

UNIT 3

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MARY MORRIS  
COUNTY CLERK

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ADDITIONAL RESTRICTIONS

THE STATE OF TEXAS  
COUNTY OF SMITH

X  
X

SMITH COUNTY, TEXAS  
BY Emma G. Burrow  
DEPUTY

Jabird, Inc., a Texas Corporation is the owner of various lots in Unit 3 of Hide a Way Bay Addition of Smith County, Texas. Jabird is the successor of First Madison Corporation, which adopted restrictions dated September 22, 1972, as recorded in Volume 1426, Page 594 of the Deed Records of Smith County, Texas, reference to said restrictions is made for all purposes.

In addition to the above mentioned restrictions, Jabird, Inc., hereby impresses upon the platted lots owned by Jabird, Inc. in Unit No. 3, Hide-A-Way Bay Addition as shown by plat recorded in Volume 6, Page 171, Plat Records of Smith County, Texas the following restrictions:

The lots affected by these restrictions are as follows:

All those certain lots, tracts or parcels of land situated in the County of Smith, State of Texas and being all lots in Hide-A-Way Bay, Unit No. 3, according to plat recorded in Vol. 6, page 171, Plat Records of Smith County, Texas, LESS AND EXCEPT lots 180, 181, 385, 387, 395, 402, 403, 404, 408, 416, 421, 452, 453, 467, 472 and 504 through 519.

1. In addition to the prohibitions mentioned in paragraph 3 of said restrictions it specifically provided that any modular home or factory built home built, assembled or moved into the addition shall have a 3" x 12" roof pitch and said roof shall be conventional in appearance with at least a 12" cornish overhang. Any home which is not built on a slab foundation shall have a brick or frame exterior wall which covers any pier and beam foundation.

2. Jabird, Inc., specifically provides that Hide A Way Bay Community Living, Inc. is designated as the agent of Jabird, Inc., for the supervision of the covenants mentioned in Paragraph 4 of said 1972 restrictions.

3. Jabird, Inc., specifically appoints Hide A Way Bay Community Living, Inc., as its agent for granting approval of the authority mentioned in Paragraph 5 of said 1972 restrictions with the following conditions. Factory built homes, modular homes and unfinished homes are to be approved upon the following conditions.

- a. The exterior of all homes are to be completed within said six month period.
- b. All plumbing, septic tanks and culverts are to be completely installed prior to occupancy of said premises.
- c. Any modular, factory built or house built on pier and beam foundation shall have a curtain wall built which completely covers all space

beneath the home at the time of construction.

d. Hide a Way Bay Community Living, Inc. shall not pass any Bylaws, regulation or requirement requiring a bond or escrow payment to cover any expense of road repair during construction.

e. Any factory built, modular or house built on pier and beam foundation shall have a frame or brick curtain wall, which shall be completed at the time of construction.

3. Paragraph 8 of said 1972 restrictions are hereby changed, modified or implemented as follows:

a. Any lending institution, except a developer reacquiring a lot previously sold shall have a ninety day period to sell, donate or otherwise dispose of any lot owned by them before they will become liable for the annual dues as promulgated or set by Hide a Way Bay Community Living, Inc. In the event said lending institution does not sell, lease or rent said lot and/or any improvements located thereon within 90 days from the date of foreclosure (or accepting title in lieu of foreclosure) said lending institution shall pay dues and have the same rights and privileges as other owners of property in said subdivision. In the event said lending institution leases or rents their property, the lessee or renter shall become a member of said association as a regular lot owner with the same rights and responsibilities. The lending institution shall designate one family who shall have the right to use the facilities as a member.

b. Jabird, Inc. as successor of First Madison Corporation hereby assigns and transfers to Hide a Way Bay Community Living, Inc. any and all right it may have to the first refusal clause in paragraph 8 of the 1972 restrictions. In the event said Hide a Way Bay Community Living, Inc., does not elect to acquire any lot as provided in said 1972 restrictions, Jabird hereby waives any right it may have to 30 day notice of sale and hereby waives the presentment of said sale terms to it.

4. Paragraph 9 of said 1972 restrictions is hereby supplemental as follows:

It is specifically provided that each person, corporation or association owning title, leasing or renting one or more lots in said Unit No. 3, Hide a Way Bay Addition shall become a member of Hide a Way Bay Community Living, Inc. It is specifically provided that no person, corporation or association shall be required to pay the annual dues to Hide a Way Bay Community Living, Inc., on more than one lot regardless of the number of lots owned, leased or rented. It

is specifically provided that only one family can be a member of Hide a Way Bay Community Living, Inc., for any one lot. A corporation or association can name a family to be the member of any lot. In the event a corporation or association owns more than one lot, it can name a separate family for each lot and the family named shall be permitted to use the facilities in the same manner as if they owned the particular lot. The corporation or association will be responsible for the dues for each lot it designates for the use and benefit of any family. Hide a Way Bay Community Living, Inc. shall have a lien upon the lot designated for a person or family for any dues or assessments. In the event it is necessary to place the dues in arrears in the hands of an attorney for collection, the lien on the lot will include attorney fees and court costs.

5. Hide a Way Bay Community Living, Inc., can assess any lot owner \$100.00 as a special assessment at the time it grants a building permit. This \$100.00 is for the purpose of compensating Hide a Way Bay Community Living, Inc. for possible damage to the roads, bar ditches and common property which could be caused by trucks and equipment used in the construction of improvements. This \$100.00 is non refundable.


6. It is further specifically provided that Hide a Way Bay Community Living, Inc., can charge annual dues for 1987, 1988 and 1989 in an amount not to exceed \$60.00, with no assessment other than that mentioned in paragraph 5 above. Hide a Way Bay Community Living, Inc., can charge no more than \$100.00 annually for dues for the years 1991, 1992 and 1993. Thereafter the dues shall be set by Hide a Way Bay Community Living, Inc.

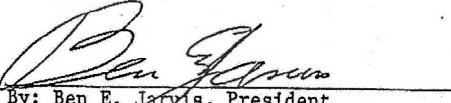
7. Hide a Way Bay Community Living, Inc., is specifically granted the authority to bring all or any portion of the roads in Unit 3 to Smith County's specifications and to dedicate the roads to the County.

8. After January 1, 1990, Hide a Way Bay Community Living, Inc., is specifically authorized to execute and deliver easements for utilities in the same manner as Jabird, Inc., would currently be authorized to do.

JABIRD, INC.

ATTEST:

  
Charlie E. Burton, Secretary

  
By: Ben E. Jarvis, President

THE STATE OF TEXAS

I

COUNTY OF SMITH

I

This instrument was acknowledged before me on the 27<sup>th</sup> day of February, 1987 by Ben E. Jarvis, President of Jabird, Inc., a corporation, on behalf of said corporation.

Susan E. Hukill  
Notary Public in and for  
the State of Texas.



SUSAN E. HUKILL  
NOTARY PUBLIC; STATE OF TEXAS  
MY COMMISSION EXPIRES JUNE 5, 1989

VCL 1426 PAGE 594 14964

First Madison Corporation  
By: Kenneth Z. Bond, President

To  
The Public

Amendment to Add Restrictions  
Dated: September 22, 1972  
Filed:  
Recorded:  
Deed Records, Smith County, Texas

THE STATE OF TEXAS |  
COUNTY OF SMITH |

KNOW ALL MEN BY THESE PRESENTS:

That First Madison Corporation, a Texas corporation, being the developer of the property shown on the Plat of Unit No. 3 Hide-A-Way Day Subdivision of Smith County, Texas, as recorded in Vol. 6, Page 171, Plat Records of Smith County, Texas, having found that appropriate restrictions, covenants and conditions have not been filed for record prior to this time, and further stating that none of the lots have been deeded as of this date, does hereby impress each of the specifically numbered lots designated on said Plat and with the following restrictions, covenants and conditions for the purpose of carrying out a general plan of development and maintenance of the subject premises:

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SMITH COUNTY, TEXAS  
By *Kenneth Z. Bond*  
DEPUTY

1. No lot shall be used for other than residential purposes, and no soil or trees shall be removed for any commercial use. Cutting of trees shall be limited to the extent necessary for clearing the foundation site for construction; any additional cutting of trees shall be done only upon written approval of First Madison Corporation, its successors and assigns.

2. No buildings, fence or structure of any kind shall be located on any lot nearer to the front than twenty-five (25) feet, and no building nearer than twenty-five (25) feet to rear lot line and no nearer than fifteen (15) feet from one side lot line and six (6) feet from the other side line, except, however, that as to lots which are immediately adjacent to Lake Palestine, buildings or improvements may be constructed thereon to a point ten (10) feet distant from the 355' elevation line. The floor area of any dwelling or cottage, exclusive of garage, porches, and basement, shall not be less than the following:

All waterfront lots.....1,200 sq. ft.  
All other lots.....1,000 sq. ft.

3. No structure of a temporary character, trailer, mobil home, camper, basement, tent, shack, garage, or other outbuilding shall be used on any lot at any time, as a residence, either temporarily or permanently. Any garage shall be constructed at the same time or subsequent to the construction of the house it is intended to serve. All improvements shall be completed within six (6) months from the beginning of construction. No out-houses shall be permitted on any part of the property; all lavatories, toilets, and bath facilities shall be installed indoors.

No installation for the disposal of sanitary sewage shall be constructed or operated, unless the installation shall meet and continue to meet all the requirements of every governmental authority having jurisdiction, and shall have been approved in writing by First Madison Corporation or its successors or assigns. All lavatories, toilets and bath facilities shall be completely installed and functioning before the residence is occupied. Garbage on the premises shall be kept in water-tight containers with tight fitting covers, and no cans, bottles, paper, trash or rubbish shall be placed, deposited, accumulated or thrown on the ground or in any place except a proper container as aforesaid.

4. No animals, livestock or poultry of any kind shall be raised, bred, boarded or kept on any lot except by permission of First Madison Corporation, excepting dogs, cats or other household pets provided they are not a nuisance to area property owners. Fires must be contained, enclosed, and carefully supervised. Use of firearms on the premises is prohibited except in areas that may be designated for such purpose by First Madison Corporation, its successors and assigns.

5. No building, pier or boathouse shall be erected on any lot until the plans, specifications, and plot-plan therefor have been approved in writing by First Madison Corporation, its successors and assigns, and any governmental authority having jurisdiction. Driveways crossing side ditches shall be constructed to a minimum width of ten (10) feet with culvert pipe drains laid to the profile of the ditch invert. No culvert pipe shall be smaller than twelve (12) inches in diameter.

6. First Madison Corporation reserves to itself, its successors and assigns, an easement or right of way over a ten (10) foot strip inside and adjoining the rear and street boundary lines of all lots in the subdivision, for the purpose of installation or maintenance of utilities and CATV system, including, but not limited to gas, water electricity, telephone, drainage and sewerage and any appurtenance to the supply lines therefor, including the right to remove and trim trees, shrubs or plants. This reservation is for the purpose of providing for the practical installation of such utilities as and when any public or private authority or utility company may desire to serve said lots with no obligation on the part of First Madison Corporation to supply such services. No

buildings, structures or fences shall be constructed or maintained on, across or along such easement strips.

7. No noxious, immoral, illegal or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the Subdivision in which said lot is located.

8. No sale, transfer, lease, or other disposition of any lot in the Hide-A-Way Bay Subdivision shall be consummated unless and until the purchaser or transferee has applied for and has been accepted as a member of the Hide-A-Way Community Living, Inc., its successors or assigns, and hereinafter referred to in Paragraph 9. This restriction shall not apply, however, to lending institutions who may bid said property in at any foreclosure sale brought by them without regard to such membership restriction, nor shall it apply with respect to a transfer of such property pursuant to a duly-probated Will or by virtue of intestacy, pursuant to the Statutes of the State of Texas. However, in the event of a transfer of title by virtue of foreclosure, probate of Will, or intestate succession, First Madison Corporation, its successors or assigns, shall have an absolute right of first refusal to purchase said lot from any such transferee or transferees in the event they shall decide to sell, transfer or convey the same; provided, however, that First Madison Corporation, its successors or assigns, must within thirty (30) days from the date of a transfer of title to such lot by virtue of foreclosure, probate of Will, or intestate succession, or within thirty (30) days after written notice to First Madison Corporation, its successors or assigns, of such transfer, whichever last occurs, give written notice to any such transferee or transferees, in the event that such transferee or transferees shall decide to sell, transfer or convey said lot. If such written notice to purchase is not given, as above stated, within said thirty (30) day period by First Madison Corporation, its successors or assigns, the absolute right as aforesaid of First Madison Corporation, its successors or assigns, to purchase said lot shall be waived and shall be of no force or effect.

9. Upon acceptance of an application for membership in Hide-A-Way Community Living, Inc., a Non-Profit Organization, its successors or assigns, and the simultaneous acceptance of a Deed, each owner shall become a member of Hide-A-Way Community Living, Inc., operated for the purpose of providing the members with recreation facilities in the area and for maintenance and repair of roads, lanes, drainage and other facilities for the common benefit of lot owners. Said membership shall be conditioned upon observance of the rules and regulations established by said club for the benefit and general welfare of its members and for the official operation thereof. Ownership and operation of said club may be conveyed and granted to all members of said club on or before the time all lots in the subdivision have been sold.

Said membership shall also be conditioned upon payment, when due, of such dues, fees, and charges as the club shall find necessary for the maintenance of the club facilities and services, including but not limited to the maintenance of lanes, roads, parks, and lakes and any other services and benefits which said club may provide for the benefit of the lots, club facilities, and members. By the acceptance and retention of title to any lot in the Hide-A-Way Bay Subdivision, each Grantee, his heirs and assigns who are or become members of Hide-A-Way Community Living, Inc. do hereby covenant and agree that Said Hide-A-Way Community Living, Inc., its successors and assigns shall have a lien upon the subject lot or lots second only to liens for taxes and any duly-recorded mortgage to secure the payment of the aforementioned dues, fees, and charges, including court costs and reasonable attorney's fees incurred in connection with the collection of the same, it being agreed and understood that this covenant and agreement shall be in addition to and shall not be affected by such contracts, security agreements, and applications as such Grantees, their heirs or assigns may enter into with Hide-A-Way Community Living, Inc.

10. Notwithstanding anything to the contrary contained herein, First Madison Corporation, its successors and assigns, reserves for itself and its designated agent or agents the right to use any unsold lot or lots in said Subdivision for a temporary office location and the right to place a sign or signs on any unsold lot in the subject Subdivision, together with further right to dedicate and/or use such lots in said Subdivision as they may deem necessary or desirable for the use or benefit of property owners.

11. These restrictions, covenants and conditions may be enforced by First Madison Corporation, and/or Hide-A-Way Community Living, Inc., their successors or assigns, or by the owner or owners of any lot in said Subdivision, either by proceedings for injunction or to recover damages for breach thereof, or both, but no breach hereof shall affect the validity of any mortgage, vendor's lien, deed of trust or mechanic's-materialmen's contract given in connection with purchase of any lot of construction or improvements thereon.

12. These restrictions, covenants, and conditions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date of such restrictions, covenants, and conditions being first impressed upon said property and Subdivision, after which time said restrictions, covenants, and conditions shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the lot owners in said Subdivision has been recorded, agreeing to a change in said restrictions, covenants, and conditions in whole or in part.

If any portion of these restrictions, covenants, and conditions shall be declared invalid by judgment or Court Order, it shall not affect the validity of any other provision or portion thereof.

13. The owner of each lot shall keep it free of trash, weeds and debris at all times. Upon failure to perform such obligation, First Madison Corporation may at its option have the lot cleaned, and the expenses thereof shall be and constitute a lien upon said lands payable by owner of said lot. No signs may be maintained on any lot except as approved in writing by the First Madison Corporation.

14. Golfers shall have the right to retrieve their golf balls from any lot. Each lot owner, by the purchase of a golf course lot, agrees to waive any claim for damages and to hold First Madison Corporation, its successors and assigns, harmless from liability with respect to any claim for damages to persons or property arising out of or resulting from golf balls being hit and/or retrieved from his lot or lots.

15. All facilities for storage of butane, propane and other similar petroleum products shall be constructed underground; such facilities and the installation thereof shall be subject to prior approval of First Madison Corporation, its successors or assigns.

16. First Madison Corporation, its successors and assigns, may dedicate, for public use, any roads, streets, lanes and alleys in the Subdivision.

17. If, notwithstanding the requirement of membership in Hide-A-Way Community Living, Inc., its successors or assigns, as a condition to the acquisition of title to any lot or lots in said Subdivision, title to any of said lots shall in some manner be acquired by a party who has not been approved for membership in the Hide-A-Way Community Living, Inc. referred to in Paragraph 8 hereof or if any lot owner shall cease to be a member of the said Club, then, nevertheless, said lot owner, on behalf of himself, his heirs or assigns, does hereby covenant and agree that they will bear and pay such portion of the specific expenses required and expended by Hide-A-Way Community Living, Inc., its successors and assigns solely for the maintenance of the lanes, roads, parks, lakes, and the furnishing of security protection that they would otherwise be required to pay if they were then in fact a member of such Club and as determined by the accountant for such Club. Further, by the acceptance and retention of title to any lot or lots, each Grantee, on behalf of himself, his heirs and assigns, does hereby covenant and agree that said Hide-A-Way Community Living, Inc., its successors and assigns, shall have a lien upon the subject lot or lots second only to liens for taxes and any duly-recorded mortgage to secure the payment of the aforementioned expenses, including Court cost and reasonable attorney's fees incurred in connection with the collection of the same.



If any portion of these restrictions, covenants, and conditions shall be declared invalid by judgment or Court order, it shall not affect the validity of any other provision or portion thereof.

EXECUTED THIS 22nd day of September, 1972.

(Corp. Seal)  
ATTEST:

FIRST MADISON CORPORATION

  
James D. Coles  
Assistant Secretary


  
BY: Kenneth Z. Bond, President

STATE OF TEXAS  
COUNTY OF DALLAS

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared KENNETH Z. BOND, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said FIRST MADISON CORPORATION, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 22nd day of September, 1972.



  
Judy Fankhauser  
Notary Public in and for Dallas  
County, Texas

FILED AT 11:25 O'CLOCK A.-M. ON THE 27 DAY OF Sept. 1972  
RECORDED AT 2:45 O'CLOCK P.-M. ON THE 9 DAY OF Oct. 1972  
ERNEST CHRISTIAN, COUNTY CLERK, BY Ann Mc Coy DEPUTY