

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE No: \_\_\_\_\_

FLDDBROOK PROPERTY OWNER'S  
ASSOCIATION, INC., a Florida not-for-profit  
corporation,

Plaintiff

v.

**COMPLAINT**

UNIT YIGIT as Trustee of the UNIT YIGIT  
REVOCABLE TRUST u/a/d May 4, 2022, and  
MICHAEL TRUSSELL,

Defendants.

**COUNT I**

COMES NOW the Plaintiff, FLDDBROOK PROPERTY OWNER'S ASSOCIATION, INC., a Florida not-for-profit corporation, by and through its undersigned attorney, and sues the Defendants, UNIT YIGIT, as Trustee of the UNIT YIGIT REVOCABLE TRUST u/a/d May 4, 2022, and MICHAEL TRUSSELL, and alleges:

1. The Plaintiff, FLDDBROOK PROPERTY OWNER'S ASSOCIATION, INC., ("ASSOCIATION") is a Florida not-for-profit corporation, is doing business in the State of Florida and is a homeowner's association subject to Florida Statutes Chapter 720.

2. The Defendant, UMIT YIGIT, as Trustee of the UMIT YIGIT REVOCABLE TRUST u/a/d May 4, 2022, ("YIGIT"), is a resident of Palm Beach County, Florida, over the age of 18 years and otherwise sui juris.

3. YIGIT is the fee simple owner of the following described real property:

17669 FIELDBROOK CIR N, BOCA RATON FL 33496-1566

Lot 16, Block 2, Fieldbrook, according to the Plat thereof as recorded In Plat Book 34, Page(s) 7 and 8 of the Public Records of Palm Beach County, Florida. ("Lot")

4. YIGIT is a member of the Association.

5. As a member, YIGIT is subject to the Declaration of Covenants and Restrictions of FIELDBROOK ESTATES, as amended and revived (hereinafter collectively referred to as "Declaration"), recorded in Official Record Book 26498, Page 1223, of the Public Records of Palm Beach County, Florida.

6. Section IV(8) of the Declaration provides in pertinent part "No parcel Owner will do or permit to be done any act upon any Lot which constitutes a nuisance to other Parcel Owners or occupants of residences in Fieldbrook."

7. Section V(1)(a) of the Declaration provides in pertinent part "The Architectural Committee shall be authorized to approve only such plans and specifications as are not inconsistent with applicable building codes and zoning ordinances of the applicable governing authority(ies), all of which applicable standards relating to the proposed construction or improvement shall be identified in writing by the submitting Parcel Owner at plan submission, along with documentation sufficient to evidence the plan's compliance therewith, all to the reasonable satisfaction of the Architectural Committee." Section V(2) of the Declaration provides "No building, outbuilding,

garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed or maintained on any Lot, or any part thereof, nor shall any alteration, addition, changing, repairing, remodeling, or adding to the exterior thereof be made, unless prior to the commencement of any such construction, excavation or other work, two complete plans and specifications therefor, including front, side and rear elevations, and specifications therefor, including, front, side and rear elevations, and floor plans for each floor and basement and two plot plans indicating and fixing the exact location of such structure or such altered structure on the Lot with reference to the street and side lines thereof shall have been first submitted by the Parcel Owner to the Architectural Committee for approval and have been approved in writing by the committee.”

8. Section IV(3) of the Declaration provides “All fences or walls erected upon Lots shall be approved by the Architectural Committee as to location and acceptable materials.”, and Section VII (3) of the Declaration provides “No dwelling, house, garage, outbuilding, or other structure of any kind shall be built, erected, or maintained, upon any easements, reservations or rights of way, and said easements, reservations and rights of way shall at all times be open and accessible to public and quasi-public utilities, and to the Association and its assigns, designees and successors, all of whom shall have a right of ingress thereto and egress therefrom, and the authority to undertake such action as may be reasonably necessary in, under and upon said locations to preserve and protect said easements, reservations and rights of way from unauthorized construction or encroachment thereupon, any unauthorized occupancy or use thereof, and to otherwise maintain them for all such other purposes for which they were original created.”

9. In or about February 2023, YIGIT, through his tenant in possession of the Lot, the Defendant, MICHAEL TRUSSELL, (“TRUSSELL”), who is a resident of Palm Beach County,

Florida, painted the house on the Lot a different color without first applying for or obtaining approval of the Architectural Committee. On or about April 19, 2023, YIGIT, through TRUSSELL removed the existing life- safety fence enclosing the swimming pool on the Lot without first applying for or obtaining the Architectural Committee's approval or the permission of the County of Palm Beach (in violation of the swimming pool enclosure ordinance). As a result of the unauthorized removal of the swimming pool fence enclosure, YIGIT through TRUSSELL, created a hazard and life safety issue, endangering not only TRUSSELL'S minor child, but other children in the Fieldbrook Subdivision. On or about April 25, 2023, YIGIT through TRUSSELL applied for Architectural Committee approval to replace the improperly removed swimming pool fence, but prior to receiving Architectural Committee approval, and before the 30 day approval time period expired, YIGIT through TRUSSELL commenced installation of a perimeter fence with unapproved wire materials and fence posts within the Fieldbrook Platted 20 foot maintenance drainage easement. YIGIT and TRUSSELL were advised by the Association not to proceed with the installation of the fence, pending Architectural Committee review and approval of the Architectural Committee application. TRUSSELL stated he would not commence installation of the proposed replacement fence pending Architectural Committee approval, but then YIGIT through TRUSSELL proceeded with installation of unapproved wire material attached to perimeter fence posts during the weekend of May 6, 2023. A true and correct copy of a portion of the email exchange between the Association, YIGIT and TRUSSELL is attached hereto as Exhibit "A".

10. The ASSOCIATION is obligated to pay its undersigned attorney a reasonable fee for its services. Pursuant to Section XI(2) of the Declaration and F.S. Section 720.305(1) the ASSOCIATION is entitled to recover its reasonable fees and costs in the event it is the prevailing

party in this litigation.

11. A true and correct of the relevant portions of the Declaration as cited in this Complaint are attached hereto and made a part hereof as Exhibit "B"

12. This is an action for injunctive relief against YIGIT and TRUSSELL, to enjoin them from installing the perimeter fence on the Lot unless the Architectural Committee approves the proposed replacement fence on the Lot and to require YIGIT and TRUSSELL to remove the unauthorized installation of portions of the unapproved replacement fence, and to require YIGIT and TRUSSELL to reinstall the original swimming pool enclosure fence and to restore the color of the house to the color of the house on the Lot which existed before YIGIT through TRUSSELL changed it without Architectural Committee approval or application.

13. The ASSOCIATION has performed all conditions precedent, or they have been waived or excused. The ASSOCIATION has not demanded YIGIT and TRUSSELL to participate in pre-suit mediation, because this is an emergency due to YIGIT's and TRUSSELL's failure and refusal to stop installation of portions of the fence without first obtaining Architectural Committee approval and the imminent danger to children the un enclosed swimming pool created because it is not enclosed as required by the Palm Beach County ordinances.

14. The ASSOCIATION is entitled to equitable relief and injunctive relief pursuant to F.S. Section 720.305(1), and Section XI(1) of the Declaration.

15. The ASSOCIATION has a clear legal right to require YIGIT and TRUSSELL to comply with the terms, covenants and conditions of the Declaration and Florida Statutes.

16. The ASSOCIATION has no adequate remedy at law in that money damages will not correct the harm being suffered by the ASSOCIATION. Only injunctive relief requiring YIGIT and

TRUSSELL to comply with the Declaration and statutory provisions will result in the compliance by YIGIT and TRUSSELL with the terms, covenants and conditions contained in the Declaration, as amended, since payment of money damages will not cure the current violations.

17. The ASSOCIATION is suffering and will continue to suffer irreparable harm in that there is a continuing violation of the Declaration, as amended, and Florida Statutes and the Defendants non-compliance would encourage other members of Plaintiff to violate the terms of the Declaration which may estop the Plaintiff from enforcing these same terms against other members of the Plaintiff in the future.

18. Issuing an injunction will serve the public interest because it will compel YIGIT and TRUSSELL to comply with the valid Restrictive Covenants and Equitable Servitudes contained in the Declaration and the provisions of Florida Statutes Chapter 720.

WHEREFORE, the Association respectfully requests the Court to grant the following relief with respect to the Defendants, UMIT YIGIT, as Trustee of the Umit yigit revocable trust U/A/D May 4, 2022, and MICHAEL TRUSSELL:

A. Enter a temporary and permanent Injunction requiring YIGIT and TRUSSELL to remove the unauthorized installation of portions of the fence, to require YIGIT and TRUSSELL to reinstall the original fence enclosure in accordance with Palm beach County Code and to restore the color of the house on the Lot to the color which existed before YIGIT through TRUSSELL changed it without Architectural Committee approval or application, and to compel YIGIT and TRUSSELL to comply with the valid Restrictive Covenants and Equitable Servitudes contained in the Declaration and the provisions of Florida Statutes Chapter 720.

B. Awarding to the ASSOCIATION incidental and consequential damages;

- C. Awarding the ASSOCIATION its reasonable attorney fees and costs; and
- D. Awarding the ASSOCIATION such other and further equitable relief as the Court may deem just and proper under the circumstances, with or without notice.

## COUNT II

19. The ASSOCIATION repeats the allegations contained in paragraphs (1) through (11) and (13) of Count I of this Complaint and incorporates them by reference herein.

20. This is an action for Declaratory Relief pursuant to Chapter 86 of the Florida Statutes.

21. A dispute has arisen between the Association and YIGIT and TRUSSELL concerning the rights and privileges contained in the Declaration.

22. The ASSOCIATION maintains that YIGIT and TRUSSELL are required to remove the unauthorized installation of the fence on the Lot, and to require YIGIT and TRUSSELL to reinstall the original swimming pool fence enclosure on the Lot and to restore the color of the house to the color which existed before YIGIT through TRUSSELL changed it without Architectural Committee approval or application.

23. The ASSOCIATION maintains that neither YIGIT or TRUSSELL can make any alterations, additions, changes, or installations on the Lot or to the exterior of the home on the Lot without first applying for and obtaining Architectural Committee approval.

24. A judicial determination of the ASSOCIATION's rights under the Declaration is necessary and appropriate at this time for the reasons stated above and to ensure that YIGIT and TRUSSELL are obligated to reinstall the unapproved removal of the life-safety swimming pool fence enclosure, restore the paint color of the house on the Lot, and to remove the portion of the perimeter fence that has been installed without first obtaining Architectural Committee approval.

25. All conditions precedent to the filing of this action have been performed by the ASSOCIATION or they have been waived or excused.

26. Attached hereto and made a part hereof as Exhibit "C" is the Fair Debt Collection Practices Act Notice, to the extent it may be applicable.

WHEREFORE, the Plaintiff, FIELDBROOK PROPERTY OWNER'S ASSOCIATION, INC., respectfully requests the Court to enter a Judgment awarding the ASSOCIATION the following legal and equitable relief:

A. The entry of a Judgment declaring that YIGIT's and TRUSSELL's installation of the unapproved perimeter fence on the Lot, the removal of the original fence enclosure around the swimming pool on the Lot, and changing the color of the house on the Lot without Architectural Committee approval is a violation of the Declaration, specifically, Sections V (1)(a) and (2) and Section VI, Section (3) and Section VII(3). If YIGIT and TRUSSELL fail to do so the ASSOCIATION may do so at YIGIT's expense by entering onto YIGIT's Lot and summarily removing the unapproved fence, and reinstalling the original swimming pool enclosure and restoring the color of the house on the Lot to its original color, pursuant to Sections IV(8), (13) and (14) and XI(1) of the Declaration, that the cost and expenses of removal of the unapproved fence, reinstallation of the original swimming pool fence and restoring the house on the Lot to the original color can be assessed against YIGIT in the same manner as a maintenance assessments and lien, and thereafter it can be foreclosed, and that a judgment for damages be entered against YIGIT for such expenses;

B. Awarding ASSOCIATION damages;

C. Awarding ASSOCIATION its reasonable attorney fees and costs; and



D. Awarding ASSOCIATION such other relief, whether legal or equitable as the Court deems fit, just and proper under the circumstances, either with or without notice as the circumstances require.

PLEASE TAKE NOTICE that the following email address is to be used for mandatory electronic service pursuant to Florida Rules of Judicial Administration, Rule 2.516 in the above referenced matter. [Steven@RubinLawFlorida.com](mailto:Steven@RubinLawFlorida.com)

PLEASE TAKE NOTICE that all documents not to be filed via mandatory electronic service pursuant to Florida Rules of Judicial Administration, Rule 2.516, shall be sent to the following address:

Steven D. Rubin, Esq.  
980 North Federal Highway Suite 440  
Boca Raton, Florida 33432

Respectfully submitted,



STEVEN D. RUBIN, ESQUIRE  
Attorney for Plaintiff, FIELDBROOK  
PROPERTY OWNER'S ASSOCIATION, INC.  
Florida Bar No: 329223  
980 North Federal Highway Suite 440  
Boca Raton, FL 33432  
Telephone: (561) 391-7992  
Email: [Steven@RubinLawFlorida.com](mailto:Steven@RubinLawFlorida.com)

Michael Trussell

17669 Fieldbrook Circle North

Boca Raton Florida 33446

Cell: [REDACTED]

Exhibit "A"

**From:** Steven Rubin <steven@rubinlawflorida.com>

**Sent:** Friday, May 5, 2023 9:50 AM

**To:** Mike [REDACTED]

**Cc:** umit [REDACTED], Marcos Viale [REDACTED]

**Subject:** 17669 Fieldbrook Circle N, Boca Raton (correcting address)

Michael,

I represent Fieldbrook Property Owners Association, Inc. I received a copy of your email you sent to Marcos Viale on May 2, 2023, at 2:55 PM.

I am writing to advise you that pursuant to Section V(2) of the Declaration of Covenants and Restrictions for Fieldbrook, no alteration, construction, erection, addition, changing, repairing, remodeling, or adding to the exterior of a Lot can be made until the Architectural Committee ("AC") approves the proposed plans in writing. This includes an exterior fence. The AC has thirty days to consider approving the plans. The Lot owner submitted plans to the AC on April 25, 2023, with respect to a proposed exterior perimeter fence which must enclose the swimming pool for life-safety reasons and per Code. The swimming pool can not be accessed by a child from the exterior of the home unless through a Code compliant secured gate.

I understand that without first obtaining the required Architectural Committee approval, the Lot owner, or someone

on his behalf, on or about April 19, 2023, removed the existing fence which enclosed the swimming pool, thereby creating a self-imposed, life-safety concern and a violation of the Palm Beach County Building Code. The removed fence was previously approved as to location, materials and color. The Owner must apply to the AC to permit a temporary life-safety barrier fence to enclose the swimming pool. The Association is not waiving any of its rights to pursue its available remedies for the unauthorized removal of the existing fence without submitting an AC application or its approval. The Association also notes that the exterior of the home was recently painted a different color without first submitting an application for AC approval or obtaining AC approval.

Please note that in your email you did not cite to the correct sections of the Declaration which govern approval of fences. As you are now in receipt of a copy of the Declaration, please refer to Article VI(3) which gives authority of the AC to approve fences as to location and acceptable materials, and to Section VII(3) which prohibits a structure of any kind to be erected on an easement and requires such easement to be open to the Association and utility providers at all times. The Owner's Lot has a 20 foot drainage maintenance easement within the Lot boundary next to the lake as regulated by the Lake Worth Drainage District and the South Florida Water Management District. Moreover, historically, the AC has not approved an exterior perimeter fence that comes within 30 feet of the lake, and the AC has never approved a three board ranch perimeter fence with wire enclosure. The AC has approved properly located fences constructed of black aluminum and swimming pool enclosure fences constructed of either black or white aluminum. Clearly, the swimming pool can be enclosed well within these parameters, as evidenced by the fence which was recently removed. The plans submitted with the application show the proposed fence within the 20 foot drainage

maintenance easement, and the plans must show the location of the fence no closer than 30 feet from the Lot boundary line located along the lake shore.

Finally, my review of the plans that were submitted by you and the Owner do not show the exact location of the fence relative to the boundary lines, the drainage maintenance easement, or the street. Section V(2) of the Declaration requires this detail. Instead, someone merely drew a proposed fence line location in one drawing, and a yellow and blue highlighted drawing with your interpretation of the fence line in yellow and the shore line in blue, without any measurements as to distance from the Lot lines or the drainage maintenance easement.

If the Owner wants to erect a temporary life-safety barrier immediately adjacent to the swimming pool (not a perimeter fence), please submit such plans to the AC as soon as possible, and include the location, materials and color of such barrier and how long the Owner is requesting the temporary life-safety barrier to remain. Any plans submitted to the AC must be signed by the Owner of the Lot. Until plans are approved by the AC, no fence can be installed or erected on the Lot, and the perimeter wooden posts and construction material that were installed on the Lot without submission of an application or approval of the AC must be immediately removed.

Finally, Article V of the Declaration requires the Owner to comply with all applicable governmental regulations. No fence will be approved by the AC until a permit has been issued by Palm Beach County, specifically and most importantly the temporary life-safety barrier fence.

Thank you for your cooperation. All of the Association's rights and remedies are expressly reserved.

Steve

cc: Mr. Umit Odabas-Yigit

Steven D. Rubin, B.C.S.

Florida Bar Board Certified Specialist:

Real Estate Law

Condominium and Planned Development Law

980 N. Federal Highway

Suite 440

Boca Raton, FL 33432

p. (561) 391-7992

f. (561) 270-0478

Steven@RubinLawFlorida.com

www.RubinLawFlorida.com

**ALWAYS VERIFY WIRING INSTRUCTIONS BY TELEPHONE  
BEFORE WIRING**

This e-mail transmission is intended only for the use of the intended recipient(s) and it may be subject to attorney-client privilege, constitute attorney work product, and be confidential. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please (i) do not read it, (ii) reply to the sender that you have received the message in error, and (iii) erase or destroy the message. Any review, retransmission, conversion to hard copy, copying, circulation, communication, dissemination, or other use of this message or any attachment thereto is strictly prohibited and may be illegal. Any obtainment, communication, use, or dissemination of metadata relating to this message or any attachment thereto is unauthorized and strictly prohibited. Thank you.

Michael Trussell

President

[REDACTED]

[REDACTED]

[REDACTED]

E-mail: Mike [REDACTED]

Website: [REDACTED]

From: Steven Rubin <steven@rubinlawflorida.com>

Sent: Friday, May 5, 2023 2:16 PM

To: Mike [REDACTED]

Cc: umit [REDACTED] Marcos Viale <marcos.viale@foreidential.com>

Subject: Re: 17669 Fieldbrook Circle N, Boca Raton (correcting address)

Mike,

Thank you for your email. The Association's position is very clear. Please comply with the governing documents of Fieldbrook as outlined in my prior email to you, including without limitation, not installing a fence or other structures without first obtaining AC approval. The Association would appreciate your willingness to comply with these procedures.

Steve

Steven D. Rubin, B.C.S.

Florida Bar Board Certified Specialist:

Real Estate Law

Condominium and Planned Development Law

980 N. Federal Highway

Suite 440



Steven Rubin &lt;steven@rubinlawflorida.com&gt;

**RE: 17669 Fieldbrook Circle N, Boca Raton (correcting address)**

1 message

Mike [REDACTED]  
To: Steven Rubin <steven@rubinlawflorida.com>

Fri, May 5, 2023 at 2:57 PM

Cc: "umit [REDACTED]" Marcos Viale [REDACTED]

Thank you Steve,

We did comply and we are waiting on a response.

It is my intention to remove the wooden posts and install a new Black aluminum fence like our neighbor, but not until they respond to our first request. I have produced all the documents that the Property manager Marcos requested, and the package was reviewed by Kecie Cezard at FRS Residential to be certain all required checked marked ARB forms were in order including our \$1000 submittal payment.

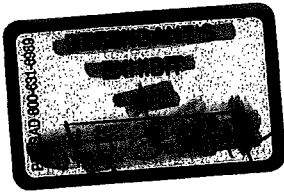
Although I am at fault for not submitting the documents prior to starting the new fence work, the ARB accepted our late submittal through FRS, after the fact. I think you may be missing one of the drawings, that outline the new fence 7 feet from the lakes edge. Nevertheless, no further work will continue until they are finished exercising their 30 day vacation that they provide for themselves.

Please let me know if the ARB would like to visit me at my property in person on some date sooner than later that may be convenient for them and start acting like friendly neighbors with constructive ideas for the betterment of the community rather than hide behind you, and Marcos. I am all about communication, and cooperation. I have 147 employees, and we dominate the State of Florida with our SPF Roofing System.

My position is clear as well. I am being discriminated against from a board with double standards. This will make a great story for channel 7.

Thank you again Steve, enjoy your weekend.

Exhibit "B"



REVIVED DECLARATION OF  
PROTECTIVE COVENANTS, RESTRICTIONS  
RESERVATIONS, SERVITUDES AND EASEMENTS  
OF  
A MAJORITY OF PARCEL OWNERS OF LOTS  
IN FIELDBROOK AS TO FIELDBROOK

THIS REVIVED DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS, RESERVATIONS, SERVITUDES AND EASEMENTS OF A MAJORITY OF PARCEL OWNERS OF LOTS IN FIELDBROOK AS TO FIELDBROOK ("Revived Declaration"), is hereby declared by the undersigned record owners of a majority of the lots (collectively, the "Declarant") included in the plat of a certain residential subdivision in Palm Beach County, Florida known as Fieldbrook ("Fieldbrook"), as the plat thereof is recorded in Plat Book 34, Pages 7 and 8, on file in Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida (the "Plat").

WITNESSETH:

WHEREAS, the developer of Fieldbrook, Barsmith Corporation, a former Florida corporation (the "Developer"), executed that certain instrument captioned *Declaration of Protective Covenants, Restrictions, Reservations, Servitudes and Easement of Barsmith Corporation as to Fieldbrook* dated January 26, 1978 (the "Original Declaration"), and thereafter caused same to be recorded on February 8, 1978 in Official Record Book 2808, Page 745 of the Public Record of Palm Beach County, Florida;

WHEREAS, the Developer thereafter caused the Original Declaration to be amended by that certain *Amended Declaration of Protective Covenants, Restrictions, Reservations, Servitudes and Easements of Barsmith Corporation as to Fieldbrook* dated October 17, 1979 (the "First Amendment"), recorded November 1, 1979 in Official Record Book 3166, at Page 757 of the Public Record of Palm Beach County, Florida;

WHEREAS, Fieldbrook Property Owners Association, Inc., a Florida not for profit corporation (the "Association"), succeeded the Developer as the applicable responsible party in respect of Fieldbrook to cause the care, maintenance and rehabilitation of its buffer areas, park area, lakes, easements, walkways, canals and other facilities and improvements designated on the Plat (collectively, the "Common Elements"), and to enforce the Original Declaration as amended by the First Amendment;

WHEREAS, the Association thereafter caused the Original Declaration, as amended by the First Amendment, to be amended again, by that certain *Second Amendment to the Declaration of Protective Covenants, Restrictions, Reservations, Servitudes and Easements for Fieldbrook Property Owner's Association, Inc.* dated November 18, 2008 and recorded December 11, 2008 in Official Record Book 22990, Page 1224 of the Public Record of Palm Beach County, Florida;

WHEREAS all fifty-four (54) of the lots in the Plat (each, a "Lot", and, collectively, the "Lots") have been heretofore purchased from the Developer, or its applicable successor in title to the Plat, and all the Lots have heretofore been improved by their record title holders (each a "Parcel Owner" and, collectively, the "Parcel Owners"), or certain of those Parcel Owners' predecessors in title, through construction of single family residences upon those Lots in

FILE NUM 20130528873 OR BOOK PAGE 28498H 223 DATE: 12/11/2013 11:21:36 Pgs 1223 - 1271 (49pgs)  
Sharon R. Beck, CLERK & COMPTROLLER



**SECTION V - - DESIGNATION OF ARCHITECTURAL COMMITTEE;  
APPROVAL OF PLANS, LOCATION OF STRUCTURES AND CONTRACTOR**

- a. The Association's board of directors shall annually designate an Architectural Committee comprised of three (3) individuals, a minimum of two of whom shall be Parcel Owners and one of whom shall be an architect or designer of custom residential homes. The Architectural Committee shall be charged with the responsibility to, among other things, review submitted Parcel Owners' plans for construction and re-construction of permanent improvements and landscapes upon the Lots and to discharge such other duties as are reasonably consistent with the scope of responsibilities attributed it under this Revived Declaration. The Architectural Committee shall be authorized to approve only such plans and specifications as are not inconsistent with applicable building codes and zoning ordinances of the applicable governing authority(ies), all of which applicable standards relating to the proposed construction or improvement shall be identified in writing by the submitting Parcel Owner at plan submission, along with documentation sufficient to evidence the plan's compliance therewith, all to the reasonable satisfaction of the Architectural Committee.
  - b. In the event of the failure, refusal, or inability of any designee named to the Architectural Committee to act upon any Parcel Owner's submission for possible approval, the Association's board shall replace any such designee within thirty (30) days of such failure, refusal or inability through its appointment of a replacement designee to serve on the Architectural Committee.
2. No building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed or maintained on any Lot, or any part thereof, nor shall any alteration, addition, changing, repairing, remodeling, or adding to the exterior thereof be made, unless prior to the commencement of any such construction, excavation or other work, two complete plans and specifications therefor, including front, side and rear elevations, and floor plans and specifications therefor, including front, side and rear elevations and floor plans for each floor and basement and two plot plans indicating and fixing the exact location of such structure or such altered structure on the Lot with reference to the street and side lines thereof shall have been first submitted by the Parcel Owner to the Architectural Committee for approval and have been approved in writing by that committee.
3. Approval of plans, specifications and location of buildings upon a Lot by the Architectural Committee shall be endorsed on both sets of said plans and specifications and one set shall forthwith be returned by the Architectural Committee to the person submitting the same.
4. The approval of the Architectural Committee of any plans or specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Architectural Committee of the right to object to any of the features or elements embodied in such plans or specifications if and when the same features or elements are embodied in any subsequent plans and specifications submitted for approval for use on other Lots.
5. After such plans and specifications and other data submitted have been approved by the Architectural Committee, no building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon any Lot unless the same shall be erected constructed or altered in conformity with the plans and specifications, and plot plans theretofore approved by the Architectural Committee or its duly appointed agent, as provided herein. If any building, outbuilding, garage, fence, wall, retaining

wall, or other structure of any kind shall be erected, constructed, placed, altered, or maintained upon said property, other than in accordance with the approved plans and specifications and plot plan therefor, such erection, construction, placing, alteration or maintenance shall be deemed to have been undertaken without the approval of the Architectural Committee as required by this Declaration.

6. a. After the expiration of one year from the date of completion of construction of any structure upon a Lot or an alteration thereto, such structure or alteration shall be deemed to comply with all of the provisions hereof unless notice to the contrary shall have been recorded in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, or legal proceedings shall have been instituted to enjoin non-compliance or enforce compliance.

b. In the event that the Architectural Committee shall fail, for a period of at least thirty (30) days, to have provided affirmative written notice to the submitting Parcel Owner of its approval or disapproval of any plans, specifications, or plot plan, submitted therefor, then the same shall be deemed to have been approved.

7. Any agent or member of the Architectural Committee may, at any reasonable time, enter and inspect any building or structure being constructed upon a Lot in connection with a Parcel Owner's submission of the plans and specifications which have been approved by it, in the event that a violation of the covenants, restrictions, reservations, servitudes or easements of this Revived Declaration is reasonably believed to be occurring or to have occurred.

8. Prior to the occupancy of any newly constructed or substantially re-constructed structure upon any Lot, the Parcel Owner thereof shall obtain a Certificate of Occupancy issued by the applicable governing authority evidencing that the construction thereof has been completed in accordance with the plans and specifications previously approved by the Architectural Committee. The Architectural Committee may, from time to time, delegate the authority to approve or disapprove the plans and specifications and plot plans to persons possessing appropriate credentials to competently evaluate such documents for compliance with the requirements specified herein.

9. All building contractors engaged by a Parcel Owners to construct or improve structures or other features upon Lots shall possess the requisite credentials, experience and licensure to competently and lawfully complete such projects, subject to verification by the Architectural Committee to its reasonable satisfaction.

#### SECTION VI - SETBACKS AND BUILDING LIENS

1. No building shall be erected nearer than fifty (50) feet to any Street line or fifty (50) feet to the line of the lake, or twenty (20) feet to the Lot side line, or thirty (30) feet to the rear Lot line, unless approved by the Architectural Committee.

2. Swimming pools shall not be nearer than fifty (50) feet to any Street line, twenty (20) feet to the side Lot lines, thirty (30) feet to rear Lot lines or line of the lake, unless approved by the Architectural Committee.

3. All fences or walls erected upon Lots shall be approved by the Architectural Committee as to location and acceptable materials.

4. In the event one Lot and the whole of a contiguous Lot, all in one ownership, shall be used as one building site for one residence building and its appurtenant outbuildings permitted by this Revived Declaration, then the side lines (other than abutting, adjacent side lines) and rear lines of such Lots shall be deemed to be the side Lot lines and rear Lot lines of such Lots.

#### **SECTION VII - STREETS, EASEMENTS, RESERVATIONS, RIGHTS OF WAY AND ADDITIONAL RESTRICTIONS**

1. No title to land in any Street in Fieldbrook is intended to be conveyed or shall be conveyed to the grantee under any deed, or to the purchaser under any contract of purchase, unless expressly so provided in such deed or contract of purchase.

2. Easements for ingress and egress, access control, installation and maintenance of utilities and drainage for utilities shall be reserved as shown on the Plat.

3. No dwelling, house, garage, outbuilding, or other structure of any kind shall be built, erected, or maintained upon any easements, reservations or rights of way, and said easements, reservations and rights of way shall at all times be open and accessible to public and quasi-public utilities, and to the Association and its assigns, designees and successors, all of whom shall have a right of ingress thereto and egress therefrom, and the authority to undertake such action as may be reasonably necessary in, under and upon said locations to preserve and protect said easements, reservations and rights of way from unauthorized construction or encroachment thereupon, any unauthorized occupancy or use thereof, and to otherwise maintain them for all such other purposes for which they were originally created.

#### **SECTION VIII - SCOPE, DURATION, COVENANTS, RESTRICTIONS, RESERVATIONS, SERVITUDES, AND EASEMENTS**

1. All of the covenants, restrictions, reservations, servitudes and easements set forth in this Revived Declaration are imposed upon the Lots and Common Areas for the direct benefit thereof and the Parcel Owners as a part of the general plan of development, improvement, building, equipment, and maintenance of the Lots and Common Areas. Each grantee or purchaser under a contract for sale or agreement for purchase of any Lot, by accepting a deed to said Lot, whether or not it shall be so expressed in any such deed, or by entering into and completing any contract for sale or agreement for purchase, accepts title in the said Lot subject to the covenants, restrictions, reservations, servitudes and easements set forth in this Revived Declaration and agrees to be bound by each such covenant, restriction, reservation, servitude and easement. The covenants, restrictions, reservations, servitudes and easements set forth in this Revived Declaration shall be effective upon the date that this Revived Declaration is recorded of public record for a period of ten (10) consecutive years, and shall, subject to the amendatory provisions set out in subparagraph (2) of this Section VIII of this Revived Declaration, be continued automatically and without further notice for successive periods of ten (10) years each, without limitation.

2. This Revived Declaration may be amended and/or restated in accordance with any of the following procedures:

a. at any properly noticed annual meeting of the Association, by a majority vote of the members, the notice of which annual meeting shall have identified such proposed

amendatory action as an agenda item thereat;

b. by any properly noticed special meeting of the Association, by majority vote of the members of a quorum of the members, as would otherwise be consistent with the Bylaws and Articles of Incorporation of the Association, as well as the applicable provisions of Chapters 607 and 617, Florida Statutes, the notice of which have identified, at a minimum, such proposed amendatory action, and the text thereof, as the subject matter thereof; or

c. in connection with any properly noticed, specially-called special meeting of the Association for the purpose of any such amendment and/or restatement, via the written consent delivered by a majority of the members of the Association in lieu of such a special meeting, which shall be valid upon the execution of said written consent by the last of the Parcel Owners representing such a majority, which written consent shall, furthermore, have attached as an exhibit thereto, the text of any such amendment and/or restatement.

Any amendment to and/or restatement of this Revived Declaration that has been properly authorized as hereinabove provided shall thereafter be recorded in the Public Record of Palm Beach County, Florida.

3. Damages are hereby declared not to be adequate compensation for any breach of the covenants, restrictions, reservations, servitudes or easements of this Revived Declaration, and, therefore, any such breach and continuance of such breach shall be subject to equitable remedies availed of the Association in such case under applicable Florida law, including injunction enjoining such offending party to cease and desist such offending conduct or condition constituting such breach, or from commencing any such offending conduct or creating such condition in the first instance.

#### **SECTION IX - MODIFICATION AND ANNULMENT OF COVENANTS, RESTRICTIONS, RESERVATIONS AND SERVITUDES**

Any of the covenants, restrictions, reservations, servitudes and easements contained in this Revived Declaration, may be annulled, waived, changed or modified with respect to all or any portion of a Lot by the Association joined in writing by the Parcel Owner of the Lot or Lots as to which any such annulment, waiver, change or modification would apply.

#### **SECTION X - SUBORDINATION OF COVENANTS, RESTRICTIONS, RESERVATIONS, SERVITUDES AND EASEMENTS**

All of the covenants, restrictions, reservations, servitudes and easements set forth in this Revived Declaration shall be subject to and subordinate to any recorded mortgage or deed of trust in good faith and for value at any time heretofore or hereafter executed collateralized by any part of the Common Elements, and the breach of any such covenants, restrictions, reservations, servitudes and easements shall not defeat the lien or encumbrance of any such mortgage or deed of trust; *provided, however*, the purchaser at any foreclosure sale under any such mortgage or deed of trust, or his or its successors and assigns, shall take and thereafter hold the title in such property subject to all of the covenants, restrictions, reservations, servitudes and easements set forth in this Revived Declaration.

**SECTION XI - VIOLATIONS OF COVENANTS, RESTRICTIONS,  
RESERVATIONS, SERVITUDES AND EASEMENTS**

1. The Association, or its designee, hereby reserves the authority to immediate entry upon any Lot upon which a breach or violation of any of the covenants, restrictions, reservations, servitudes and easements set forth in this Revived and summarily to abate or remove, at the expense of the Parcel Owner of the Lot, such erection, structure, building, thing or condition which constitutes such breach or violation, without the consequence of being deemed to have committed a trespass, and without liability or culpability for any damages occasioned thereby. Conduct constituting a breach or violation of any covenant, restriction, reservation, servitude and easement, in whole or in part, is hereby declared to be and to constitute a nuisance, and every remedy availed of the Association at law or in equity to redress such violation, including injunctive relief, shall be available to the Association as against any such offending Parcel Owner and such Lot. All such remedies shall be cumulative and not exclusive, and shall inure to the benefit of any of the Association's assigns, legal representatives and successors. The failure by the Association, or as and if applicable, the Architectural Committee, on the one hand, or by any Parcel Owner, on the other, or by any of their respective assigns, heirs, legal representatives or successors or assigns, to enforce any of such covenants, restrictions, reservations, servitudes, easements, liens, charges or other non-compliance therewith as herein contained in any one or more instances, shall be deemed a waiver of such right as to any one or more such future such offending circumstances.

2. In any action, suit or other judicial proceeding initiated for the enforcement of the covenants, restrictions, reservations, servitudes and easements contained in this Revived Declaration, the prevailing party in such controversy shall be entitled to recover from its opposite therein, all of its expenses and reasonable attorneys' fees and costs incurred in such proceedings, including through appeal.

**SECTION XII - ASSIGNMENT OF POWERS**

1. Any and all rights and powers and reservations of the Association herein contained may be deeded, conveyed or assigned to another corporation, co-partnership or individual and upon such deed, conveyance or assignment, such transferee corporation, co-partnership or individual, shall evidence its acceptance of such assignment and its assumption of such duties and powers, to the extent of such deed, conveyance or assignment, and shall have the same rights and powers, and be subject to the same obligations and duties as are reserved by the Association herein and thereupon the Association shall be relieved of the performance of any further duty or obligation hereunder to the extent of such deed, conveyance or assignment.

2. In the event the Association shall assign all of its rights, powers and privileges under this Revived Declaration to a successor, such assignee shall by instrument duly executed, acknowledged and recorded in the office of the Clerk of Circuit Court of Palm Beach County, Florida, acknowledge its acceptance of assignment and its agreement to be bound by each and all of the obligations hereunder. Thereupon, such successor to the Association shall be deemed to have succeeded to all of the rights, powers, reservations, obligations and duties as though such party had been the Association.

**SECTION XIII - FIELDBROOK PROPERTY OWNERS' ASSOCIATION, INC.**

Each Parcel Owner of a Lot shall, upon vestment of record title therein, shall be deemed

to have become a member of the Association and said Parcel Owner, in his or her capacity as a member of the Association, shall be subject to the terms and conditions of the Articles of Incorporation and Bylaws of the Association as well as to this Revived Declaration. Failure by any member in his or her capacity as a Parcel Owner of any Lot to pay the assessments levied as to the Lots by the Association shall lien against his ownership interest which lien may be enforced as hereinafter provided.

#### SECTION XIV- - ASSESSMENTS AND MAINTENANCE

1. Each Parcel Owner, for himself, his heirs, legal representatives, executors and assigns, covenants and agrees to, and each subsequent Parcel Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in any such deed shall be deemed to have covenanted and agreed, to pay his or her pro rata share, based on the total number of Lots, of the cost to the Association to maintain the Common Areas, and any taxes thereupon, as well as the cost of providing other reasonable and necessary services including but not limited to fire protection, police protection, street maintenance and garbage collection. Parcel Owners assessment in this regard shall be paid promptly when same becomes due. In the event of grantee's failure to pay same promptly when due, it shall constitute a lien upon the Lot and same may be enforced in equity as in the case of any lien foreclosure.

2. The Property Owner's Association shall operate and maintain the Common Areas in a neat and orderly fashion, for the use of the Parcel Owners and for the common and mutual benefit of the Lots and improvements within Fieldbrook.

3. Each Lot of the Property shall be subject to a monthly charge per such Lot, as is more specifically provided for in the Articles of Incorporation and By-Laws of the Association, in title amount fixed by the Board of Directors of the Association determined as aforesaid.

4. The common areas provided for in the plat of Fieldbrook hereinbefore described, shall be maintained, consistent with those requirements herein, by and at the expense of Fieldbrook Property Owners Association. The portion of the Plat containing open space may not be vacated in whole or in part unless the entire Plat is vacated.

5. The monthly charges shall become due and payable at such time or times as the Association may determine and shall, when due, become a lien on the Lot, dwelling unit or other parcel of the Property against which the charge is made.

6. The common areas provided for in the plat of Fieldbrook hereinbefore described, shall be maintained, consistent with those requirements herein, by and at the expense of Fieldbrook Property Owners Association.

#### SECTION XV- - REPLACEMENT OF UNITS

In the event any residential unit built under this development is destroyed or removed by or for any cause, if replaced, said unit shall be replaced with a unit of at least similar size and type.

#### SECTION XVI- - HEADINGS OF SECTIONS

The headings of the sections of this Revived Declaration indicated by Roman numeral are

**EXHIBIT "C"**  
**NOTICE**

In compliance with the Fair Debt Collection Practices Act, the following information is provided to you:

1. The amount of the debt is attorney fees and costs.
2. The name of the Creditor to whom the debt is owed is Fieldbrook Property Owners' Association, Inc.
3. Unless you, within thirty (30) days after receipt of this Notice, dispute the validity of this debt, or any portion thereof, the debt will be assumed to be valid by the Law Offices of Steven D. Rubin.
4. If you notify the Law Offices of Steven D. Rubin within the thirty (30) day period that this debt, or any portion thereof, is disputed, the Law Offices of Steven D. Rubin will obtain verification of the debt, or a copy of a judgment against you and the copy of such verification or judgment will be mailed to you by the Law Offices of Steven D. Rubin.
5. The name and address of the original creditor is Fieldbrook Property Owners' Association, Inc., c/o First Service Residential -PO Box 34769 -Charlotte, NC 28234
6. This communication is from the Law Office of Steven D. Rubin, who is a debt collector, and he is attempting to collect a debt and that any information obtained will be used for that purpose.
7. **THE LAW DOES NOT REQUIRE ME TO WAIT UNTIL THE END OF THE THIRTY-DAY PERIOD BEFORE SUING YOU TO COLLECT THIS DEBT. IF, HOWEVER, YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY-DAY PERIOD WHICH BEGINS UPON YOUR RECEIPT OF THIS LETTER, THE LAW REQUIRES ME TO SUSPEND MY EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL I MAIL THE REQUESTED INFORMATION TO YOU.**

**LAW OFFICES OF STEVEN D. RUBIN  
980 NORTH FEDERAL HIGHWAY  
SUITE 440  
BOCA RATON, FLORIDA 33432  
(561) 391-7992**