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CHANCERY COURT

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

RECEIVED
SEP 19 1995
DAV. CO. CHANCERY COURT

B & P DEVELOPMENTS, INC.

Plaintiff,

vs.

THOMAS J. BELL and MASURI MADORID BELL, as TRUSTEES or their successors in trust, HEIRS OF THOMAS J. BELL, MASURI MADORID BELL and MARY BELL, HARBORVIEW AT CHESWICKE HOMEOWNERS' ASSOCIATION, a Tennessee nonprofit corporation, and EMMA ALEXANDER

Defendants.

Civil Action No. 94-661-III

Costs paid

ORDER FILED & ENTERED SEP 20 1995
MINUTE BOOK 91 PAGE 41

BOOK 10004 PG 629

FINAL ORDER EVIDENCING COMPROMISE AND SETTLEMENT

It appearing to the satisfaction of the Court by the signatures of counsel for the remaining parties below[1] that the matters at issue in the above styled litigation have been compromised and settled upon the following terms, it is

ORDERED, ADJUDGED and DECREED that fee simple title to the property shown on the Final Subdivision Plat of Harborview, Phase I-A, Section 5, as of record in Plat Book 7900, page 485, Register's Office for Davidson County, Tennessee, (the "Plat") as conveyed to plaintiff by deed of record in Book 8856, page 363, said Register's Office, is hereby confirmed as vested in Plaintiff B & P Developments, Inc. by the above-referenced deed, provided however that, the following described tract of real property located in Davidson County, Tennessee, to wit:

> Being a certain parcel of land located in the First (13th Councilmanic) District of Nashville - Davidson County, Tennessee; and being further described as follows:
>
> Beginning at an old iron rod situated on the southerly margin of Windwood Lane; said iron rod being the northeast corner of Lot #77 of Harborview - Phase 1A, Section 5 as recorded in Book 7900, page 485 RODC,Tn;
>
> Thence, along the said margin of Windwood Lane and with a curve to the right having a radius of 50.00 feet, a distance of 32.08 feet (chord = S 43 deg. -37' - 12" E - 31.53 feet) to a corner in a chain link fence surrounding an old cemetery;

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[1] This Court has already entered a default judgment as to the defendants Thomas J. Bell and Masuri Madorid Bell, as Trustees or their successors in trust, heirs of Thomas J. Bell, Masuri Madorid Bell, and Mary Bell.

Thence, leaving the said margin of Windwood Lane and along the said chain link fence surrounding the said old cemetery, S 00 deg. - 04′ -55" W - 62.13 feet to a fence corner;

Thence, N 86 deg. -38′ -53" W - 36.59 feet to a fence corner;

Thence, N 03 deg. -21′ -51" E - 60.84 feet to a fence corner;

Thence, leaving the said chain link fence, N 27 deg. -05′ -31" E - 24.81 feet to THE POINT OF BEGINNING, containing 0.06 Acres (2,562 SF). ("Cemetery Tract");

together with all other property shown as Open Space on the Plat, is hereby vested in Defendant Harborview at Cheswicke Homeowners' Association to the exclusion of all other parties hereto, named and unnamed, it being the express purpose of this Order to serve as a muniment of title to the above described Cemetery Tract, and, to the extent necessary to effectuate such purpose, title thereto otherwise vested in Plaintiff, B & P Developments, Inc. and/or any party defendant other than Defendant Harborview at Cheswicke Homeowners' Association, should be and is hereby divested from Plaintiff and/or such other described parties defendant and vested in Defendant Harborview at Cheswicke Homeowners' Association, subject only to the other provisions of this Order, provided, however, that the vesting of title to the Cemetery Tract in Defendant Harborview at Cheswicke Homeowners Association shall be void ab initio in the event that any court, tribunal or any governmental body having jurisdiction over cemeteries or burial procedures declares the Cemetery Tract to be outside the meaning of "family burial ground" as that term is contemplated by Tennessee Code Annotated § 46-1-106(a)(4) (1993) or if any provision of this Order is in violation of any portion of Chapter 46, Tennessee Code Annotated or any regulation promulgated thereunder, it being the express understanding and intention of the parties that the Cemetery Tract is a "family burial ground" as contemplated by Tennessee Code Annotated § 46-1-106(a)(4) (1993) and that Defendant Harborview at Cheswicke Homeowners Association not be subject to the provisions of chapters 1 and 2 of Title 46, Tennessee Code Annotated regarding cemeteries, to any subsequent amendment to those chapters or to any regulations promulgated thereunder; it is

further

ORDERED, ADJUDGED and DECREED that the Trust Deed appearing of record in Book 377, page 343 is declared void and is of no force or effect whatever from and after the date of entry of this Order; it is further

ORDERED, ADJUDGED and DECREED that, the owner of fee simple title to the Cemetery Tract, and its successors and assigns forever, shall be obligated in perpetuity to allow continuing use of said property exclusively as a family burial ground within the meaning contemplated by Tennessee Code Annotated § 46-1-106(1)(4) (1993) and to maintain that portion of the above described property contained within the bounds of the fence surrounding the family burial ground, as well as the fence and gate, itself, all as shown on the drawing attached as Exhibit "A" hereto, and that this obligation shall constitute a covenant running with the land in favor of Defendant, Emma Alexander, her heirs and successors, and the descendents of Thomas J. Bell and Masuri Madorid Bell (hereinafter referred to collectively as the "Defendant Heirs") provided, however, that all future interments shall be in accordance with all applicable laws and regulations, that such interments and any related activities shall be at the sole expense of the Defendant Heirs and not at the expense of the Defendant Harborview at Cheswicke Homeowners Association and that only direct descendants of Thomas J. Bell and Masuri Madorid Bell shall be eligible for interment in the Cemetery Tract; it is further

ORDERED, ADJUDGED and DECREED the Cemetery Tract shall be further encumbered by a perpetual, non-exclusive, easement for ingress and egress to and from the referenced cemetery in favor of the Defendant Heirs for visitation as well as future interment; it is further

ORDERED, ADJUDGED and DECREED that within sixty (60) days from the date of entry of this Order, Plaintiff, B & P Developments, Inc. shall be responsible for installing and bearing the cost of erecting and installing a suitable permanent historic marker constructed of cast aluminum, which has been previously approved by

Defendant Emma Alexander, identifying the family interred in the referenced Cemetery Tract as well as erecting a suitable entrance, gate and walkway facilitating the use of the perpetual easement described herein; it is further

ORDERED, ADJUDGED and DECREED that Plaintiff B & P Developments, Inc. shall, within sixty (60) days of the entry of this Order, be responsible for repairing damage to the exisiting fence surrounding the Cemetery Tract and performing and bearing the cost of cleaning the tombstones contained therein; it is further

ORDERED, ADJUDGED and DECREED that Plaintiff, B & P Developments, Inc. shall pay to Defendant Emma Alexander her reasonable attorneys' fees and expenses associated with this litigation, such fees and expenses having been previously submitted to Plaintiff and approved as reasonable; it is further

ORDERED, ADJUDGED and DECREED that the Defendant, Emma Alexander, as the sole responding Defendant Heir of Thomas J. Bell, Masuri Madorid Bell and Mary Bell, is vested with all of the powers of the successor trustees as set forth in the Trust Deed appearing of record in Book 377, page 343, Registers Office for Davidson County, Tennessee and as such Trustee, has the power to bind the interests of the trust and all beneficiaries.

Court Costs are tendered with the submission of this Agreed Order.

DATED this ___ day of _____, 1995.

CHANCELLOR ROBERT S. BRANDT

I hereby certify that this is a true copy of original instrument filed in my office This 4th day of April 1995
CLAUDIA C. BONNYMAN Clerk & Master
By _____ D.C.

APPROVED FOR ENTRY:

Thomas T. Pennington (No. 9605)
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Attorney for Plaintiff

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Attorney for Defendant Emma Alexander

BOOK 10004 PG 633

Alvin L. Harris (No. 11516)
GREENE & GREENE
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P.O. Box 198645
Nasvhille, Tennessee 37219

Attorney for Defendant
Cheswicke Homeowners' Association

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IDENTIF. ↑ REFERENCE

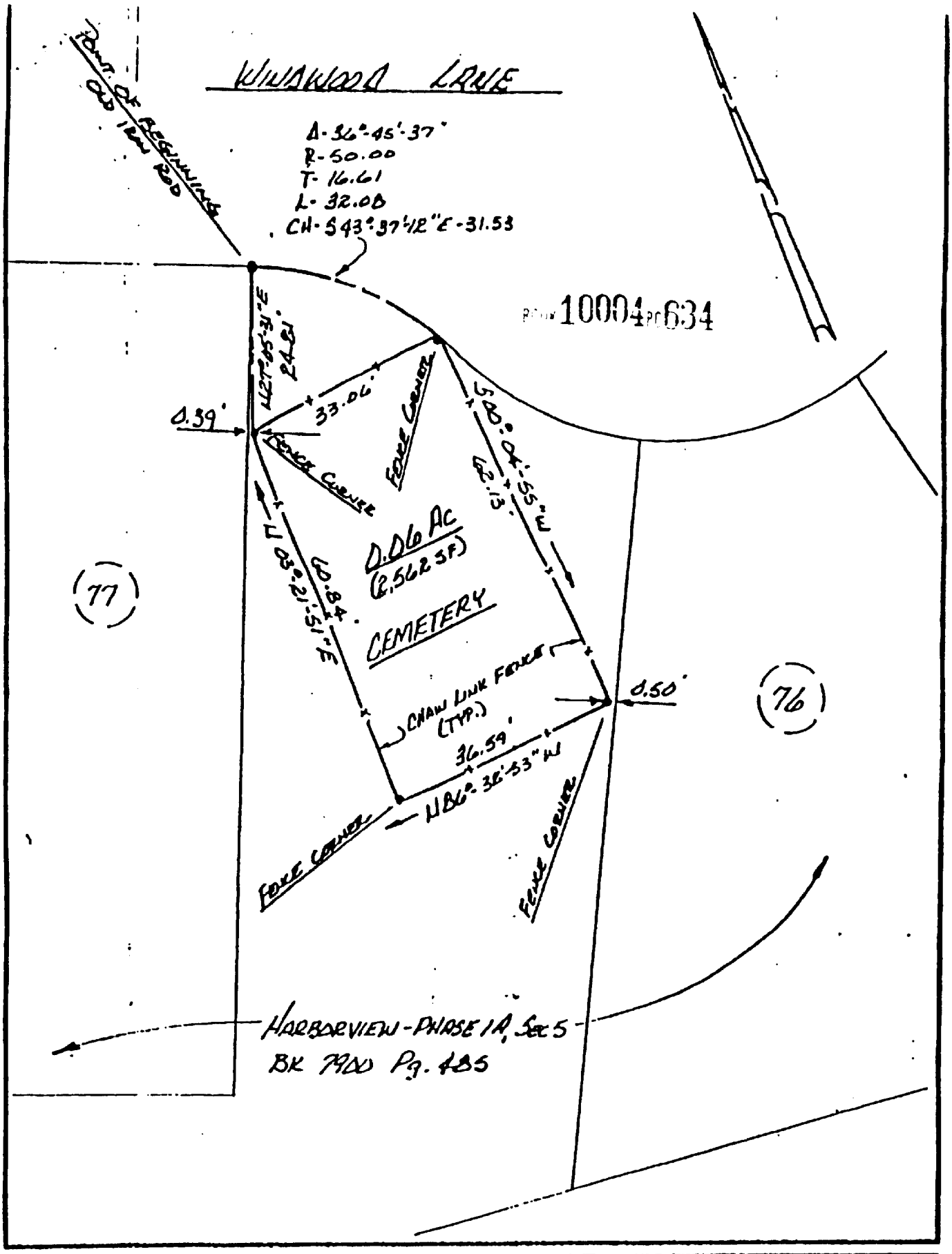
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FELIX Z. WILSON III REGISTER
DAVIDSON COUNTY, TN.

PICK-UP

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"EXHIBIT A"

OWNER: B & P DEVELOPMENTS, INC.
RECORDED: BK 7900 PG 485
LOCATED: HARBORVIEW-PHASE 1A, SEC 6
AREA: 0.06 AC. (2562 SF)
DATE: FEB. 28, 1995
SCALE: 1"=20'

C. MICHAEL MORAN, TRLS #970
527 8TH AVENUE SOUTH
NASHVILLE, TN. 37203
244-8792

RECORDERS MEMO
LEGIBILITY OF WRITING, TYPING OR PRINTING IN THIS DOCUMENT UNSATISFACTORY WHEN RECEIVED