

DECLARATION OF COVENANTS  
GOVERNING  
VISCAYA POINT SUBDIVISION

Mark D. Armstrong and Tammie L. Armstrong, Husband and Wife, and Donald L. Decker and Peggy W. Decker, Husband and Wife, hereinafter referred to as the "Declarants", are the owners of portions of real estate in Vigo County, State of Indiana, which together are more particularly described as follows:

A part of the Southwest Quarter of Section 23, Township 11 North, Range 9 West of the 2nd P.M., Honey Creek Township, Vigo County, Indiana, more particularly described as follows: Beginning at an Iron Pin (found) accepted as the southeast corner of the Southwest Quarter of the Southwest Quarter of said Section 23; thence easterly on the south line of said Section 23 on a bearing of North 89°56'37" East (bearing based on pins found and record bearing for Woodgate South Phase II bearing for the south line of said section) a distance of 65.55 feet to a point; thence North 00°16'35" West a distance of 19.93 feet to an Iron Pin (1/2" rebar, found); thence continuing North 00°16'35" West a distance of 1,311.83 feet to an Iron Pin (set); thence South 89°57'30" West a distance of 644.06 feet to an Iron Pin (set); thence South 00°07'54" East a distance of 853.83 feet to an Iron Pin (set); thence North 89°57'27" East a distance of 278.15 feet to an Iron Pin (set); thence South 00°07'53" East a distance of 458.01 feet to an Iron Pin (1/2" rebar, found); thence continuing South 00°07'53" East a distance of 20.00 feet to a point on the south line of said Section 23; thence easterly on the south line of said Section 23 on a bearing of North 89°56'37" East a distance of 303.72 feet to the point of beginning. Containing 16.69 acres, more or less. Subject to an easement for a County Road (Woodsmall Road) off the south side thereof. Subject also to any other Grants, Easements, Mineral Rights, or Right of Ways of Record.

EXCEPT Lot Number Ten (10) in Viscaya Point Subdivision being a Subdivision of a part of the Southwest Quarter of Section 23, Township 11 North, Range 9 West as shown by the recorded plat thereof recorded in Plat Record 27 Page 98 of the records of the Recorder's Office of Vigo County, Indiana.

Together with an easement for ingress and egress over all of the roadways contained in Viscaya Point Subdivision recorded in Plat Record 27, Page 98.

hereinafter specifically described on the plat as Viscaya Point Subdivision, recorded August 10, 1993 in Plat Record 27, Page 98, in the office of the Recorder of Vigo County, Indiana.

It is the desire of the undersigned that Viscaya Point Subdivision be subject to certain covenants, restrictions and easements herein described, each and all of which is and are for

the benefit of said property and for each owner thereof, and shall enter into the benefit of and pass with said real estate and each and every parcel thereof.

NOW, THEREFORE, the Declarants hereby adopt the following covenants, restrictions and easements for Viscaya Point Subdivision, hereinafter referred to as the "Subdivision."

1. For the purposes of further insuring that the land so platted is developed as an area of high standards, the Committee, consisting of the Declarants or their representatives, reserve the right (i) to control the design and placement of buildings, structures and other improvements placed on each lot in the Subdivision, as well as (ii) to make, from time to time, such written exceptions to one or more of these reservations and covenants as the Committee shall deem appropriate and proper. However, any such exception or waiver shall not constitute an exception or waiver for any other lot, lots, parcel or parcels within the Subdivision.

Whether or not the provisions of the Covenants (or any of them) are specifically stated in any conveyance of a lot or lots made before now or hereafter made by the Committee or future owner(s) of any lot(s) in the Subdivision, the Purchaser/owner and/or occupant of each and every lot thereof, by acceptance of a deed thereto, or by taking possession thereof, covenants and agrees that no building, wall, fence or other structure shall be erected or placed upon such lot thereof unless and until the building plans, the specifications therefor, and plat plan have been approved in writing by the Committee. Each such building, wall, fence or structure shall be placed on said lot(s) only in accordance with the building plans, specifications and plot plans so approved. Refusal of approval of building plans, specifications or plot plans by the Committee may be based on any or no grounds, including purely aesthetic grounds, which, in the sole and uncontrolled discretion of the Committee shall be deemed sufficient. No alteration of the exterior appearance of the buildings, walls, fences or structures on any Subdivision lot(s) shall be made without like approval. If the Committee shall fail to approve or disapprove the plans, specifications and/or plot plans within thirty (30) days after written request therefor is delivered to the Committee, then such approval shall not be required, provided, however, that no building, wall, fence or other structure shall be erected on any Subdivision lot(s) which violates any provision of the Plat or any of the provisions herein.

Prior to application for improvement/building permits from Vigo County, Indiana for the construction/alteration of a residential dwelling in the Subdivision, building plans, specifications and plot plan shall be submitted to the

Committee for prior written approval, except for existing improvements. Such approval shall, during the development period as signified by the Committee, include building design, color and location, as well as plans for private drives, tree preservation methods and proposed landscaping. (Conformity and harmony of external design with existing structures in the Subdivision with respect to the topography and finished ground elevations, the destruction/preservation of trees and vegetation and any other matter as may effect the environment and ecology of the Subdivision, as well as the preservation of streets and the surface and subterranean drainage systems within the Subdivision, shall all be proper areas of concern for the Committee). All residences built in the Subdivision shall be built by the Developer or a contractor approved by the Committee, who has experience in custom construction in Vigo County, Indiana of housing comparable to the standards contemplated by these Covenants.

2. Each lot of the Subdivision shall be used only for single-family residence purposes. There shall not exist on any of such lot at any time more than one such residence. No duplex, apartment building or condominium structure shall be permitted in the Subdivision. No trailer, tent, shack, barn, or temporary building shall hereafter be constructed/erected on any of said lots in the Subdivision. Guest houses, pool houses or detached garages of any kind shall hereafter be constructed/erected on any Subdivision lot must be specifically approved by the Committee.

No professional office, business, trade or commercial activity of any kind shall be conducted in any building or on any portion of the property covered by these covenants, except as specifically permitted hereby. It is specially declared that Mark D. Armstrong may maintain an office in his home for the sale of lots and for construction purposes.

3. The Committee shall cause to be formed the Viscaya Point Home Owners Association, hereinafter referred to as the "Association." Each lot owner having one vote in decisions relative to its function. Each owner of a lot will be a member of the Home Owners Association and shall be subject to rules, regulations and assessments adopted and approved by the Home Owners Association. Mark D. Armstrong or his duly authorized representative shall, upon sale of all lots in the Subdivision convey in fee simple to the Home Owners Association the Commons Areas and related property interests which shall include but not be limited to the Commons Areas with the Lake for Surface and Subsurface Runoff, the Commons Areas in the cul de sacs, Commons and Drainage Control Area, the entrance and the private road system and right of way, as shown on the plat recorded in Plat Book 27 on Page 98, in the office of the Recorder of Vigo County, Indiana, on the 10th day of August, 1993. Said area shall be subject to

taxes for year of conveyance, to restrictions, conditions, limitations and to easements of record and public utilities.

4. The Association shall maintain, at its own expense, the following:

Commons Areas and related property in Paragraph 3 and the improvements thereon shall include, but not be limited to, the gatehouse and gatehouse equipment, street lighting, gates, posts, fencing, landscaping, mail boxes, signs, lighting, lake, fountain, and gazebo on east side of lake; the roadway and right of way; common areas; and any and all common fencing.

5. Lots 13 and 14 in the Subdivision shall be subject to a perpetual license to the Association for the maintenance and operation of the lake. Lots 13 and 14 in the Subdivision shall be subject to a perpetual easement to the Association for the use of the lake for drainage and recreational purposes.

6. The Association shall adopt such rules and regulations for the use and maintenance of the lake. There shall be no boats or other motorized craft used on the lake except for maintenance of the lake.

Lot 14 in the Subdivision shall be subject to a perpetual easement granted to the Association for the construction and maintenance of a entrance fence and landscaping for the Subdivision.

The rear building line area of all lots in the Subdivision and the Commons Areas of the Subdivision may be used for the construction and maintenance of a common fence for the Subdivision.

7. All single family dwellings, either one or two stories, shall be at least or exceed 2,200 sq. ft. of living area with a minimum of a three (3) car garage, with each garage being attached to said dwelling. The dwelling shall have the following: Exterior sidewall chimney shall be masonry veneer; the first floor shall be 60% minimum of masonry veneer; the roof shall be constructed of textured architectural shingles with fiberglass or asphalt as a minimum; and all driveways and sidewalks shall be concrete or similar aggregate and there shall be no asphalt or blacktop construction. The dwelling shall not be over 2-1/2 stories.

8. All lines or wires for telephone, power, cable, television or other wires shall be placed underground and no such wires shall be exposed on the exterior of any building. No outside television or radio, aerial, disc or antenna satellite or other aerial, disc or antenna for reception or

transmission shall be maintained upon any lot except prior written approval, as provided above.

9. Maintenance of the surface of any right-of-way for a street from the edge of its hard surface to the property line of a lot shall be the responsibility of the owner of the lot whose property line abuts said street right of way.

10. No animals or poultry, except common house pets of any kind shall be maintained, reared, or harbored on the premises. No dog houses, kennels or animal pens shall be maintained upon any lot, except upon prior written approval as provided above.

11. No obnoxious, offensive, deleterious, or objectional odors, sounds, light or activity of any kinds shall be permitted to exist which could be an annoyance or nuisance to the neighborhood.

12. Each property owner shall exercise as much care as is possible to retain natural vegetation, trees, shrubs, and other similar growth.

13. Recreation structures, including but not limited to swing sets, playground equipment and basketball goals shall be constructed in a manner as to conformity and harmony of external design in keeping with the high standards of the Subdivision.

14. Any structure once started is to be completed within a period not to exceed nine (9) months from the date of commencement of construction. This provision to include exterior site work and planting and seeding of a lawn.

15. No boat, boat trailer, house trailer, camper, horse trailer, recreational vehicle, truck or other vehicle, or any part thereof shall be stored or permitted to remain on any residential lot unless the same is stored or placed in a garage or fully-enclosed space, except for temporary storage for a period not to exceed five (5) consecutive days in duration, with such temporary occurrences not to exist more than two (2) times in any one calendar year. No motor vehicle may be parked overnight on any street in the subdivision.

16. Oil drilling, oil development operations, refining, mining operations of any kind, or quarrying shall not be permitted upon or in any of the building areas in the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any of the building areas covered by these covenants.

17. Permanent exposed clothes poles and lines, garbage cans, trash barrels, burning barrels, or other above ground

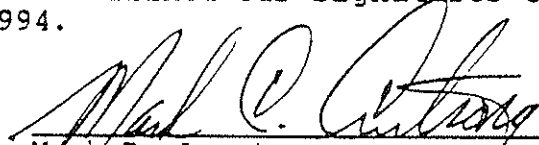
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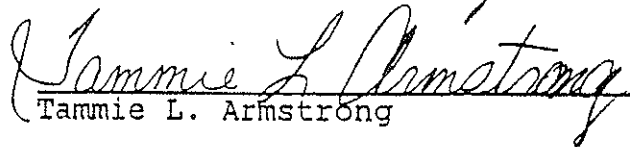
18. These covenants are to run with the land and shall be binding as to all parties and all persons claiming under them until April 1, 2004, at which time said covenants shall be automatically extended for successive periods of five (5) years unless by vote of a majority of the then owners of the lots covered by these covenants it is agreed to change said covenants in whole or in part.

19. If the parties hereto, or any of them, or their heirs, successors, assigns or representatives shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said tract, his representative or assigns, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent him or them from so doing and to recover damages, reasonable attorney fees, and other dues for such violation, including all costs of said prosecution.

20. Invalidations of any one of these covenants or any part thereof by judgment of court order shall in no wise effect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, we have affixed our signatures this 24<sup>th</sup> day of MAY, 1994.

  
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Mark D. Armstrong

  
\_\_\_\_\_  
Tammie L. Armstrong

STATE OF INDIANA)  
                                  )SS:  
COUNTY OF VIGO    )

Before me, the undersigned, a Notary Public in and for said County and State, this 24th day of May, 1994, personally appeared Mark D. Armstrong and Tammie L. Armstrong, husband and wife.

  
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Notary Public

My Commission Expires:  
5-14-95

County of Residence:  
Wyo