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INTER-OFFICE COMMUNICATION
Palm Beach County

84-1639

TO Lucille Carter, Supervisor
Zoning & Building Department
DATE March 20, 1986
FROM Tony Miller, Project Coordinator
Land Development Division
FILE WESTWOODS
RE FENCE PERMIT

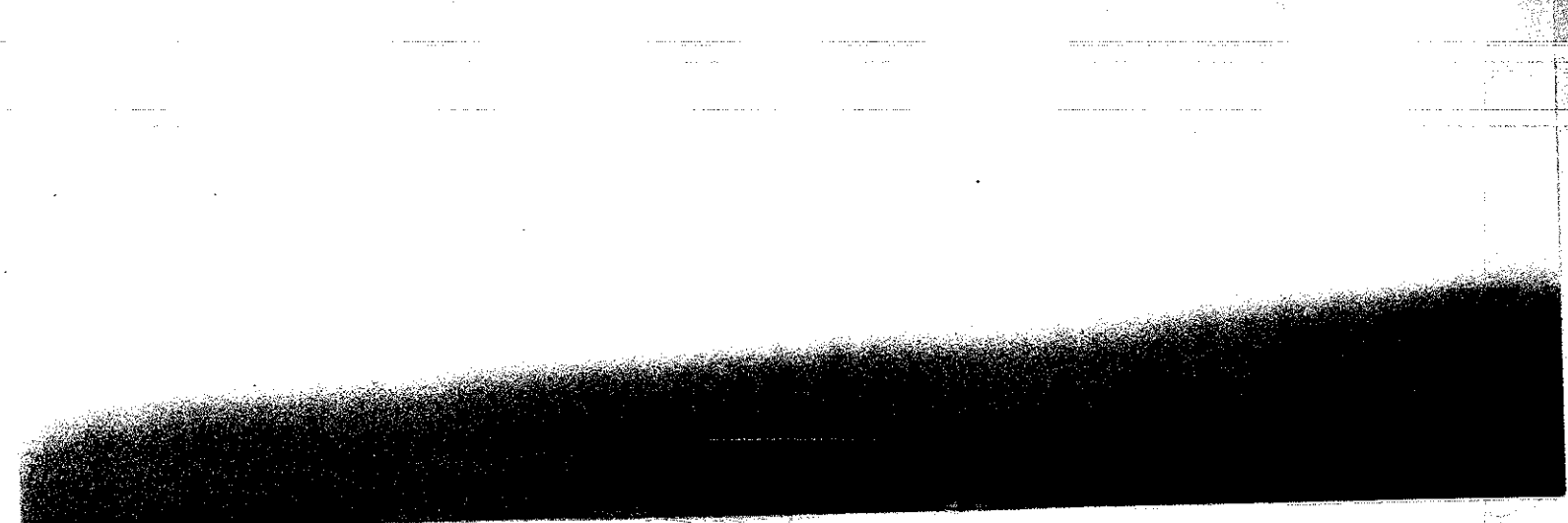
In view of the attached Final Judgment and in discussing the matter with Assistant County Attorney Richard Carlson, this office has no objections to the construction of the fence within the private right-of-way of Westwoods Circle by the Property Owners Association.

If you have any questions, please call me at 684-4079.

7:00
AAK:CTR:TWM:ev

Enclosure: Final Judgment

Signed Tony W. Miller



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

CASE NO. 84-3385 CA (L) J

WESTWOODS PROPERTY OWNERS
ASSOCIATION, INC.,

Plaintiff,

vs

THOMAS S. WALDRON,

Defendant.

FINAL JUDGMENT

This matter came before the court on the plaintiff's complaint for injunctive relief and damages and the defendant's counterclaim to establish an easement on the plaintiff's property. Trial was held on May 15 and 16, 1985. Thomas L. Brown, Esq. appeared on behalf of the plaintiff; George H. Bailey, Esq. appeared on behalf of the defendant.

The court subsequently received legal authority and proposed judgments from both parties.

The court makes the following findings of fact:

1. The plaintiff Westwoods Property Owners Association Inc. is a non-profit Florida corporation that owns the interior roads within a planned unit development located in Palm Beach County, Florida called Westwoods, more particularly described in Plat Book 34, Pages 131-134.
2. The defendant Thomas S. Waldron owns real property called the Diamond C Ranch abutting Westwoods on its eastern boundary.
3. Waldron acquired his property by deed from Evelyn M. Smith Hoffman dated April 8, 1974 and recorded in Official Record Book 2299, Page 1724.
4. The developer of Westwoods was E.B. Development Corporation whose president was George T. Elmore and secretary was Daniel L. Bakst.
5. Prior to the development of Westwoods, the only access to Waldron's property was over a shell road extending from State Road 7 easterly across Westwood's property. The road roughly followed a public right-of-way created by Palm Beach Farms Company Plat No. 3,

recorded at Plat Book No. 2, Pages 45-54.

6. In the summer of 1977, E.B. Development Corporation orally agreed with Waldron that in consideration for Waldron's consent to the abandonment of the right-of-way providing him access to his property, Waldron would be given access to State Road 7 through the subdivision over Westwood's public roads.

7. Waldron consented to abandon the right-of-way before the Board of County Commissioners in return for the right to utilize the public roads of Westwood. The right-of-way was abandoned by Resolution of the Board of County Commissioners dated February 21, 1978.

8. In the plat filed by E.B. Development Corporation, however, the roads of Westwoods were specifically made private with title in the plaintiff. The plaintiff was required to provide perpetual maintenance of the roads and to pay all costs and expenses including real property taxes. No easement on behalf of the defendant was either written or recorded.

9. E.B. Development Corporation further agreed that in return for Waldron's consent to the abandonment, they would construct a road and bridge from State Road 7 on the public right-of-way of Pioneer Road to the defendant's property. The developer did perform this aspect of its agreement.

10. Since 1978, Waldron and his employees, guests, and tenants have continually driven vehicles over the plaintiff's private roads in order to enter and exit the ranch. The plaintiff objects to the defendant's use of its roads.

11. No written or oral agreement exists between the parties permitting Waldron to traverse the plaintiff's roads.

12. Waldron claims a right to utilize Westwoods' roads as a result of the oral agreement with the plaintiff's predecessor in title E.B. Development Corporation and its officers George Elmore and Daniel L. Bakst.

13. The plaintiff claims damages of \$1,080 to its roads incurred as a result of the defendant's use.

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DONE AND ORDERED this 14 day of June, 1985 in chambers in
West Palm Beach, Palm Beach County, Florida.

Mary E. Lynn
MARY E. LYNN
Circuit Court Judge
(84-3385 CA (L) J)

copies furnished:

Thomas L. Brown, 760 U.S. Highway One, North Palm Beach, FL 33408
George H. Bailey, P.O. Drawer E, West Palm Beach, FL 33402

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