

AGREEMENT MODIFYING RESTRICTIONS

WHEREAS, The Moorings Development Company, a Florida corporation, did by warranty deed dated September 13, 1971, and recorded in Official Record Book 392, page 129, public records of Indian River County, Florida, sell and convey to Victor W. Lunka, Sr., R. B. Cole, Earl R. Evans and Tony L. Lunka the following described real estate situated in Indian River County, Florida, to-wit:

Lot 120 (including the portions thereof, on both sides of Bay Road) of The Moorings, Unit Two, according to Plat Book 8, pages 28, 28-A, 28-B and 28-C, Public Records of Indian River County, Florida; and

WHEREAS, immediately prior to said sale and conveyance being made, The Moorings Development Company did, by declaration of restrictions dated September 13, 1971, and recorded in Official Record Book 392, page 128, public records of Indian River County, Florida, impose certain restrictions on the following described real estate situated in Indian River County, Florida, to-wit:

Lots 119, 121, 122, 123, 124, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136 of the Moorings Unit Two, according to Plat Book 8, Page 28, 28-A, 28-B and 28-C of the Public Records of Indian River County, Florida.

in the following words and phrases:

1. No building or structure shall be built on any of the lots described hereinabove that exceed a height of thirty-five (35) feet.
2. The Moorings Development Company shall not in any way or manner be held liable or responsible for violation of this description by anyone other than itself; and

WHEREAS, R. B. Cole and Earl R. Evans have conveyed their interests in said Lot 120 to Victor W. Lunka, Sr., and Tony L. Lunka who are now the sole owners thereof; and

WHEREAS, The Moorings Development Company, Victor W. Lunka, Sr., and Tony L. Lunka agree among themselves that said restrictions were imposed for the benefit of the owners of said Lot 120 and their heirs, assigns and successors in title to said Lot 120; and

WHEREAS, since said restrictions were imposed, Indian River County, a political subdivision of the state of Florida, did enact certain zoning laws which restrict the height of all

buildings and structures on said Lots 119, 121, 122, 123, 124, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136 of the Moorings, Unit Two, according to Plat Book 8, Pages 28, 28-A, 28-B and 28-C of the Public Records of Indian River County, Florida, to not more than thirty-five (35) feet, and which said zoning laws enacted by Indian River County contain certain provisions which determine how the permissible height of a building or structure is computed; and

WHEREAS, the Moorings Development Company, Victor W. Lunka, Sr., and Tony L. Lunka agree among themselves that said provisions of said zoning laws which determine how the permissible height of a building or structure is computed should apply to said declaration of restrictions as it relates to all of said lots, including, without limitation, Lots 119 and 121;

NOW, THEREFORE,

This indenture, made and executed this 7th day of February 1979, by and between The Moorings Development Company, a Florida corporation, party of the first part, and Victor W. Lunka, Sr., and Tony L. Lunka, parties of the second part, witnesseth that for and in consideration of the sum of one dollar each to the other paid, and for other good and valuable considerations, the receipt and sufficiency whereof are acknowledged by all parties, the party of the first part and the parties of the second part do agree between themselves as follows:

1. That said declaration of restrictions dated September 13, 1971, and recorded in Official Record Book 392, page 128, public records of Indian River County, Florida, be and it is modified by adding thereto a new numbered paragraph between paragraph 1 and paragraph 2, said new numbered paragraph to be paragraph 1A and in the following words and phrases:

1A. Insofar as said Lots 119 and 121 are concerned, said permissible height of 35 feet shall be computed in accordance with the zoning laws of Indian River County, a political subdivision of the state of Florida, in effect at the time a building or structure has been or may be erected.

2. Except as provided herein, said declaration of restrictions shall remain in full force and effect.

IN WITNESS WHEREOF, the party of the first part has caused

this indenture to be executed in its name by its president and its corporate seal affixed, attested by its assistant secretary and the parties of the second part have hereunto set their hands and seals as of the 9th day of ~~January~~ ^{FEBRUARY} 1979.

THE MOORINGS DEVELOPMENT COMPANY

ATTEST: George I. Sipp
Assistant Secretary

By: [Signature]
President

Signed, sealed and delivered in the presence of:

[Signature]
[Signature]
as to officers of the Moorings Development Company

[Signature]
[Signature]
as to Victor W. Lunka, Sr.

[Signature] (SEAL)
Victor W. Lunka, Sr.

[Signature]
[Signature]
as to Tony L. Lunka

[Signature] (SEAL)
Tony L. Lunka

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state and county aforesaid to take acknowledgments, personally appeared Jorge Gonzalez and George I. Sipp well known to me to be the president and assistant secretary, respectively, of the corporation named as first party in the foregoing agreement modifying restrictions, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the county and state last aforesaid this 9th day of ~~January~~ ^{FEBRUARY}, 1979.

[Signature]
Notary Public, State of Florida at Large
My Commission expires: 20582ME7533

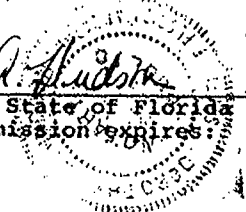
STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state and county aforesaid to take acknowledgments, personally appeared VICTOR W. LUNKA, SR., to me known to be one of the persons named as second parties in the foregoing agreement modifying restrictions, and who executed the foregoing agreement and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid this 2 day of ^{April} ~~January~~, 1979.

Dorothy A. Hudson
Notary Public, State of Florida at
Large. My Commission expires:

Notary Public, State of Florida at Large
My Commission Expires 12/1/82
Elected by Appointment of Secretary of State



STATE OF ^{Ohio}
COUNTY OF LAKE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state and county aforesaid to take acknowledgments, personally appeared TONY L. LUNKA, to me known to be one of the persons named as second parties in the foregoing agreement modifying restrictions, and who executed the foregoing agreement and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid this 9th day of ^{February} ~~January~~, 1979.

William A. Frazer
Notary Public authorized to act in
said state and county.
My Commission expires:

February 24, 1982



ADDENDUM TO AGREEMENT MODIFYING RESTRICTIONS

Add to Page 2, Paragraph 1 the following paragraph 1B:

1B. FURTHER that modifications stated in 1A shall be allowed on Lot 119 only if the following occurs:

- (1) That the premises at Lot 119 and building structure is used as a Private Club rather than for residential purposes.
- (2) That the height beyond 35' is allowed only for the four (4) elevator towers (sizes limited to standard elevators). All other ridges or roof lines shall not exceed 35' from lowest grade at building.

THE HOODINGS DEVELOPMENT COMPANY

By: *[Signature]*

Victor W. Lunka
Victor W. Lunka, Sr.

[Signature]
Tony L. Lunka

WITNESSES:

[Signature]
Monahy A. Hudson

[Signature]
FRED A WRIGHT
CLERK OF CIRCUIT COURT
INDIAN RIVER CO., FLA.

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FILED FOR RECORD
BOOK AND PAGE ABOVE
RECORD VERIFIED