

BK 1342 PG 131

REGISTERED

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

ROAD MAINTENANCE AGREEMENT AND
HOMEOWNERS ASSOCIATION PROVISIONS

'84 JAN -3 P2:47

This Agreement made and entered into this the 6th day of December, 1983, by and between T-3, a North Carolina Partnership, Party of the First Part, hereinafter referred to as "Developer", and all future owners of residential lots or parcels of land located in the residential subdivision known as "Covewood, Section 3" as shown on plat hereinafter referred to;

W I T N E S S E T H :

THAT WHEREAS, the residential development known as Covewood, Section 3 as shown on plat duly recorded in the Buncombe County North Carolina Register of Deeds Office consists of residential lots and dedicated streets or roads for access to and from said lots;

AND, WHEREAS, said streets or roads are not maintained by the State of North Carolina or any municipal authority and therefore should be repaired and serviced from time to time by the owners or residences situated in said subdevelopment on any equitable basis;

AND, WHEREAS, this agreement provides for a fair and equitable plan for the periodic maintenance and repair of that roadway known as Woodhaven Road from the point on said roadway located at the Southwesternmost corner of Lot 22 within the subdivision to the terminus of said Woodhaven Road at or about the intersection of the common corners of Lots 18, 19 and 20 as shown on the plat of Covewood, Section 3 recorded in Plat Book 47, Page 112 of the Buncombe County, North Carolina Registry (all of said streets and roads in said subdevelopment) under the direction and supervision of a Homeowners Association. The above-described portion of Woodhaven Road shall be the only portion of any street or road subject to or affected by the terms of this agreement.

NOW, THEREFORE, in consideration of the mutual financial benefits accruing to the developer and to the future homeowners of said development, the developer hereby establishes for himself and for his heirs, successors and assigns the following conditions and terms that shall henceforth permanently affect each owner or co-owner of every residence that shall hereafter be located in said subdevelopment:

1. An Association of Homeowners is hereby formed for the purposes and subject to the conditions hereinafter set out:

a. All owners of residences located in the subdevelopment are automatically members of the Covewood, Section 3 Homeowners Association. Only one vote per residence may be cast regarding any matter submitted to the members for vote.

b. The Covewood, Section 3 Homeowners Association shall meet once a year for the purpose of electing officers and planning road maintenance for the streets and roads of the subdevelopment. Such annual meeting shall be held at 7:30 P.M. on the first Monday in May of each year, beginning with the year 1984. A President, Vice President, Secretary, and Treasurer shall be elected to serve until such time as his or her respective successor is elected. The elected officers of the Homeowners Association shall also serve as the official board of directors of such Association and shall have authority to establish its own by-laws, rules and regulations for the purpose of effectively promulgating the provisions and intent of this agreement.

c. The Board of Directors at each annual meeting

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shall appoint a superintendent of roads who shall serve for one year, or until his or her successor is appointed. Such superintendent of roads shall be required to periodically inspect all roads and streets in the subdevelopment, and to report at least twice a year to the Board of Directors his specific recommendations regarding any maintenance or upkeep of the streets that he deems is necessary and desirable for safe, comfortable and attractive access to and from the residences located in this subdevelopment.

d. The Homeowners in this subdevelopment shall have the right to anticipate that safe and dependable roads and streets shall be provided to each of them for ingress and egress to and from their respective residences, and in this connection the roads and streets shall always have proper drainage ditches along the sides of the roadbeds, be free of mud and standing water, potholes and ruts, and have adequate amounts of macadam and or gravel and be properly sloped to prevent washout and erosion. These standards are minimal and the Superintendent of Roads and the Board of Directors of the Homeowners Association shall act and perform in accordance with such standards. There is no necessity for the blacktopping or paving of said roads and streets unless and until it is decreed by the Superintendent of Roads and the Homeowners Association.

e. The Board of Directors immediately following the report or recommendation of the superintendent of roads shall within one week following the report of the superintendent of roads call a special meeting of the Board for the purpose of reviewing the costs of the recommendations of the superintendent of roads and to make final determination as to the repairs and maintenance needed for said roads or streets in the subdevelopment. The Board shall promptly obtain firm cost estimates as to the maintenance and repairs that it deems are necessary for preservation and maintenance of said streets and roads.

f. The Board of Directors, after review of the bids obtained for the desired work on said streets and roads, shall by and through its President and or Secretary employ such persons as it deems prudent and in the best interest of all Homeowners in said subdevelopment to perform the work.

g. Each time the Board makes a decision to repair any of the streets and roads in the subdevelopment, and following the securing of cost estimates for the same, it shall require that the Treasurer mail to each homeowner a statement covering such Homeowner's pro-rata and equal share of the total sum contemplated for the completion of such work. To determine the pro-rata share due from each Homeowner, the Treasurer shall divide the total amount of monies needed for the completion of work by the number of residences located in said subdivision. The Treasurer shall then multiply the figure obtained by such division by the number of residences owned by each Homeowner and the product of such multiplication shall be the pro-rata share due from each Homeowner.

h. Upon failure of any Homeowner to pay his or her pro-rata share of the cost of the maintenance and repair of such streets and roads, within 60 days after written demand has been made upon him or her, the Homeowners Association may institute suit against the defaulting Homeowner(s) for the purpose of establishing judgment and lien against the residence and property of such Homeowner(s). The Homeowners Association shall have the right and privilege of enforcing any judgment so obtained by the issuance of levy of execution against such defaulting Homeowner.

i. For the purpose of providing an operating fund for emergency and general repairs to the roads and streets in this subdivision, and for administrative and legal expenses, the Board of Directors is authorized and directed to collect from each homeowner a sum of money annually which the Board deems is sufficient to cover during the current year such anticipated repair costs, administrative and legal expenses. The Treasurer shall be responsible for the collection of such costs from the homeowners. The collection of such charges may be enforced through suit, if not paid by any homeowner voluntarily.

In order to carry out the spirit and purpose of this Agreement, the developer and all lot owners for themselves and for their respective heirs, successors, and assigns, covenant and agree: (1) that when each lot owner erects a residence upon his respective lot, he or she shall then be required to pay all pro-rata charges and costs at any time assessed against him or her for maintenance and upkeep of all roads and streets shown on said plat; (2) that each of the lot owners in this subdevelopment shall place or cause to be placed in each deed conveying land in this subdivision an appropriate clause referring to this agreement and subjecting the new owner to the terms and conditions hereof, and (3) providing further that these provisions shall run with the land and be permanently affixed thereto; and (4) it is further agreed that all persons who purchase real property within this subdivision shall accept title thereto subject to the terms of this agreement whether or not this agreement is referred to in the deed of conveyance; and (5) it is further agreed that failure of the Homeowners Association or superintendent of roads to act shall in no way relieve the Homeowners of their responsibility in periodically repairing and maintaining as a group said roads and streets.

Each of the Homeowners in this subdivision shall be jointly and severally liable for the upkeep and maintenance of the roads and streets in this development, and failure of the Homeowners Association to act as hereinabove set out shall in no way relieve each homeowner from his or her responsibility to maintain said roads and streets. Each homeowner in this subdivision may enforce such liability against any and all other homeowners.

IN WITNESS WHEREOF, the Party of the First Part has hereunto set his hand and seal, or, if corporate, has caused this Agreement to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

T-3, a North Carolina Partnership
John F. Cress (SEAL)
JOHN F. CRESS, General Partner

George Hussey, Jr. (SEAL)
GEORGE HUSSEY, JR. General Partner

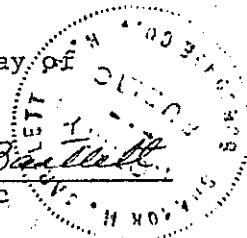
STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Sharon M. Bartlett, a Notary Public of said State and County, do hereby certify that JOHN F. CRESS personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this 6th day of December, 1983.

My Commission Expires:
1-11-87

Sharon M. Bartlett
Notary Public



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STATE OF MASSACHUSETTS
COUNTY OF BERKSHIRE

I, Kathleen L. Therrien, a Notary Public of said State and County, do hereby certify that GEORGE HUSSEY, JR. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this 28th day of

November, 1983.

Kathleen L. Therrien
Notary Public

My Commission Expires:
May 19, 1990



State of North Carolina, County of Buncombe

Each of the foregoing certificates, namely of Sharon M. Bartlett; Kathleen L. Therrien

a notary or Notaries public of the State and County designated is certified to be correct.

This 3 day of January, 1984

OTTO W. DeBRUHL
Register of Deeds, Buncombe County.

By: Peggy M. Mellett Asst
Deputy

Filed for registration on the 3 day of January, 1984 at 2:47 P.M.

OTTO W. DeBRUHL
Register of Deeds, Buncombe County

By: Peggy M. Mellett Asst
Deputy