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File to:
Jick, Everett
7-18-88

BOOK 1959 PAGE 688

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DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

WINTERS HILL PLACE SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by EAGLE CONSTRUCTION OF VIRGINIA, INC., a Virginia corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the County of Chesterfield, State of Virginia, which is more particularly described and set forth on SCHEDULE A attached hereto and by this reference made a part hereof, and as shown on a plat of survey of Winters Hill Place, dated May 19, 1986 made by Bodie, Taylor & Puryear, Inc., Engineers and Surveyors, recorded in the Clerk's Office, Circuit Court of Chesterfield County, Virginia, simultaneously herewith; and

WHEREAS, DOMINION BANK OF RICHMOND, NATIONAL ASSOCIATION, Noteholder, and MICHAEL T. CRONE, Trustee of said Noteholder, desire to consent to the terms hereof, and by execution hereof do so consent.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, 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 1

Section 1. "Association" shall mean and refer to Winters Hill Place Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to an Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is that land designated as Common Area on the plat of Winters Hill Place, attached hereto and previously made a part hereof.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to EAGLE CONSTRUCTION OF VA, INC., a Virginia corporation, and any other developer or builder to whom lots may be sold for development purposes out of the Properties.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to 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 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all of 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 an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Maintenance and Control. Declarant shall be solely liable for the maintenance, management and control of the Common Area for all improvements thereon until such time as Declarant conveys the Common Area to the Association. The Common Area shall be conveyed by the Declarant to the Association prior to the conveyance of the first lot to an Owner other than the Declarant, or as soon thereafter as may be requested by any owner or the Association. Thereafter the Common Area shall be owned by the Association for the common use and enjoyment of the Owners.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A member shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) on January 1, 1994.

Section 3. First Meeting. At the first meeting of the Association, which shall take place on the first Monday in January following the year in which the first Lot has been conveyed to an owner, the Association shall adopt by-laws providing for the election of a Board of Directors and other rules and regulations as it may desire.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 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 therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) 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, constitute a pro rata lien upon the individual subdivision lots, inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each subdivision lot. Each such assessment, together with interest, costs, and reasonable attorney's fees, 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 not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

The association shall pay any real and personal property taxes and other charges assessed against the Common Area.

The Association shall maintain a policy or policies of liability insurance, insuring the Association and its agents, guests, permittees, and invitees and the Owners of the Lots against liability to the public or to said Owners, their guests, permittees or invitees incident to the ownership or use of the Common Properties, in an amount not less than Five Hundred Thousand (\$500,000.00) Dollars for any one person injured, Five Hundred Thousand (\$500,000.00) Dollars for any one accident and Five Hundred Thousand (\$500,000.00) Dollars for property damage. Said limits shall be reviewed at intervals of not less than three (3) years and adjusted if necessary to provide such coverage and protection as the Association may deem prudent.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Fifty Dollars (\$150.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Notwithstanding any of the foregoing to the contrary, there shall be no assessment against any Lot until it has been sold by Declarant and the common area has been conveyed to the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized 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 Area, 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 each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 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 the first such meeting called, the presence of members or of proxies

entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum shall be one half (1/2) of the required percent at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of Winters Hill Place Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property subject to the lien on any first deed of trust recorded against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein

by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage, but the Association shall have a lien upon the proceeds from foreclosure junior only to the foreclosed first mortgage but senior to the equity of redemption of the mortgagor. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure on a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due from the lien thereof.

ARTICLE V

LOT RESTRICTIONS

Section 1. No use shall be made of the Lots, or any part thereof that will constitute a nuisance or injure the value of the neighboring Lots. No fence shall be permitted over four (4) feet high nor shall chain link fences be permitted unless approved by the Architectural Control Committee as provided herein.

Section 2. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers.

Section 3. All of the Lots shall be known and described as residential Lots, and no structures shall be erected on any Lot other than one detached single family dwelling, except for models used by the Developer, provided, however, that the usual outbuildings, including a private garage, may be erected on any Lot. Storage sheds must be of the same type and quality construction as the dwelling on any respective Lot.

Section 4. No structure of a temporary character, trailer, recreational vehicle, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently. No trailer, motor home, or recreational vehicle with sleeping accommodations over 5 feet in height shall be parked on any Lot closer to the street than the rear line of the house.

Section 5. The total floor area of the main structure, exclusive of open porches and garages, shall not be less than 1000 square feet for any dwelling.

Section 6. Declarant reserves unto itself the right and privilege to lay gas, water, sewers, storm sewers, sewer pipes, electric light, telephone and telegraph poles, lines and wires and other utilities in the streets and roads of Winters Hill Place subdivision and along the property line of the Lots and to install water and sewer connections under and in the land sold and lay such light, telephone and telegraph poles, lines and wires along the property lines of the Lots, and to give other persons, companies or corporations any or all of such rights and privileges, however, there being no obligations so to do, they reserving the right to make necessary charges upon the purchaser therefor.

Section 7. All plans for the construction and erection of any residences, outbuildings, or additions to any residences as hereinabove provided to be built on said Lots shall be submitted to EAGLE CONSTRUCTION OF VIRGINIA, INC. Architectural Control Committee for its approval. Such conditions shall be strictly complied with, and EAGLE CONSTRUCTION OF VIRGINIA, INC. shall have the full right and privilege to enforce this and all other restrictions and conditions herein by appropriate proceedings at law and damages and/or in equity for appropriate injunctive and restraining orders to prevent violations together with damages sustained. At such time when no Lots remain this power shall be assigned to Winters Hill Place Association Architectural Control Committee, as the same shall be established pursuant to the By-Laws of Winters Hill Place Association.

Section 8. Approval by the Committee shall be based upon compliance with the provisions of this Declaration, the quality of workmanship and materials, harmony of external design with surrounding structures, location of improvements with respect to topography and finished grade elevation, the effect of the construction on the outlook from surrounding portions of the Property, and all other factors which in the sole opinion of the Committee will affect the desirability or suitability of the proposed improvements.

Section 9. Approval or disapproval of the application by the Committee shall be given to the applicant in writing within sixty days of receipt thereof; in the event the approval or disapproval is not forthcoming within sixty days, unless an extension is agreed to by the applicant in writing, the application shall be deemed approved and the construction of the applied for improvements may be commenced provided that all such construction is in accordance with the submitted plans and provided further that such plans conform in all respects to the other terms and provisions of the Declaration.

Section 10. Approval by the Committee shall not constitute a basis for liability of the members of the Committee, the Committee or the Declarant for any reason including without limitation; (i) failure of the plans to conform to any applicable building codes, or (ii) inadequacy or deficiency in the plans resulting in the improvements.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. If there is any litigation for the enforcement of these covenants, conditions and restrictions, the Association or any Owner bringing suit and prevailing shall be entitled to be reimbursed for their reasonable attorney's fees against the adverse party or parties. Failure

by the Association or by 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.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Term, Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for two successive periods of ten (10) years. This Declaration may be amended at any time by Declarant, its successors or assigns. Any amendment must be recorded in the Clerk's Office of the Circuit Court of Chesterfield County, Virginia.

Section 4. Annexation. Additional residential property and Common Area which is comprised of additional recorded sections of Winters Hill Place Subdivision shall be automatically, upon proper recordation of the Subdivision plat in the Clerk's Office, Circuit Court, Chesterfield County, Virginia, annexed to the Properties and made subject to this Declaration, without additional action by the Association or Declarant.

IN WITNESS WHEREOF the undersigned Declarant has caused this Declaration to be executed by Bryan E. Kornblau, its President, as of this 17th day of November, 1986.

EAGLE CONSTRUCTION OF VIRGINIA, INC.,

DECLARANT

By Bryan E. Kornblau
Bryan E. Kornblau, President

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DOMINION BANK OF RICHMOND
NATIONAL ASSOCIATION, NOTEHOLDER

BY Esther A. Accorshini
name and title Administrative Officer

Michael T. Crane
MICHAEL T. CRANE, TRUSTEE

SCHEDULE "A"

Parcel One

A parcel of land in Chesterfield County, Virginia, consisting of 25.1 acres, more or less, described as follows:

BEGINNING at a point on the western line of Reams Road (Route 647), which point is 0.3 of a mile, more or less, south along Reams Road from its intersection with Rosegill Road; then along the western line of Reams Road S 34° 39' 42" E 286.81 feet to a point; then leaving the western line of Reams Road S 57° 21' 56" W 30.02 feet to a point; then N 34° 39' 42" W 0.50 of a foot to a point; then along a curve to the left with a radius of 15.00 feet 23.03 feet to a point; then S 57° 21' 56" W 173.51 feet to a point; then along a curve to the right with a radius of 317.17 feet, 53.82 feet to a point; then S 67° 05' 19" W 38.43 feet to a point; then S 22° 54' 41" E 15.00 feet to a point; then S 24° 25' 24" W 33.00 feet to a point; then S 39° 06' 56" W 1130.00 feet to a point; then S 44° 25' 58" W 598 feet, more or less, to a point in the center line of Beaver Pond Branch; then along the center line of Beaver Pond Branch as it meanders in a northerly direction 800 feet, more or less, to a point on the eastern line of Proposed Route 76; then N 28° 41' 27" E 90 feet, more or less, to a point; then N 28° 41' 18" E 84.18 feet to a point; then N 26° 59' 11" E 100.00 feet to a point; then N 15° 40' 35" E 101.98 feet to a point; then N 26° 59' 11" E 200.00 feet to a point; then N 29° 50' 56" E 200.25 feet to a point; then N 26° 01' 54" E 300.04 feet to a point; then N 29° 40' 13" E 281.43 feet to a point; then S 40° 56' 15" E 79.86 feet to a point; then S 40° 58' 03" E 337.40 feet to a point; then S 45° 32' 36" E 257.90 feet to a point; then along a curve to the right with a radius of 204.72 feet 77.83 feet to a point; then N 67° 05' 19" E 250.04 feet to a point; then along a curve to the left with a radius of 247.17 feet, 41.94 feet to a point; then N 57° 21' 56" E 169.97 feet to a point; then along a curve to the left with a radius of 15.00 feet, 24.09 feet to a point; then N 34° 39' 42" W 179.45 feet to a point; then N 44° 30' 10" E 30.55 feet to the point of beginning.

Parcel Two

A parcel of land in Chesterfield County, Virginia, described as follows:

BEGINNING at a point on the west line of Reams Road, which point is 0.3 of a mile more or less south along Reams Road from its intersection with Rosegill Road; thence along Reams Road S 34° 39' 42" E a distance of 286.81' to a point; thence leaving Reams Road S 57° 21' 56" W a distance of 30.02' to a point which is the true point of beginning; thence S 57° 21' 56" W a distance of 216.95' to a point; thence S 67° 05' 19" W a distance of 66.50' to a point; thence N 22° 54' 41" W a distance of 15.00' to a point; thence N 67° 05' 19" E a distance of 38.43' to a point; thence along a curve arcing to the left and having a radius of 317.17' a distance of 53.82' to a point; thence N 57° 21' 56" E a distance of 173.51' to a point; thence along a curve arcing to the right and having a radius of 15.00' a distance of 23.03' to a point; thence S 34° 39' 42" E a distance of 0.50' to the true point of beginning.

File to:
Tuck, Everhart
7-18-88

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STATE OF VIRGINIA
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this 17th day of
November, 1986, by Bryan E. Kornblau, President of Eagle
Construction of Virginia, Inc.

My commission expires: 11/5/89.

Kathleen H. Dindorf
Notary Public

STATE OF VIRGINIA
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this 17th day of
November, 1986, by ESKA A. ACCASHIAN,
Administrative Officer (title) of DOMINION BANK OF RICHMOND,
NATIONAL ASSOCIATION, NOTEHOLDER.

My commission expires: 10/29/88.

Wanda C. Johnson
Notary Public

STATE OF VIRGINIA
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this 17th day of
November, 1986, by MICHAEL T. CRONE, TRUSTEE, OF DOMINION BANK
OF RICHMOND, NATIONAL ASSOCIATION.

My commission expires: 10/30/88.

Wanda C. Johnson
Notary Public

VIRGINIA:
IN THE CLERK'S OFFICE OF THE CIRCUIT
COURT OF CHESTERFIELD COUNTY, THE 15 DAY
OF JUL 1988, THIS DEED WAS PRESENTED
AND WITH THE CERTIFICATE.....ADMITTED TO
RECORD AT 13:48 O'CLOCK. THE TAX IMPOSED
BY SECTION 58.1-802 IN THE AMOUNT OF
\$.00 HAS BEEN PAID.

TESTE: RONALD P. LIVINGSTON, CLERK