

79- 15741

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO. 74-3210 "J" FISCHER

AL J. SCHECHTER, TRUSTEE,
Plaintiff,

vs.

LEADERSHIP HOUSING, INC., a
Delaware corporation; CITY OF
TAMARAC, Florida, a municipal cor-
poration; MAINLANDS SEVEN MAINTEN-
ANCE CORP., INC., MAINLANDS OF
TAMARAC SECTION EIGHT ASSOCIATION,
INC., TAMARAC MAINLANDS SECTION
EIGHT MAINTENANCE, INC., MAINLANDS
OF TAMARAC, NINTH SECTION, INC.,
WOODLANDS SECTION TWO, PHASE ONE
ASSOCIATION, INC., THE WOODLANDS
I ASSOCIATION, INC., THE WOODLANDS
SECTION FIVE ASSOCIATION, INC.,
THE WOODLANDS SECTION SIX ASSOCIATION,
INC., THE WOODLANDS SECTION SEVEN
ASSOCIATION, INC., THE WOODLANDS
HOMEOWNERS ASSOCIATION, SECTION
EIGHT, INC., and WOODLANDS HOME-
OWNERS ASSOCIATION, INC., all
Florida Non-Profit Corporations,
Defendants.

AMENDED ORDER MODIFYING
DECLARATION OF
RESTRICTIONS

THIS CAUSE came on to be heard on the Petition of

MAINLANDS SEVEN MAINTENANCE CORP., INC., to modify that certain Declaration
of Restrictions recorded in Official Records Book 3896, Page 185, et. seq.,
of the Public Records of Broward County, Florida. Notice of this Petition
was approved by this Court and proof of mailing such notice of said hearing
and copy of said Petition to all of the owners of residential lots in the
Mainlands of Tamarac Lakes Seventh Section was duly presented to this
Court. All of the parties to this action have been duly noticed of this
hearing and Petition. Upon hearing, this Court makes the following findings:

1. This Court has equitable jurisdiction to hear this
Petition and to modify and reform the Declaration of Restrictions.
2. Notice of this hearing was proper and was reasonably
calculated to notify each of the affected parties of the matters sought to

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be adjudicated.

3. All interested parties wishing to express their position on said Petition have had an opportunity to present their views to this Court.

4. The Defendant, MAINLANDS SEVEN MAINTENANCE CORP., INC., is a Florida corporation not for profit whose membership consists solely and exclusively of the owners of all of the residential lots in the Mainlands of Tamarac Lakes Seventh Section in Broward County, Florida. The owners of each such lot have one vote in said corporation.

5. Pursuant to Chapter 617, Florida Statutes, MAINLANDS SEVEN MAINTENANCE CORP., INC., is authorized to purchase real property and interests therein. Any such property purchased must be held in trust for the members of said corporation.

6. MAINLANDS SEVEN MAINTENANCE CORP., INC., has purchased from AL J. SCHECTER, TRUSTEE, the following described real property.

PARCEL R of the MAINLANDS OF
TAMARAC LAKES SEVENTH SECTION,
according to the Plat thereof
recorded in Plat Book 68, Page 4
of the Public Records of Broward
County, Florida, together with the
personal property therein and
thereon and fixtures therein and thereon
and the lease recorded in O.R. Book 3961,
Page 911 of the Public Records of
Broward County, Florida.

The warranty deed reflecting said purchase is dated April 7, 1978, and was recorded on April 7, 1978, in Official Records Book 7505, Page 162 of the Public Records of Broward County, Florida.

7. The purchase of the aforesaid real property and interest therein by the homeowners not for profit corporation is beneficial to the homeowners and will enhance the value of their homes.

8. The aforesaid purchase constitutes a substantial and material change of circumstances regarding paragraph 7 (recreation rent) of the Declaration of Restrictions burdening the residential lots in Mainlands

of Tamarac Lakes Seventh Section.

9. Petitioner is desirous of modifying the aforesaid paragraphs of the Declaration of Restrictions in order to reflect the purchase, to modify the amounts required to be paid by homeowners under paragraph 7, and to provide a method of terminating the recreation lease in said subdivision.

10. The recreation facilities in the Mainlands of Tamarac Lakes Seventh Section are unique and form an integral part of that community. The reformation and modification of the Declaration of Restrictions in that said recreation facilities are open and available for the full use of each such lot owner subject only to reasonable rules and regulations.

11. The aforesaid Declaration of Restrictions contains no provision for amendments to said Declaration, nor does the statutory law of the State of Florida provide a means of amending said Declaration of Restrictions.

12. For the sake of the owners of residential lot owners in said subdivision and their successors and assigns, it is essential that the public record reflect the actual and current ownership of the Parcel R and the relationship of the lot owners to that Parcel R. Said ownership and relationship constitutes sufficiently changed circumstances to invoke this Court's equitable powers to modify said Declaration of Restrictions.

13. The aforesaid purchase was affected by obtaining commitments from some of the affected lot owners to pay all or part of their pro-rata share of the purchase price.

14. More than seventy-five percent (75%) of the residential lot owners in the Mainlands of Tamarac Lakes Seventh Section have approved the aforesaid purchase and the method of funding said purchase.

On the basis of the foregoing findings, the matters contained in the Petition To Modify and the other matters presented to this Court, it is thereupon

ORDERED AND ADJUDGED that paragraph 7 of that certain Declaration of Restrictions recorded in Official Records Book 3896, Page 185, et seq., of the Public Records of Broward County, Florida, is hereby modified

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and reformed in accordance with Exhibit "A" attached to this Order and this Order and Exhibit "A" shall be recorded in the Public Records of Broward County, Florida.

DONE AND ORDERED in Chambers at the Broward County Courthouse in Fort Lauderdale, Florida this 12th day of January, 1979.


GENE FISCHER, CIRCUIT COURT JUDGE

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MODIFICATION OF DECLARATION OF RESTRICTIONS
IN MAINLANDS OF TAMARAC LAKES SEVENTH SECTION

Paragraph 7 of that certain Declaration of Restrictions recorded in Official Records Book 3896 at Page 185, et seq. of the Public Records of Broward County, Florida, which Declaration of Restrictions burdens the residential subdivision known as Mainlands of Tamarac Lakes, Seventh Section, is hereby modified to read as follows:

7. RECREATION FACILITIES: LIABILITY FOR,
ASSIGNMENT, LIEN, RELEASE.

a. the owner of each Improved Lot in MAINLANDS OF TAMARAC LAKES SEVENTH SECTION is liable to MAINLANDS SEVEN MAINTENANCE CORP., INC., its successors and assigns, for said lot owner's assessments for the cost of the community recreation parcel and facilities located upon the following described lands:

PARCEL R OF THE MAINLANDS OF TAMARAC LAKES SEVENTH SECTION according to the plat thereof as recorded in Plat Book 68, Page 4 of the Public Records of Broward County, Florida.

Notwithstanding the foregoing and subparagraph 7B, the sole monetary obligation and liability of each such improved residential lot owner under this modified paragraph 7, is and shall be only as is set forth in subparagraph D, E, and F hereinbelow.

b. The aforesaid lands are currently owned by MAINLANDS SEVEN MAINTENANCE CORP., INC., as trustee for its members by virtue of that certain Warranty Deed dated April 7, 1978, and recorded in Official Records Book 7505, Page 162 of the Public Records of Broward County, Florida. MAINLANDS SEVEN MAINTENANCE CORP., INC., whose membership consists solely and entirely of all the owners of improved residential lots in Mainlands of Tamarac Lakes Seventh Section, their successors and assigns, shall have a lien on each such improved residential lot until said lot owner fulfills his lawful covenant and obligation to pay his share of

the costs of the community recreation parcel and facilities located thereon. Where said assessments as hereinafter set forth remain unpaid for a period of thirty (30) days or more, said lien may be perfected by recording a Claim of Lien in the Public Records of Broward County, Florida. Once perfected, a lot owner shall be notified by certified U.S. Mail of the intent of MAINLANDS SEVEN MAINTENANCE CORP., INC. to foreclose said lien within thirty (30) days from the date when said lien is recorded. Thereinafter, said lien may be foreclosed in equity in the same manner as is provided for the foreclosure of mortgages on real property. The owner of each improved lot in THE MAINLANDS OF TAMARAC LAKES SEVENTH SECTION shall be bound by this modification of paragraph 7 of this Declaration of Restrictions and same shall constitute a covenant and equitable servitude running with the land and same shall bind all persons claiming ownership or use of any portion of said lands until the obligations hereunder have been fulfilled.

c. It is the intent of this Declaration that the recreation parcel and facilities in Mainlands of Tamarac Lakes Seventh Section shall be for the exclusive use and benefit of the residential lot owners in said subdivision and their guests. No such residential lot owner may be denied the reasonable access to and use of said recreation facilities. Mainlands Seven Maintenance Corp. shall have the right to promulgate, publish and enforce reasonable rules and regulations regarding use of the facilities located on the recreation parcel.

d. It is contemplated that some owners of improved lots in Mainlands of Tamarac Lakes Seventh Section will avail themselves of an opportunity to fully satisfy their obligations under this paragraph 7 by the full payment of

\$1,440.00 to Mainlands Seven Maintenance Corp., and those lot owners making said payment shall be given an unconditional release in recordable form releasing them from any further monetary obligation under this paragraph 7 of this Declaration of Restrictions.

e. It is contemplated that some owners of improved residential lots in Mainlands of Tamarac Lakes Seventh Section will avail themselves of an opportunity to partially satisfy their obligations under this paragraph 7 by paying \$450.00 to Mainlands Seven Maintenance Corp. and those lot owners making said payment shall be given a partial release in recordable form indicating said payment and releasing said lot owners from any further escalation of assessment under this paragraph 7. The owner of each such lot paying said \$450.00, his successors and assigns is obligated and liable to Mainlands Seven Maintenance Corp., its successors and assigns for assessments in the fixed sum of \$12.83 per month until September 30, 1989. Thereafter, the owner of each such lot, his successors and assigns shall be completely and unconditionally released from any further monetary obligation under this paragraph 7.

f. Those owners of improved residential lots in Mainlands of Tamarac Lakes Seventh Section and their successors and assigns who have chosen not to pay advanced assessments as set forth in subsections (d) and (e) of this paragraph 7 are obligated and liable to Mainlands Seven Maintenance Corp., its successors and assigns for assessments of \$12.83 per month thereon until January 1, 1979. From January 1, 1979 through March 31, 1990, each such lot owner, his successors and assigns, shall be obligated and liable to Mainlands Seven Maintenance Corp. for the fixed sum of \$19.50 per month. After March 31, 1990, the owner of each such lot, his successors and assigns, shall be completely and unconditionally released from any further monetary obligations under this paragraph 7.

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g. Contingent upon this Modification being approved and declared by an appropriate court of equity, Mainlands Seven Maintenance Corp., the owner and current lessor by assignment of that certain lease (recreation lease) recorded in Official Records Book 3961, Page 911, et seq. of the Public Records of Broward County, Florida, has agreed to seek the cancellation of said lease and all obligations thereunder. Said cancellation would in no way affect the obligations under this paragraph 7 as modified or under paragraph 6 of the Declaration of Restrictions recorded in Official Records Book 3896, Page 185, et seq., of the Public Records of Broward County, Florida. The cancellation of said lease shall become effective at such time as an instrument executed by the lessor and the lessee under said lease and the mortgagee holding the first mortgage on said parcel R is recorded in the Public Records of Broward County, Florida.

RECORDED IN THE OFFICIAL RECORDS BOOK
OF BROWARD COUNTY, FLORIDA
R. R. KAUTH
COUNTY ADMINISTRATOR

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