



MEMORANDUM

DATE: March 13, 1987
TO: Lucille Carter
Building Division
FROM: Richard Carlson, Jr.
Assistant County Attorney
RE: Release of permit being held relating to private utility easement

It is my understanding that the building permit under PR-07933 is being held because of penetration of the structures into a two foot utility easement.

The plat of Solimar at Boca Del Mar - Phase 3 as recorded at Plat Book 50, Pages 123 and 124 establish 10 foot utility easements along the Tract G (the roadway). The utility easements are "...dedicated in perpetuity for the construction of utilities in drainage and maintenance of utilities."

Subsequent to the recording of the plat, the developer recorded a utility easement from Del Prado Circle Properties, Ltd.-I, to Solimar Homeowner's Association. The easement was for an additional two feet along the platted ten foot utility easement, thereby establishing a total of twelve feet for utility purposes. This easement was recorded at Book 4539, Page 0204 of the Official Records of the Clerk of the Circuit Court.

Because of a desire to construct buildings in the additional 2 foot utility easement created by the instrument recorded at Book 4539, Page 0204, the developer and Homeowner's Association executed a corrective utility easement which, inter alia, corrected the legal description and "...released and cancelled..." any easement granted by the instrument recorded at Book 4539, Page 0204.

For your convenient reference, I have enclosed the utility easement and the corrective utility easement.

The developer has applied for building permits involving structures in this corrected and released two foot utility easement. Permits were granted for lots 37 (B-86-004368) and 50 (B-86-021292). The permit for Lot 53 under

"An Equal Opportunity - Affirmative Action Employer"

BOX 1989 WEST PALM BEACH, FLORIDA 33402-1989
(305) 837-2225 Sun Com. 454-2225

SEE ATT'D DOCUMENT FOR LOT'S INVOLVED.

Lucille Carter
March 13, 1987
Page Two

PR-07933 has been held, the requirement being that the easement must be abandoned pursuant to the Palm Beach County Right-of-Way Abandonment and Plat Vacation Ordinance, No. 86-18.

Given that the easement is not a public easement established pursuant to a plat, the easement can be "abandoned" or terminated by instrument executed between the grantor and grantee of the easement, or their heirs, successors, or assigns. The building permit should be issued in this circumstance. So that the matter does not arise again in this subdivision, also be advised that the developer will apply for permits involving this identical fact situation on Lots 64 and 65.

I do not reach the issue of whether the 10 foot utility easement must be abandoned pursuant to Ordinance No. 86-18. I do not reach any setback issue which may be involved. It is my understanding that the structures will not penetrate that 10 foot utility easement created by plat. I trust this information is of some assistance. Should you have any questions or concerns, please do not hesitate to contact me.

[Signature]
Richard W. Carlson, Jr.

RWC:bd

cc: Richard Craddock, Chief Deputy Attorney
Bill Capko, Assistant County Attorney
George Webb, Assistant County Engineer
Honey Frakes, Assistant County Engineer
Alan Kurtis, Director, Land Development Division
Bob Palchamias, Director, Building Division
Bev Hansen, Engineering Division
Miriam Cruz-Bustillo, Esq.

(RAK)DPCPS-CE

CORRECTIVE UTILITY EASEMENT

THIS CORRECTIVE UTILITY EASEMENT, made this 23 day of June, 1986, between DEL PRADO CIRCLE PROPERTIES, LTD. - I, a Massachusetts limited partnership, as grantor, and SOLIMAR HOMEOWNERS ASSOCIATION II, INC., 7706 Solimar Circle, Boca Raton, Florida 33433, as grantee.

WITNESSETH: This Corrective Utility Easement is filed to correct the identity of the grantee and the legal description in the Utility Easement recorded in Official Records Book 4539, at Page 204 of the Public Records of Palm Beach County, Florida, to wit:

- (1) The Party of the second part, the grantee, is hereby corrected to be SOLIMAR HOMEOWNERS ASSOCIATION II, INC., a Florida not-for-profit corporation with an address at 7706 Solimar Circle, Boca Raton, Florida 33433.
- (2) THE LEGAL DESCRIPTION of the utility easement is hereby corrected as set forth on Exhibit A hereto.

All easements granted by the original Utility Easement recorded in Official Records Book 4539, at Page 204 of the Public Records of Palm Beach County, Florida, which are not granted hereby are released and cancelled in all respects.

IN WITNESS WHEREOF, grantor and grantee have executed this Corrective Utility Easement on the date first above written.

Signed, sealed and delivered in the presence of:

DEL PRADO CIRCLE PROPERTIES, LTD. - I, a Massachusetts limited partnership

Witness *[Signature]*

By *[Signature]*
Luis Ramos-Izquierdo
General Partner

Witness *[Signature]*

SOLIMAR HOMEOWNERS ASSOCIATION II, INC., a Florida not-for-profit corporation

Witness *[Signature]*

By *[Signature]*
Luis Ramos-Izquierdo
President

Witness *[Signature]*

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared LUIS RAMOS-IZQUIERDO, well known to me to be a General Partner of DEL PRADO CIRCLE PROPERTIES, LTD. - I, a Massachusetts limited partnership, and he acknowledged before me that he executed the foregoing instrument as such General Partner on behalf of the said Partnership for the uses and purposes therein expressed.

WITNESS my hand and official seal this 23 day of June, 1986.

[Signature]
Notary Public in and for the County and State aforesaid

My Commission Expires: *[Signature]*
NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAR 26, 1988
BONDED THRU GENERAL INS. UNO.

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared LUIS RAMOS-IZQUIERDO, well known to me to be the President of SOLIMAR HOMEOWNERS ASSOCIATION II, INC., a Florida not-for-profit corporation, and he acknowledged before me that he executed the foregoing instrument as such President on behalf of the said Corporation for the uses and purposes therein expressed.

WITNESS my hand and official seal this 23 day of June, 1986.

[Signature]
Notary Public in and for the County and State aforesaid

My Commission Expires: *[Signature]*
NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAR 26, 1988
BONDED THRU GENERAL INS. UNO.

Prepared By:

Ron A. Kriss
Valdes-Fauli, Cobb & Petrey
Suite 3400 - One Biscayne Tower
Two South Biscayne Boulevard
Miami, Florida 33131

JOHN A. GRANT, JR., INC.
Consulting Engineers
3333 North Federal Hwy.
Boca Raton, Fla. 33431

SHEET 2 of 2
April 1, 1985
JG 100-3931-3

LEGAL DESCRIPTION
ADDITIONAL UTILITY EASEMENTS
SOLIMAR AT BOCA DEL MAR - PHASE III

A Utility Easement, 2 feet wide, being a portion of the plat of SOLIMAR AT BOCA DEL MAR - PHASE III as recorded in Plat Book 50, Pages 123 and 124 of the Public Records of Palm Beach County, Florida, said Easement being described as follows:

The rearward 2 feet of the front 12 feet of all that portion of the following lots and tracts abutting the right-of-way line of Villa Nova Drive (Tract "G") of the right-of-way line of Tracts "G-1" or "G-2", namely, Lots 1-76 inclusive and Tracts "A", "B" and "C", said 2 feet and said 12 feet being measured perpendicularly or radially to the said right-of-way line;

ALSO, the West 2.00 feet of Lot 37; the East 2.00 feet of the West 12.00 feet of the Southerly 10.00 feet of Tract "E"; the East 2.00 feet of Lot 50; the North 2.00 feet of Lots 64 and 65; and the South 12.00 feet of Tract "A";

ALSO, a 2 foot wide Utility Easement lying in Tract "C" of the aforesaid plat, the West line of said easement being described as follows: Commencing at the Southwest corner of Lot 46 of the aforesaid plat; thence with a bearing of N. 89° 38' 50" E., along the South line of said Lot 46, a distance of 10.00 feet to the POINT OF BEGINNING of the West line of the subject easement; thence with a bearing of S. 00° 21' 10" E., a distance of 63.24 feet, more or less to a point on the Northwesterly limit of an existing 10 foot Utility Easement and the end of the West line of the subject 2 foot wide easement.

ALSO, a 12 foot wide Utility Easement, lying in Tract "C" of the aforesaid plat, the West line of said easement being described as follows:

BEGINNING at the Southwest corner of Lot 38 of the aforesaid plat; thence with a bearing of S. 00° 21' 10" E., along the Southerly extension of the West line of said Lot 38, a distance of 25.66 feet, more or less, to a point on the Northerly limit of an existing 10 foot Utility Easement and the end of the West line of the subject 12 foot wide easement.

EXHIBIT "A"
LEGAL DESCRIPTION
ADDITIONAL UTILITY EASEMENTS
SOLIMAR AT BOCA DEL MAR - PHASE III

A utility Easement, 2 feet wide, being a portion of the plat of SOLIMAR AT BOCA DEL MAR - PHASE III as recorded in Plat Book 50, Pages 123 and 124 of the Public Records of Palm Beach County, Florida, said Easement being described as follows:

The rearward 2 feet of the street frontage of 12 feet of the following lots and tracts abutting the right-of-way line of Villa Nova Drive (Tract "G") or abutting the right-of-way line of Tracts "G-1" or "G-2", namely:

Lots 1 - 36 inclusive; Lots 38 - 49 inclusive; Lots 51 and 52; Lots 54 - 63 inclusive; Lots 66 - 76 inclusive; and Tracts "A", "B" and "C", said 2 feet and said 12 feet being measured perpendicularly or radially to the said right-of-way line;

ALSO, the South 2 feet of the North 12 feet of the East 30.86 feet of Lot 37; the South 2 feet of the North 12 feet of the West 30.86 feet of Lot 50; the South 2 feet of the North 12 feet of the East 30.86 feet of Lot 53; the West 2 feet of the East 12 feet of the South 30.86 feet of Lot 57; the East 2 feet of the West 12 feet of the South 30.86 feet of Lot 65; the South 12 feet of Tract "A"; and the East 2 feet of the West 12 feet of the Southerly 10.00 feet of Tract "E";

ALSO, a 2 foot wide Utility Easement lying in Tract "C" of the aforesaid plat, the West line of said easement being described as follows: Commencing at the Southwest corner of Lot 46 of the aforesaid plat; thence with a bearing of N. 89° 38' 50" E., along the South line of said Lot 46, a distance of 10.00 feet to the POINT OF BEGINNING of the West line of the subject easement; thence with a bearing of S. 00° 21' 10" E., a distance of 63.24 feet, more or less to a point on the Northwesterly limit of an existing 10 foot Utility Easement and the end of the West line of the subject 2 foot wide easement.

ALSO, a 12 foot wide Utility Easement, lying in Tract "C" of the aforesaid plat, the West line of said easement being described as follows:

BEGINNING at the Southwest corner of Lot 38 of the aforesaid plat; thence with a bearing of S. 00° 21' 10" E., along the Southerly extension of the West line of said Lot 38, a distance of 25.66 feet, more or less, to a point on the Northerly limit of an existing 10 foot Utility Easement and the end of the West line of the subject 12 foot wide easement.

FILE 3

UTILITY EASEMENT SHEET 1 of 2

THIS EASEMENT, made this _____ day of _____, 19____, between Del Prado Circle Properties, Ltd. - I, a Massachusetts General Partnership, as party Y of the first part, and SOLIMAR HOMEOWNERS ASSOCIATION II, INC., 7706 Solimar Circle, Boca Raton, Fla. 33433 as party X of the second part,

WITNESSETH: That the said party Y of the first part, in consideration of the sum of One (\$1.00) Dollar and other valuable considerations paid, the receipt of which is hereby acknowledged, hereby grant unto the second party its successors and assigns, a perpetual easement and right-of-way for the purpose of a Utility Easement, over, upon, under, through and across the following described land, situate, lying and being in the County of Palm Beach and State of Florida, to wit:

(For Legal Description See Attached Sheet 2 of 2)

85 MAY - 8 AM 11:29

Documentary Tax \$ 45
Intangible Tax \$
City, Palm Beach County, Florida

TO HAVE AND TO HOLD THE SAME unto the second party, its successors and assigns forever.
IN WITNESS WHEREOF, said party Y of the first part has hereunto set its hand(s) and seal(s) the date first above written.

Signed, sealed and delivered in the presence of:

Witness *[Signature]*
Witness *[Signature]*
STATE OF Florida
COUNTY OF Palm Beach

DEL PRADO CIRCLE PROPERTIES, LTD.
A MASSACHUSETTS GENERAL PARTNERSHIP
BY: *[Signature]*
Luis Ramos-Izquierdo, General Partner

BEFORE ME, the undersigned authority, personally appeared Luis Ramos-Izquierdo, well known to me to be a General Partner of Del Prado Circle Properties, Ltd.-I and he acknowledged before me that he executed the foregoing instrument as such Officer(s) on behalf of the said Partnership for the uses and purposes therein expressed.

WITNESS my hand and official seal this 23 day of April 19 85.

(Notarial Seal)

[Signature]
Notary Public in and for the County and State aforesaid

My Commission expires
NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAR 26, 1988
BONDED THRU GENERAL INS. UNO.

Prepared by:
John A. Grant, Jr.
JOHN A. GRANT, JR., INC.

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