, campers or other recreational vehicles shall be parked or stored within the owner's garage or at such other areas as may be designated by the Homeowners Association or the Declarant.

4. Dwelling Quantity and Size. The total floor area of the main structure, exclusive of porches, garages, carports and patios shall not be less than 1,000 square feet. No dwelling shall be permitted on any Lot unless the ground floor area of the main structure contains at least 1,000 square feet for a one story dwelling, exclusive of open porches, patios, terraces, storage areas and garages, and at least 700 square feet for a dwelling of more than one story, exclusive of patios, terraces and other areas not under roof, but inclusive of open porches, storage areas and garages under roof, provided that the floor area of the entire dwelling contains at least 1,000 square feet, exclusive of all open porches, patios, terraces, storage areas and garages. No dwelling shall exceed two and one-half stories in height (excluding basements).

5. Nuisances. No noxious or offensive activities shall be carried on upon any Lot or Restricted Area nor shall anything be done on it that may be or may become an annoyance or nuisance to the property owners.

6. Animals. 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. The Association may adopt and implement regulations and rules governing pets within the Properties.

7. Signs. No signs of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet advertising the property for sale or rent or a sign used by builder to advertise the property during construction and sales. Signs must be approved in writing by the Architectural Control Committee.

8. Antennas, Sports Equipment and Tanks. No exterior radio, television or satellite-dish antenna may be installed on any portion of the Properties unless such installation and the size, color and design of the antenna have been approved by the Architectural Control Committee. Sports and play equipment, such as basketball goals and playground equipment shall be located to the rear of the dwelling in manner in which it is not visible from any street. No tank for the storage of fuel, water or other substance shall be placed or permitted to remain on any Lot unless the tank is buried and the location of the tank is approved by the Architectural Control Committee.

9. Window Units. The location of all exterior heating and/or air conditioning compressors, window units or other machinery or equipment installed after sale of any Lot by the Declarant shall be submitted for approval by the Architectural Control Committee prior to installation.

10. Mail Boxes. The Architectural Control Committee must approve all mailboxes.

11. Maintenance. All landscaping, except for fenced rear yards, shall be maintained by the Association in an attractive, sightly, and well-kept condition.

12. Garages and Carports. Each building shall have a functional garage attached thereto. The Owner of each Lot shall ensure that the garage door is kept closed at all times except when entering and exiting garage.

13. Boats, Trailers, Recreational Vehicles and Activities. No boat, trailer, motorcycle, motor home, camper, van, plane or recreational vehicle may be parked or stored on any street or on any Lot except within an enclosed garage. The pursuit of hobbies or other activities including, but not limited to, work on vehicles or other mechanical devices and woodworking, which tend to result in a disorderly, unsightly or unkept conditions, shall not be pursued or undertaken except within an enclosed garage.

14. Vehicles Prohibited. No two (2), three (3) or four (4) wheel motorized recreational vehicle, e.g., go cart, all terrain vehicle, etc., shall be operated on any portion of the Properties, provided, however, the Board of Directors or the Declarant may approve certain motorized vehicles designed so as not to disturb the neighborhood, such as electric golf carts, for transportation.

ARTICLE III  
PROPERTY RIGHTS AND OBLIGATIONS

1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Areas which shall pass with the title of every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any

period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless such transfer is approved by two thirds (2/3) vote of members present, or represented by proxy at a meeting called specifically for that purpose.

(d) The right to delegate, in accordance with policy adopted from time to time by the Directors, the right of enjoyment of the Common Areas, and facilities to family members, guests, tenants, and contract purchasers.

2. Use of Recreational Facilities. In the event recreational facilities are constructed upon the Common Area, the Directors may adopt rules and regulations governing the use and control of such facilities.

3. Maintenance and Interference. Each easement provided for herein shall be maintained by the Association until such time as the property encumbered by the easement has been dedicated and accepted by the local governmental authority and the local governmental authority shall not have responsibility for maintenance of the streets and the streets related drainage facilities located on the Properties unless and until the local governmental authority shall not be responsible for utility trench lines or trench line failures. Within easements, no structure, planting or other material which may interfere with the use and purpose of the easements shall be placed or permitted to remain.

4. Subdivision Prohibited. No Lot may be divided or subdivided, or its boundary line changed, except with written permission by the Developer.

5. Exterior maintenance of Homes. Homes constructed on Lots within the Properties shall be maintained by the Owner not only in a good state of repair, but also in an aesthetically pleasing manner consistent with the character and setting of the homes and Property as originally developed. Specifically, the following items are hereby determined and declared to be items which must be kept in a proper state of maintenance and repair by the individual Lot Owner, provided, however, this list is not intended to be an all-inclusive list of such items: the roof, windows, painting or staining of exterior walls and trim, steps, porches, walkways, driveways and landscaping.

In the event any Owner of a Lot within the Properties shall fail to properly maintain the Lot and any improvements thereon, then the Association's Board of Directors (or its agents), after two-thirds (2/3) vote, shall have the right to enter said Lot to repair, restore, and maintain the premises. The cost of such repairs, restoration and maintenance shall be added to and become part of the assessment to which said Lot is subject pursuant to Article V. If necessary, any such assessment may exceed the maximum annual assessment described in Section 3 of Article V.

ARTICLE IV  
HOMEOWNERS ASSOCIATION

1. Creation. There shall be created a non-profit Florida corporation to be known as Kenmare Commons Homeowners Association.

2. Membership. Every Lot owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

3. Classification of Membership in Association. Members shall be all Owners. Each member shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons may be members. The vote for such Lot shall be exercised as the owners determine, but in no event shall more than one vote be cast with respect to any Lot, regardless of the number of persons owning the Lot.

4. Powers and Duties of Association. The Association, in addition to the powers and duties set forth elsewhere in these covenants, the By-Laws and Rules and Regulations established by the Association, shall have the following powers, duties and responsibilities:

(a) It shall own in fee simple, maintain and otherwise manage all Common Areas and all facilities, improvements and landscaping thereon.

(b) It may grant easements, where necessary, across Common Areas for the location of utilities, accessways and roadways.

(c) It shall maintain such policy or policies of insurance as the Board of Directors of the Association deem necessary, desirable or advisable in protecting the interests of the Association and its members, on and to any improvements located in the Common Areas.

(d) It shall have the authority to employ a manager or other person and to contract with independent contractors or business entities to perform all or any part of its duties and responsibilities.

(e) It shall have the obligation to provide perpetual maintenance of the private roadways and drainage in the Common Areas and shall utilize the assessments enumerated in Article V, hereof, to fulfill this obligation.

5. Reservation by Declarant. The Declarant has specifically reserved the right to use all restricted areas for drainage, utility, cable television and other similar type easements. It may assign such rights to other entities.

ARTICLE V  
COVENANTS FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees for enforcing same, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass to successors in title, unless the Treasurer of the Association has released such lot in writing.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Common Areas, including, but not limited to, the payment for the

maintenance, repair, and replacement of roadways, walkways, parking areas, recreational facilities, landscaping the Common Areas, and such other uses as may be determined by the Association. At the discretion of the Board of Directors, such maintenance may include landscaping of any portion of a yard that is not fenced.

3. Maximum Assessment. Until January 1, 1992, the maximum annual assessment shall be \$400 for each Lot.

(a) From and after January 1, 1992, the Board may increase the maximum assessment each year by not more than 25% above the maximum assessment for the previous year, without a vote of the membership. From and after January 1, 1992, the maximum assessment may be increased above 25% by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

4. Special Assessments for Capital Improvements. In addition to the annual assessment described above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

5. Notice and Quorum for Any Action Authorized Under Paragraphs 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of a majority of the Owners (or written proxies therefrom) shall constitute a quorum.

6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots. All assessments may be collected on an installation basis at the discretion of the Board of Directors of the Association.

7. Date of Commencement of Assessments: Due Dates. The effective date of the commencement of Annual Assessments shall be the first day of the month following the date of issuance of a Certificate of Occupancy. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The annual assessment shall be the maximum amount allowable unless reduced by majority vote of the Board of Directors. Written notice of the annual assessment shall be sent to every Lot Owner. The due dates shall be sent to every Lot Owner. The due dates shall be established by the Board of Directors. The due dates for Special Assessment shall be fixed in the resolution authorizing such assessments.

8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid when due shall bear interest from the due date at the rate of 18% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of a Lot.

9. Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of

any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve any Lot from liability for any assessments thereafter becoming due or from the lien thereof.

10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Florida shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI  
ARCHITECTURAL CONTROL

The original appearance of buildings, paved areas, landscaping and fencing, whether on the Properties or the Common Areas, shall be maintained and preserved. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties or Common Areas, nor shall any exterior additions or alterations be made thereto (including changes in color of paints or stains) until the plans and specifications, including landscaping plans, showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee composed of three (3) or more representatives named in this Article or subsequently appointed by the Board of Directors of the Association, (the "Architectural Committee"), as herein provided. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

In the event any improvement is destroyed in whole or in part, the improvement shall be reconstructed in accordance with the original plans and specifications approved by the Architectural Control Committee and any subsequent approved modification thereto, or if the Owner desires to change the plans or specifications, all terms and conditions of this Declaration shall be complied with as if no improvement had been previously constructed. The initial Architectural Control Committee shall be Frederick E. Turner, Douglas E. Turner, and Teresa L. Turner who shall serve until all Lots are sold and transferred by the Declarant. With the exception of the initial members, each member of the Architectural Control Committee must be an Owner. Thereafter, all members will serve at the pleasure of the Board of Directors of the Association. All notices or submission requests to be given to the Architectural Control Committee shall be in writing delivered by mail to the principal registered office of the Association as from time to time set forth in the records office of the Secretary of the State of Florida, Corporate Division. Three copies of all such plans and specifications to be approved shall be furnished to the Architectural Control Committee. The plans and specifications shall include the following information:

- (1) Building plans showing floor plans and front, side and rear elevations.
- (2) Exterior finish schedule showing material, style, and color for all surfaces.

(3) Site plan showing location of buildings, drives, parking areas, sidewalks, and all other improvements.

(4) Landscape Plan. The landscape plan may be submitted after construction commences, but must be approved by the Architectural Control Committee and implemented before occupancy.

(5) The contractor will perform and be responsible for all work.

The purpose of this Article in providing the Architectural Control Committee with the authority to approve or disapprove plans and specifications for all improvements constructed on the Lots is to maintain the value of all Lots and to protect all Owners against a diminution of value resulting from the construction of a residence or other structure incompatible with the proper development of the Properties. The disapproval of such plans and specifications shall be in the sole discretion of the Architectural Control Committee and shall be passed upon the following factors:

(1) Harmony of exterior design with the existing proposed improvements to the Lots.

(2) General quality in comparison with the existing improvements to the Lots.

(3) Location in relation to surrounding improvements.

(4) Location in relation to topography.

(5) Changes in topography.

(6) Aesthetic considerations.

The Architectural Control Committee may establish and specify for any Lot, prior to construction, standards and requirements relating to excavation, dirt and fill storage, digging, backfilling, etc. for utility trenches and house construction, the color composition of roofing materials, the color and composition of bricks or siding, and the style of architecture. Such standards and requirements may include, but not necessarily limited to, the following: off-site storage of fill, dirt or construction debris; stockpiling of fill from utility trenches; backfilling utility trenches; and general appearance of the houses. Such standards and requirements may vary from Lot to Lot and may be imposed by the Architectural Control Committee in its sole discretion so as to minimize disruption of trees, tree roots, existing ground cover, or other natural features. Indiscriminate grading or trenching will be strictly forbidden to minimize harm to natural features which protect and enhance the beauty and privacy of the entire Properties and encourage the aesthetic standards of the neighborhood.

#### ARTICLE VII GENERAL PROVISIONS

1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, including injunctive relief, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. Severability. The invalidity in whole or part of any one of these covenants or restrictions shall not affect the validity of any other provisions, which shall remain in full force and effect.



3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated by an affirmative vote of three-fourths (3/4) of the Lot owners of all the Properties annexed by these or similar covenants by Declarant under paragraph 4, below.

Notwithstanding any of the above provisions, no amendment shall be adopted to these covenants which discriminates against any Lot Owner or group of Lot Owners without their express consent. No amendment shall change or increase the percentage of any individual Lot Owner's contribution to assessments.

4. Annexation. The Declarant may annex additional property from time to time, in the sole discretion of Declarant, to Declaration of Covenants and Restrictions of similar nature by recording such in the Public Records of Leon County, Florida. Upon such recordation, the annexed Properties shall become a part of those Properties to the end that all rights of members shall be uniform as between all Units. Except as aforesaid, any other annexation of additional property shall be approved by two-thirds (2/3) vote of the members.

5. Additional Covenants. The covenants and restrictions imposed hereby are in addition to those imposed by Killearn Properties, Inc. pursuant to that certain Declaration of Covenants and Restrictions dated July 16, 1991, and recorded in Official Records Book 1605, at Page 2070, of the Public Records of Leon County, Florida. In addition to becoming members of the Kenmare Commons Homeowners Association, Inc., all Lot Owners shall become members of the Killearn Estates Homeowners Association, Inc., and shall pay the assessments levied by said Association, those assessments being set forth in the respective Covenants and Restrictions.

6. Attorney's Fees. In any legal or equitable proceeding by the Association to enforce or restrain the violation of these Protective Covenants, the party in violation shall pay a reasonable attorney's fee to the Association. In addition, in any legal or equitable proceeding in which the Association successfully enforces the Developer's performance or obligation pursuant to these recorded covenants and restrictions, the Developer shall pay a reasonable attorney's fee to the Association.

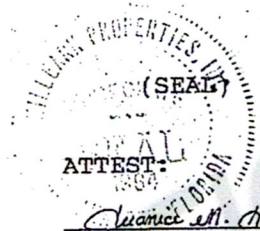
7. Development by Declarant. No provisions contained herein shall prevent Declarant, or Declarant's contractors or subcontractors from performing such work and activities it deems necessary or advisable in connection with the development of the Properties, nor shall such provisions in any way prevent the Declarant from maintaining such signs or signs on the Properties as the Declarant deems necessary or desirable for the sale or other disposition thereof, nor shall such provisions in any way prevent the use of a Lot and dwelling thereon as a model home and/or sales office including the use of the garage as a sales office thereby rendering the garage non-functional.

8. FHA/VA Approval. As long as there are outstanding any mortgages insured or guaranteed by the Federal Housing Administration or the Veterans Administration, the following actions will require the approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Areas and amendment of this Declaration.

DR1505PC2097

IN WITNESS WHEREOF, said corporation has caused this instrument to be signed and its name by its Vice President and its corporate seal to be hereunto affixed and attested by its Secretary, this 16<sup>th</sup> day of May, A.D., 1991.

KILLEARN PROPERTIES, INC.



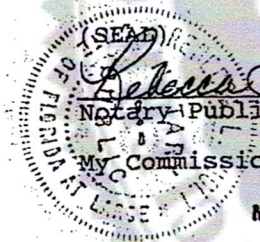
By: David K. Williams  
David K. Williams  
Its Vice President

Juanice M. Hagan  
Juanice M. Hagan  
Its Secretary

STATE OF FLORIDA,  
COUNTY OF LEON:

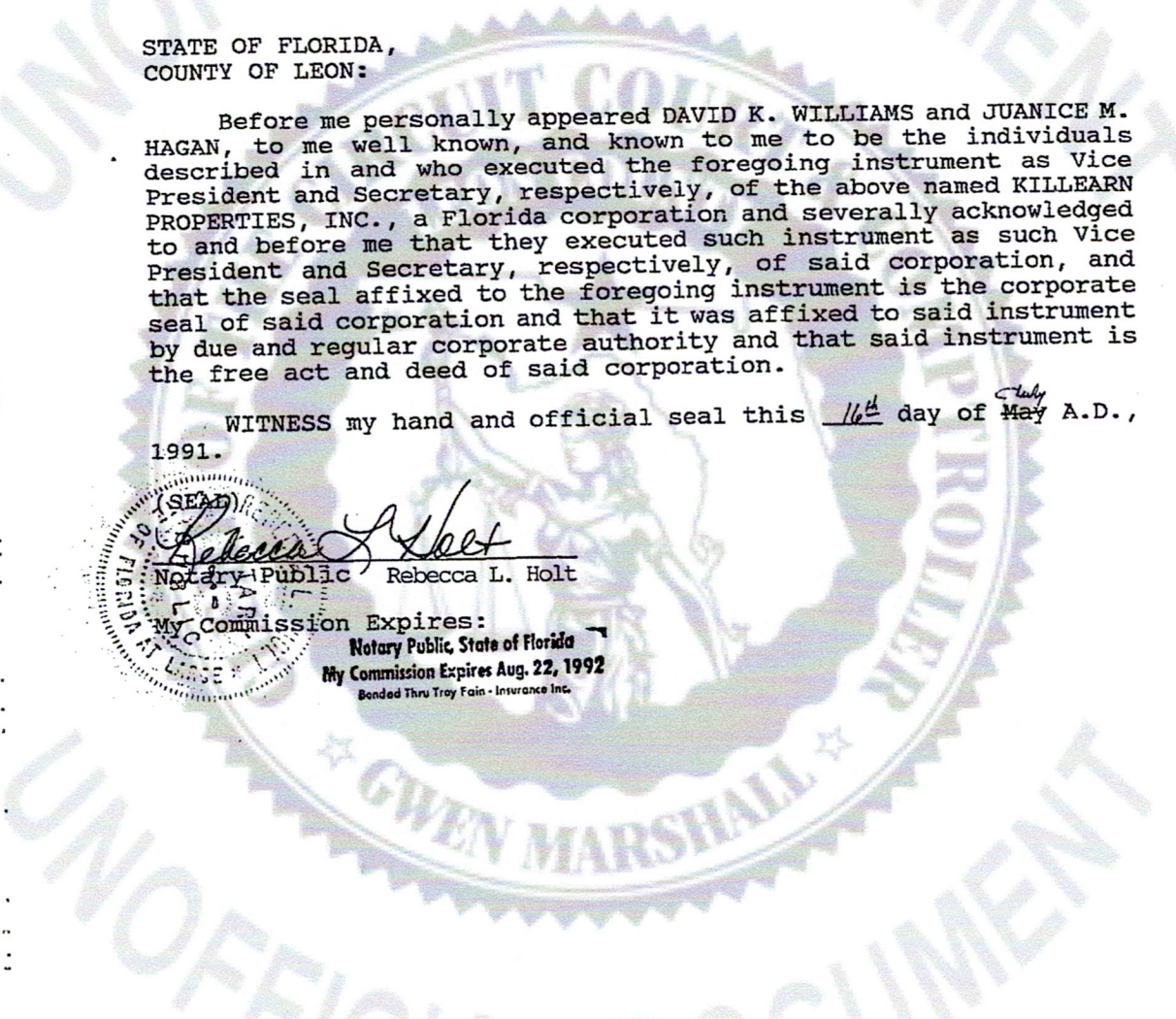
Before me personally appeared DAVID K. WILLIAMS and JUANICE M. HAGAN, to me well known, and known to me to be the individuals described in and who executed the foregoing instrument as Vice President and Secretary, respectively, of the above named KILLEARN PROPERTIES, INC., a Florida corporation and severally acknowledged to and before me that they executed such instrument as such Vice President and Secretary, respectively, of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority and that said instrument is the free act and deed of said corporation.

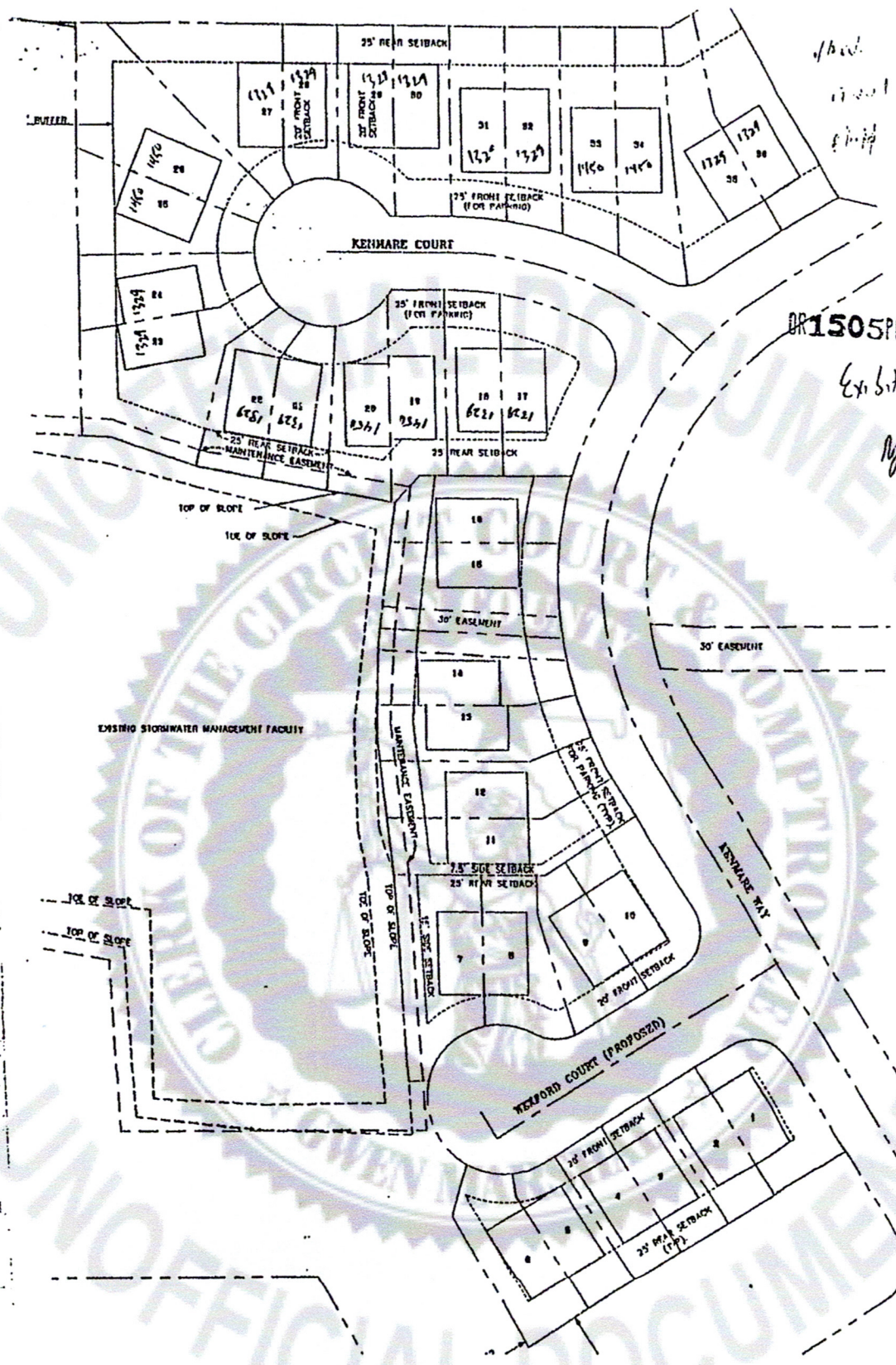
WITNESS my hand and official seal this 16<sup>th</sup> day of May A.D., 1991.



Rebecca L. Holt  
Notary Public Rebecca L. Holt

My Commission Expires:  
Notary Public, State of Florida  
My Commission Expires Aug. 22, 1992  
Bonded Thru Troy Fain - Insurance Inc.





*Handwritten notes:*  
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DR 1505PC2098

Exhibit A

*Handwritten signature:*  
 6/11/91