

788266

WARRANTY DEED

VOL. 216 PAGE 732

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF KERR §

THAT I, GRADY TUCK, JR., Trustee, of the County of Bexar, and the State of Texas, for and in consideration of the sum of TEN AND NO/100THS DOLLARS (\$10.00), and other valuable consideration to the undersigned paid by the Grantees herein named, the receipt of which is hereby acknowledged, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto HAROLD M. SCOTT, JR., and wife, Dorothy Jean Scott, of the County of Grayson, and the State of Texas, all of the following described real property in Kerr County, Texas, to-wit:

FIELD NOTES DESCRIPTION FOR A 19.01 ACRE TRACT OF LAND OUT OF THE GRADY TUCK, JR., ET AL, 485.60 ACRE TRACT FORMERLY OWNED BY WM. BURNEY IN KERR COUNTY, TEXAS.

Being all of a certain 19.01 acre tract or parcel of land out of Tract No. 2, a 424.06 acre tract situated south of Wharton Road, out of a 485.60 acre tract conveyed to Grady Tuck, Jr., Trustee, from Betty Burney Mosty Hall, et al, by Warranty Deed recorded in Volume 211 at Page 657 of the Deed Records of Kerr County, Texas; and being out of William Watt Survey No. 64, Abstract No. 363 in Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron stake set in a fenceline along or abutting the southern right-of-way line of Wharton Road which forms the northern boundary of said 424.06 acre tract and the herein described tract, for the southwest corner of the herein described tract, which point bears approximately 1337 feet S.83°55'W., from a point believed to be the north corner of the William T. Crook Survey No. 63, Abstract No. 116, in Kerr County, Texas;

THENCE, along said fenceline, N.32°03'E., 928.43 feet to an existing 3/8" iron stake and fence anglepost, and N.83°50'E., 690.88 feet to an existing 3/8" iron stake for the most northerly corner of the herein described tract;

THENCE, along the southwest boundary of a certain 5.12 acre tract of land conveyed to Freddie L. Schoolcraft, et ux, from Grady Tuck, Jr., Trustee, by deed recorded in Volume 213 at Page 121 of the Deed Records of Kerr County, Texas, which forms the northeast boundary of the herein described tract, S.77°19'E., 207.24 feet to an existing 3/8" iron stake at a fence cornerpost;

THENCE, along a fenceline along the southwest boundary of said 5.12 acre tract and the northeast boundary of the herein described tract, S.63°29'E., 64.54 feet and S.19°10'E., 45.74 feet to a 1/2" iron stake set for the northeast corner of the herein described tract;

THENCE, along the southeast boundary of the herein described tract, S.38°54'W., 1149.59 feet to a 1/2" iron stake set for the south corner of the herein described tract;

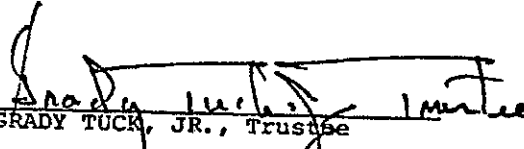
THENCE, along the southwest boundary of the herein described tract, N.78°24'W., 748.00 feet to the PLACE OF BEGINNING, containing 19.01 acres of land within these metes and bounds, which land is also known as Tract No. 24 of Burney Oak Estates, a subdivision in Kerr County, Texas.

This conveyance is made and accepted subject to the following:

- (1) Restrictions and Covenants attached hereto as Exhibit "A" and incorporated herein by this reference.
- (2) Easement from the Estate of I.H. Burney, et al, to Lower Colorado River Authority, dated January 8, 1945, recorded in Volume 75, Page 235, Deed Records of Kerr County, Texas.
- (3) Any visible or apparent roadways or easements over or across the subject property.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantees, their heirs and assigns forever; and I do hereby bind myself, my heirs, executors and administrators to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantees, their heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 29th day of December, A.D., 1978.


GRADY TUCK, JR., Trustee

THE STATE OF TEXAS
COUNTY OF KERR

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VOL 216 PAGE 734

BEFORE ME, the undersigned authority, on this day personally appeared GRADY TUCK, JR., Trustee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 19TH day of December, A.D., 1978.



My Commission Expires:

June 23, 1980

Jane J. Esquell
NOTARY PUBLIC in and for
Kerr County, Texas
JANE J. ESQUELL

1. Non-Commercial Use. No part of said land shall be used for any commercial purpose, except that nothing herein shall be construed to prevent the owner from rendering professional services of a purely personal nature as long as such services do not attribute to the property or any part thereof any appearance of a commercial use.
2. Subdividing. No portion of said land may be subdivided into lots or parcels of less than one-half (1/2) acre of land.
3. Construction of Buildings and Other Structures. All buildings and structures in each portion of said land shall be of new construction. No unpainted sheet metal or Fiberglass structures shall be placed on any portion of said property for use as an accessory building. No tent, housetrailer, a temporary structure of any character may be constructed, maintained, or permitted to remain on any portion of said land.
4. Size of Building and Structures. In no event shall any structure used as a primary residential structure be constructed on the said land having a living area of less than one thousand two hundred (1200) square feet, exclusive of porches, garages or other appendages.
5. Animals. Horses and cattle may be kept and maintained on said land in numbers not to exceed two (2) animal units per five (5) acres. No swine or any commercial livestock operation shall be permitted.
6. Sanitation and Sewage. No outside toilets will be permitted and no installation of any kind for disposal of sewage shall be allowed which would result in raw, treated or untreated sewage or septic tank drainage or into the surface or water bodies of said land. All septic tanks shall be in compliance with all applicable governmental regulations.
7. Covenants Running With the Land. These restrictions and covenants are hereby declared to be covenants running with the land for a period of thirty (30) years.

#788266

FIDELITY ABSTRACT AND TITLE CO.

323 Earl Garrett
Phone 696-4311 P. O. Box 509
Kerrville, Texas 78028

GRADY TUCK, JR., Trustee

to

HAROLD M. SCOTT, JR.,
ET UX, DOROTHY JEAN
SCOTT

WARRANTY DEED
with Restrictions

FILED FOR RECORD

at 4:25 o'clock P.M.

DEC 29 1978

EMMIE M. MUENKER

Clerk County Court, Kerr County, Texas
By Carl M. Eason Deputy

JOE GRADY TUCK

ATTORNEY AND COUNSELOR AT LAW

Kerrville, Texas 78028

Return to: Harold M. Scott, Jr.
Box 367

Aherman, TX 75090

Filed for record December 29, 1978 at 4:25 o'clock P.M.

Recorded January 4, 1979

EMMIE M. MUENKER, Clerk

By Shirley Paine Deputy

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

BURNEY OAK ESTATES

THE STATE OF TEXAS § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF KERR §

WHEREAS, Declarant is the owner of certain real

property described in Deed from Betty Burney Monty Hall, et al, to Grady Tuck, Jr., Trustee, and appearing of record in Volume 211, at Page 657, of the Kerr County Deed Records, which property has been subdivided into various parcels as shown by Plat of Burney Oak Estates, dated December 28, 1978, and appearing of record in Volume 4, at Page 149, of the Kerr County Plat Records, reference to which is hereby made for all purposes; and

WHEREAS, it is deemed to be to the best interest of Declarant and of the persons who may purchase lots described in and covered by said plat that there be established and maintained a uniform plan for the improvement and maintenance of lots in the subdivision;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Declarant hereby declares that the property described in the plat of Burney Oak Estates, shall be held, transferred, sold and conveyed, improved, and occupied subject to the covenants, conditions, restrictions, and easements as hereinafter set forth, which shall run with the property and be binding on all parties having any interest therein.

ARTICLE I DEFINITIONS

Section 1: "Declarant" shall mean and refer to Grady Tuck, Jr., Trustee.
Section 2: "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.
Section 3: "Lot" shall mean and refer to those tracts of land shown on the Plat of said Burney Oak Estates.

Section 4: "Owner" shall mean (a) the person or persons holding a fee simple title interest in a lot; or (b) the purchasers under an installment sales contract from an owner.

ARTICLE II RESTRICTIONS

In order to carry out a general plan of development of Burney Oak Estates, a subdivision of Kerr County, Texas, and in order to promote the construction of desirable residences, insure harmony in the character of such buildings in connection therewith, maintain the suitability of said Burney Oak Estates, for private residential purposes, to carry out a general plan for the protection, benefit, use, recreation and convenience of each and every owner or purchaser of a part of the land therein, and to enhance the value of said land located in said Burney Oak Estates, all sales of lots shall be subject to the restrictions and conditions upon the premises as follows, to-wit:

FIRST: That these restrictions and covenants are hereby declared to be covenants running with the land for a period of thirty (30) years.

SECOND: No part of said land shall be used for any commercial purpose, except that nothing herein shall be construed to prevent the owner from rendering professional services of a purely personal nature as long as such services do not attribute to the property or any part thereof any appearance of a commercial use.

THIRD: No portion of said land may be subdivided into lots or parcels of less than one-half (1/2) acre of land.

FOURTH: All buildings and structures in each portion of said land shall be of new construction. No unpainted sheet metal or fiberglass structures shall be placed on any portion of said property for use as an accessory building. No tent, house trailer, or temporary structure of any character may be constructed, maintained or permitted to remain on any portion of said land.

FIFTH: In no event shall any structure used as a primary residential structure be constructed on the land having a living area of less than one thousand two hundred (1200) square feet, exclusive of porches, garages or other appendages. SIXTH: Horses and cattle may be kept and maintained on said land in numbers not to exceed two (2) animal units per five (5) acres. No swine or any commercial livestock operation shall be permitted.

SEVENTH: No outside toilets will be permitted and no installation of any kind for disposal of sewage shall be allowed which would result in raw, treated, or untreated sewage or septic tank drainage or into the surface or water bodies of said land. All septic tanks shall be in compliance with all applicable governmental regulations.

ARTICLE III
GENERAL PROVISIONS

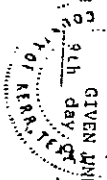
Section 1: Enforcement. Declarants, their heirs or assigns, or any owner shall have the rights to enforce this Declaration by any proceeding at law or in equity.

IN WITNESS WHEREOF, this Declaration has been executed on this the 21th day of June, A.D., 1979.

[Signature]
GRADY TUCK, JR., TRUSTEE

THE STATE OF TEXAS §
COUNTY OF KERR §

BEFORE ME, the undersigned authority, on this day personally appeared GRADY TUCK, JR., TRUSTEE, known to me to be the person whose name is subscribed to the foregoing Declaration, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.



GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 21th day of June, A.D., 1979.

My Commission Expires: August 16, 1980
Notary Public in and for Kerr County, Texas
Ella Turner

993331

Restrictions

Bunny Oak Potato
to
the Public

FILED FOR RECORD

W. L. WICKOCK, M.A.

JUN 12 1979

Public Records
Kerr County Court, Kerr County, Texas
M. L. Lusk Deputy

grindy tickle to
grindy tickle to

Filed for record 1979 at _____ o'clock P.M.
Recorded June 19, 1979
EMMIE M. MIENKER, Clerk
By _____ Deputy

WHEREAS:

1. During the year 1978, the Owners and Developers of 33.6 acres of land in Kerr County, Texas, out of the William T. Crook Survey No. 63, Abstract 116, Kerr County, Texas, being the same land described in Deed recorded at Volume 211, Page 657, Deed Records of Kerr County, Texas, and now known as "Burnley Oak Estates", according to the Plat thereof recorded at Volume 4, Page 149 of the Plat Records of Kerr County, Texas, applied to the City Council of the City of Kerrville to waive the requirements that the streets in the subdivision have curbs and gutters. A hearing was had before the City Council on October 24, 1978, and at such meeting it was represented to the Council that each parcel in the subdivision would contain five (5) or more acres. The waiver of the requirements was granted, and one of the reasons therefor was: "based on the size of the tracts in the development".

2. At the Planning and Zoning meeting of February 1, 1979, the same Developers and Owners requested that the final Plat of Burnley Oak Estates be approved by the Commission. At that meeting a representative of the Owners and Developers stated:

"The lots in Burnley Oak Estates would not, under any circumstances, be subdivided, which was the basis for the City Council waiving the requirements for curb and gutters."

The Planning and Zoning Commission approved the final Plat.

3. Thereafter, the Plat of Burnley Oak Estates was recorded on February 2, 1979, at Volume 4, Page 149 of the Plat Records of Kerr County, Texas.

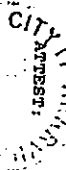
4. On or about June 9, 1979, the Owners and Developers of Burnley Oak Estates filed for recording the "Declaration of Covenants, Conditions and Restrictions - Burnley Oak Estates". Such Declaration was recorded at Volume 222, Page 93, Deed Records of Kerr County, Texas. Such provisions stated:

"No portion of said land may be subdivided into lots or parcels of less than 1/2 acre of land."

KNOW THEREFORE ALL MEN BY THESE PRESENTS, that it is hereby declared by the City of Kerrville and all persons should take notice, that the Plat of Burnley Oak Estates was approved pursuant to the express representation and agreement that no lot would ever be less than five (5) acres. Therefore, insofar as the said recorded Restrictions of Burnley Oak Estates indicate or imply that the five (5) or more acre tracts may be subdivided into lesser size tracts, then said Covenants and Restrictions are erroneous. Thus, any provisions in any restrictions pertaining to resubdivision of a lot is as follows:

"No lot may be subdivided without the prior written recorded consent of the City Council of the City of Kerrville."

SIGNED this 20th day of May, 1981,
pursuant to resolution of the City Council of the City of Kerrville,
adopted April 28, 1981.



Shirley T. Brand
Shirley T. Brand
City Clerk

H. Lee Jennings
H. LEE JENNINGS, Mayor

THE STATE OF TEXAS X
COUNTY OF KERR X

On this day, H. LEE JENNINGS, the Mayor of the City of Kerrville, appeared before me and acknowledged that he executed the foregoing for the purposes and consideration therein expressed, in the capacity therein stated, and pursuant to valid resolution of the City Council adopted on April 28, 1981.

Given under my hand and seal of office this the 20th day of May, 1981.

Donnie Lynn
Notary Public in and for
Kerr County, Texas
Bonnie Leggett
Notary Public
My Commission Expires 10-9-84



812684

VOL. 248 PAGE 317

Reclamation & Rehabilitation

Runway and Estate

*to
M. B. Ellis*

FILED FOR RECORD

at 3:10 o'clock P.M.

MAY 21 1981

EMMIE M. NUENKER

Clerk County Court, Jefferson Parish
By *[Signature]* Deputy

is returned to

Tom Terrell

Filed for record
Recorded May 26, 1981
EMMIE M. NUENKER, Clerk

1981 at _____ o'clock _____ M.

By _____ Deputy

**CERTIFICATE OF THE AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF BURNEY OAK ESTATES**

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF KERR

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THAT WHEREAS, the undersigned is the property owners association (the "Association") for the subdivision known as Burney Oak Estates (the "Subdivision"), located in Kerr County, Texas, the plat of which is recorded in Volume 4, Page 149, Plat Records of Kerr County, Texas, to which instrument and its record reference is herein made for all purposes; and

WHEREAS, the original Subdivision restrictions are found in a Declaration of Covenants, Conditions and Restrictions dated June 9, 1979, recorded in Volume 222, Page 93, Deed Records of Kerr County, Texas, as amended by a Declaration on Restrictions of Burney Oak Estates dated May 20, 1981, recorded in Volume 248, Page 315, Deed Records of Kerr County, Texas (the "Restrictions");

WHEREAS, the Restrictions are scheduled to expire on June 9, 2009, and no provision of the Restrictions allows for the extension and/or amendment of such restrictions;

WHEREAS, the Subdivision is located in a county with a population of less than 65,000, and the Association submitted a draft of the Amended and Restated Declaration of Covenants, Conditions and Restrictions to the owners of the lots of the Subdivision in accordance with Chapter 211 of the Texas Property Code; and

WHEREAS, the undersigned certifies that the requisite number of lot owners voted to adopt the draft of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, pursuant to Section 211.004 of the Texas Property Code; and

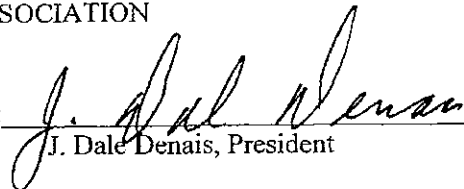
WHEREAS, because of the complaints of a few of the lot owners, the Board of Directors of the Association has agreed to remove all of the language pertaining to the Association and its right to enforce the new restrictions:

NOW, THEREFORE, it is hereby declared that the Restrictions are amended and restated as set forth in the attachment hereto.

EXECUTED this 20th day of February, 2008.

BURNEY OAK ESTATES PROPERTY OWNER'S
ASSOCIATION

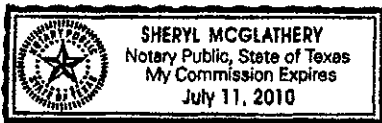
By:



J. Dale Denais, President

STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me this 20th day of February, 2008, by J. Dale Denais, President of Burney Oak Estates Property Owners Association.



Sheryl McGlathery
Notary Public, State of Texas

✓ After recording return to:
John W. Carlson, P.C.
Attorney at Law
260 Thompson Drive, Suite 7
Kerrville, Texas 78028

FILED FOR RECORD
at 4:30 o'clock P.....M
FEB 22 2008

JANNETT PIEPER
Clerk County Court, Kerr County, Texas
Jannett Pieper
Deputy

**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF BURNEY OAK ESTATES**

1. Definitions.

- (a) "Subdivision" shall mean and refer to Burney Oak Estates, the plat of which is dated December 28, 1978, and recorded in Volume 4, Page 149, Plat Records of Kerr County, Texas.
- (b) "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions.
- (c) "Lot" shall mean and refer to those tracts of land shown on the plat of the Subdivision.
- (d) "Owner" shall mean (i) the person or persons holding a fee simple title interest in a Lot, or (ii) the purchasers under an installment sales contract from an owner.

2. Non-Commercial Use. No part of the Subdivision shall be used for any commercial purpose, except that nothing herein shall be construed to prevent the owner from rendering professional services of a purely personal nature, as long as such services do not attribute to the Subdivision or any part thereof any appearance of a commercial use.

3. Subdividing. No portion of the Subdivision may be subdivided into lots or parcels of less than five (5) acres of land.

4. Construction of Buildings and Other Structures. All buildings and structures in each portion of said land shall be of new construction. No modular or manufactured home shall be placed or constructed on any portion of the Subdivision. No unpainted sheet metal or fiberglass structures shall be placed on any portion of the Subdivision for use as an accessory building. No tent, housetrailer, or temporary structure of any character may be constructed, maintained or permitted to remain on any portion of the Subdivision.

5. Size of Building and Structures. In no event shall any structure used as a primary residential structure be constructed on any part of the Subdivision having a living area of less than 1,200 square feet, exclusive of porches, garages or other appendages.

6. Animals. Horses and cattle may be kept and maintained on said land in numbers not to exceed a total of two (2) animals per five (5) acres. No swine or any commercial livestock operation shall be permitted.

7. Sanitation and Sewage. The installation and maintenance of any system to dispose of raw sewage on any part of the Subdivision shall be in accordance with the regulations established by the State of Texas and Kerr County.

8. Disabled Vehicles. Vehicles which are disabled, not currently licensed or registered, or are otherwise inoperable may not be stored in view on any part of the Subdivision.

9. Covenants Running with the Land. These restrictions and covenants are hereby declared to be covenants running with the Subdivision for an initial period of twenty-five (25) years from the date of this document and shall be fully binding upon all persons acquiring said land or any part thereof within said twenty-five (25) year period, whether by descent, devise, purchase, assignment, contract or otherwise. Any person by the acceptance of title to any portion of the Subdivision or entering into a contract for the purchase of the same shall thereby agree and covenant to abide by and fully perform all of the foregoing restrictions and covenants.

After the initial twenty-five year (25) period, these restrictions shall be automatically extended for successive periods of ten (10) years unless amended or revoked by a two-thirds (2/3) supermajority of the Owners of the Lots in the Subdivision. For purposes of determining such a supermajority, each Lot shall be entitled to one (1) vote, notwithstanding any co-ownership.

10. Enforcement. Any Owner shall have the right to enforce this Declaration by any proceeding at law or in equity.

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.
THE STATE OF TEXAS }
COUNTY OF KERR }
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

FEB 22 2008



Janet Rippe

COUNTY CLERK, KERR COUNTY, TEXAS