

DELAWARE COUNTY, OHIO  
 FILED FOR RECORD APR 30 1996  
 3:24 O'CLOCK P.M.  
 RECORDED DATE May 1996  
 VOL. 603 PAGE 288  
 COUNTY RECORDER  
 FEE \$ 42.00

8480

VOL 0603 PAGE 788

(1)

*Chicago Title*

**SPECIAL WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS, that WYNSTONE ASSOCIATES, an Ohio joint venture, with offices at 5501 Frantz Road, Dublin, Ohio 43017, the Grantor herein, for the consideration of Ten Dollars (\$10.00) received to its full satisfaction of TERRY E. GEORGE, TRUSTEE, the Grantee, whose tax mailing address is 5501 Frantz Road, Dublin, Ohio 43017, does give, grant, bargain, sell, and convey unto the said Grantee, his successors and assigns forever, the following described premises:

Situated in the State of Ohio, County of Delaware, City of Columbus, and being more particularly described as follows:

Being Lot Numbers Sixty (60) through One Hundred Nine (109), inclusive, of WYNSTONE SECTION 1 PHASE 2, as the same are numbered and delineated upon the recorded plat thereof, of record in Cabinet 1, Slides 557, 557A and 557B, Recorder's Office, Delaware County, Ohio.

Subject to all conditions, easements, liens, encumbrances, and restrictions of record, if any, which Grantee herein assumes and agrees to as part consideration for this conveyance.

APPROVED FOR TRANSFER  
 CHRIS BAUSERMAN  
 Delaware County Engineer

CHICAGO TITLE BOX - 5

PROVISIONS CONTAINED IN ANY DEED OR OTHER INSTRUMENT FOR THE CONVEYANCE OF A DWELLING WHICH RESTRICT THE SALE, RENTAL OR USE OF THE PROPERTY BECAUSE OF RACE OR COLOR ARE INVALID UNDER FEDERAL LAW AND ARE UNENFORCEABLE.

The Grantor hereby covenants with the Grantee and his successors and assigns that the premises are free and clear of all liens and encumbrances whatsoever created by or under the Grantor except (a) real estate taxes and assessments, if any, not presently due and payable, (b) zoning and building laws, ordinances, and regulations, (c) legal highways, (d) restrictions, conditions, and easements of record, and all other liens and encumbrances of record or otherwise affecting such premises; and that the Grantor will forever warrant and defend the premises, with the appurtenances, unto the Grantee and his successors and assigns against the lawful claims of all persons claiming through the Grantor except as above noted. In pursuance of a general plan for the protection, benefit, and mutual advantage of all lots described above and of all persons who now are or may hereafter become owners of any of said lots or parts thereof, and as part of the consideration for this conveyance, the Grantor executes and delivers this deed, and the Grantee accepts the same, subject to each and all of the following reservations, restrictions, conditions, easements, covenants, obligations, and charges (hereinafter collectively called "Restrictions") which are for the mutual benefit and protection of and shall be enforceable by any of the present or future owners of said lots. It is intended and understood that all or part of the premises described in this Special Warranty Deed shall

Delaware County  
 The Grantor has complied with  
 Section 319.202 of the R.C.  
 Date 4-27-96 Transfer Tax Paid 0  
 TRANSFERRED OR TRANSFER NOT NECESSARY  
 Jon M. Peterson, Auditor By [Signature]

be conveyed back to the Grantor. Such re-conveyance or any transfer or conveyance which may result in the same person acquiring all of the premises or more than one lot shall not result in a merger of the interest so as to result in the extinguishment of the Restrictions, it being the intent of the Grantor that the Restrictions remain at all times in full force and effect notwithstanding any such event.

#### ARTICLE ONE

Section 1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one single-family dwelling not to exceed two and one-half stories in height, and each such dwelling shall have a two-car garage. For a period of three (3) years after the execution and recording of these Restrictions, no dwelling shall be erected, placed or altered on a lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Grantor herein as to the quality of workmanship and materials, harmony of external design, colors and materials with structures in the subdivision, and location with respect to topography and finish grade elevation; provided, however, that any plans or specifications for the construction of a home by Grantor shall be conclusively presumed to have been approved by Grantor. Approval of plans and specifications by Grantor shall in no way be deemed to be a certification of the architectural or structural integrity of any improvements in the subdivision. After the expiration of 3 years from the execution and recording of these restrictions, no dwelling shall be erected, placed or altered on a lot until the construction plans and specifications, and a plan showing the location of the structure have been approved by the Homeowners' Association provided for under Article Two, below, as to the quality of workmanship and materials and harmony and compatibility of external design, colors and materials with other structures in the subdivision.

Section 2. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum setback lines shown on the recorded plat; provided, however, if the appropriate governmental authorities shall grant a variance to such setbacks, then the requirements hereof shall be so modified. For the purpose of this restriction, eaves, steps, and open porches shall not be considered as a part of a building provided, that this shall not be constructed to permit any portion of a building on a lot to encroach upon another lot.

Section 3. No obnoxious or offensive activity shall be permitted on any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 4. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

Section 5. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 6. No soil shall be removed for any commercial purpose.

Section 7. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 8. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers and out of view of the general public. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 9. The following structures and improvements shall not be permitted on any lot in the subdivision:

- a. satellite dishes, except that this restriction shall not apply to satellite dishes with a diameter less than twenty-four inches (24") and erected or installed to minimize visibility from the street which the dwelling fronts;
- b. solar panels;
- c. storage tanks, whether above or below ground (except in conjunction with gas grills);
- d. outdoor clotheslines;
- e. outdoor antenna;
- f. above-ground pools;
- g. no window air conditioning units on any window facing the street; and
- h. metal storage buildings.

As used herein, the term "above-ground pools" includes any pool which is on the surface of the ground, or which extends one (1) foot or more above the grade of the lot, but does not include jacuzzis or hot tubs.

Section 10. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street line, or the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 11. No automobile or motor-driven vehicle shall be left upon or in front of a lot for a period longer than thirty (30) days in a condition wherein it is not able to be operated upon the public highway, after which time the vehicle shall be considered as a nuisance and detrimental to the welfare of the neighborhood and shall be removed from the lot.

Section 12. No truck, trailer, boat, camper, recreational vehicle or commercial vehicle shall be parked or stored in front of or on any lot unless it is in a garage or other vehicle enclosure out of view from the street and abutting properties; provided, however, that nothing herein shall prohibit the occasional and nonrecurring temporary parking of such truck, trailer, boat, camper, recreational vehicle or commercial vehicle on the property for a period not to exceed seventy-two (72) hours in any period of thirty (30) days.

Section 13. Notwithstanding the provisions of Section 1, not more than one storage building may be located on a lot in addition to the dwelling; provided that any such storage building must be constructed of wood, must not exceed 12 feet in height or 100 square feet in floor area, must be of a color that matches the dwelling on the lot and must be constructed on a brick or block foundation. Notwithstanding the provisions of Section 3, no storage building shall be located closer than 25 feet to any building line on the recorded plat, except if a lot has a building line along both the front and rear of the lot, this provision does not apply to the building line along the rear of the lot. In no event shall any storage building be located closer to any street than the building line shown on the recorded plat.

Section 14. Fences or walls are permitted in accordance with the following requirements:

A. Fences or walls shall be constructed of wood, stone or brick only, and in no event shall chain link or other metal or wire fencing be permitted.

B. No fence or wall shall be constructed in excess of 60 inches above finished grade.

C. Fences or walls shall not be located closer to the street than a line parallel to the street and extending from the rear corner of the home, and in no event shall fences be located closer to any street than the building line shown on the recorded plat, except for ornamental railings, walls or fences not exceeding 3 feet in height located on or adjacent to entrance platforms or steps.

Section 15. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

Section 16. Without the prior written consent of Grantor, no construction, grading or other improvements shall be made to any lot if such improvement would interfere with or otherwise alter the general grading and drainage plan of the subdivision or any existing swales, floodways or other drainage configuration.

Section 17. Enforcement of these restrictions by Grantor or by any owner of any lot the subject of these restrictions may be by proceedings at law or in equity, or both, against any person or persons violating or attempting to violate any restrictions and such proceedings may be either to restrain violation or to enforce compliance or to recover damages. No failure to object to any violations of any restriction or to enforce any restriction shall be deemed a waiver of the right to do so thereafter, either as to the same violation or as to one occurring prior to or subsequent thereto. If Grantor or any owner or owners of a lot in the subdivision prevails in a proceeding at law or in equity or both against any person or persons violating or attempting to violate any restrictions, and such proceedings may be either to restrain violation or to enforce compliance or to recover damages, then Grantor or such owner or owners shall also be entitled to recover their expenses involved in such action or proceeding, including reasonable attorneys' fees. Acceptance of a deed to a lot or lots within the above described subdivision constitutes agreement with the provisions of this paragraph.

Section 18. Invalidation of any one of these restrictions by judgment or court order shall in no way affect any other restrictions which shall remain in full force and effect.

Section 19. Grantor reserves the right to amend or modify these Restrictions by a Declaration of Amendment if such amendment is requested or required by FHA or VA to secure governmental approval for mortgage financing purposes. The recordation of such amendment shall be sufficient evidence of such request or requirement and no further evidence shall be necessary or required. So long as Grantor owns one (1) or more lots in the subdivision, Grantor shall have the right to grant variance(s) to these restrictions. Thereafter, the Association provided for in Article 2 below shall have authority to grant variance(s).

In the event the subdivision in which said lots are located or any portion thereof shall be resubdivided at any time or times, then these Restrictions shall apply to each lot in such resubdivision as constituted after such resubdivision, and these Restrictions shall not apply in any way with respect to the lots in such resubdivision as

such lots were theretofore constituted. These Restrictions shall not apply in any way with respect to any areas designated as reserves in said subdivision or any such resubdivision.

## ARTICLE TWO

Section 1. The parcel owned by Grantor and more particularly described as Reserve "A" on Exhibit "A" hereto (hereinafter referred to as the "Storm Detention Area") shall be owned and maintained through a homeowners' association of lot owners in Wynstone subdivision (hereinafter referred to as the "Lot Owners"); provided, however, that all or part of such area may be conveyed to and accepted by the City of Columbus for park or open space purposes not inconsistent with its use for storm detention purposes. The term "Lot Owners" as used herein includes the homeowners' association of owners of lots in Wynstone Section 1 Phase 1, Wynstone Section 1 Phase 2, and owners of lots in future sections or parts of the subdivision which may hereafter be developed by Grantor. It is the desire of the Grantor that the Storm Detention Area be preserved in its current state; therefore, in furtherance of this objective the Storm Detention Area is hereby designated a No-Build Zone.

Section 2. An easement was granted, declared and reserved by a Special Warranty Deed of record at Book 0596, page 230 in favor of the Lot Owners as defined in Article Two, Section 1, over and upon a portion of Lots 1 and 59, to construct, repair, reconstruct and maintain an entry feature and associated landscaping, fencing, sprinkler system, and lawn (hereinafter referred to as the "Entry Easement Areas"). The easement shall constitute a restrictive covenant, shall run with the land and shall be binding on all future owners of Lots 1 and 59.

Section 3. In order to ensure that the Storm Detention Area, Entry Easement Areas and such other common areas or common area improvements as may be established in future sections of Wynstone subdivision shall be maintained in a manner that will properly serve the Lot Owners of the subdivision, and to further the desire of the Grantor described in Article Two, Sections 1 and 2, Grantor or the Lot Owners shall organize a homeowners' association (hereinafter referred to as the "Association"). When formed, the provisions of this Article Two shall apply to all of said Lot Owners and all the Lot Owners shall become members of such Association. The purpose of the Association shall be: (a) to own in fee simple and to mow and otherwise maintain the Storm Detention Area, or to the extent such area is conveyed in fee simple to the City of Columbus, to own any easement interest reserved to the Grantor or the Association and to accept any associated maintenance obligations with respect to such Storm Detention Area; (b) to own in fee simple, or to hold and exercise easement rights that may be created with respect to any common areas or common area improvements that may be established in future sections of Wynstone; (c) to own in fee simple, or to hold and exercise easement rights that may be created with respect to any common areas or common area improvements that may be established in future sections of Wynstone; (d) to provide and pay for insurance in such types and amounts as the Association shall determine with respect thereto; (e) to pay all real estate taxes, assessments and the like pertaining to the Storm Detention Area; (f) to install and maintain signs as described or deemed necessary in and around the Storm Detention Area, for example, signs stating: ("No Dumping," "No Construction," or "No Trespassing" signs); (g) to establish rules and regulations pertaining to the use of the Storm Detention Area; (h) to construct, repair, reconstruct and maintain entry monument signs and adjacent landscaping, fencing and sprinkler system in the Entry Easement Area and to establish, receive, construct, repair, reconstruct and maintain such common areas or common area improvements as may be established in future sections of the subdivision; and (i) to take such other action as the Association is authorized to take pursuant to its Articles of Incorporation and By-Laws, or this deed. The Association membership shall be comprised of the record owners of all lots in the subdivision, each of whom shall each have one vote for each lot owned in all elections and on all matters requiring a vote as set forth herein or in the Articles of Incorporation or By-Laws of the Association. Grantor shall be a member of the Association so long as it owns one (1) or more of said lots. The actions of the Association shall be subject to the consent of sixty-seven percent (67%) of the votes

allotted herein, subject to the quorum provisions set forth in the Association's Articles of Incorporation or this deed. Joint, common or other multiple ownership of any of the lots shall not entitle the owners thereof to more than the number of votes which would be authorized if said lot was held under one name.

Section 4. When such Association is formed, then each owner of any lot, by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association an annual assessment for Common Expenses (as hereinafter defined) and special assessments (as hereinafter provided). For the purposes hereof, the term "Common Expenses" shall mean the expenses and costs incurred by the Association in performing the rights, duties and obligations set forth herein and in its Articles of Incorporation or By-Laws.

Section 5. Until January 1, 1997, the maximum annual Common Expense assessment per lot shall be Forty Dollars (\$40.00) per lot. From January 1, 1997, through December 31, 1998, the maximum annual assessment for Common Expenses as stated above may be increased each year by the Association not more than five percent (5%) above the maximum assessment for the previous year without a vote of sixty-seven percent (67%) of the total votes of all owners of the Association. From and after January 1, 1999, the maximum annual assessment for Common Expenses may be increased above the maximum annual assessment for the previous year by a vote of sixty-seven percent (67%) of the total votes of all Association members at a meeting duly called for this purpose. It shall be the duty of the Association to fix the annual assessment for Common Expenses at an amount not in excess of the maximum annual assessment rate established above (subject to the increases allowed by a vote of sixty-seven percent (67%) of the Association members).

Section 6. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any repair or major maintenance related to the Storm Detention Area and Entry Easement Areas ("Special Assessment"); provided that any such assessment shall have the assent of sixty-seven percent (67%) of the total votes of all Association members at a meeting duly called for this purpose.

Section 7. Written notice of any Association members' meeting called for the purpose of taking any action authorized under this Article Two shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or proxies entitled to cast a majority of all the votes shall constitute a quorum.

Section 8. The annual assessments for Common Expenses shall commence as to Association members on January 1 next following the filing of Articles of Incorporation unless said Articles of Incorporation state differently. The Association shall fix the amount of annual assessments for Common Expenses against each lot not later than December 1 of each calendar year for the following calendar year. Written notice of the annual assessment for Common Expenses shall be sent to every owner subject hereto. Unless otherwise established by the Association, annual assessments for Common Expenses shall be collected on an annual basis. The due date for special assessments shall be established by the Association.

Section 9. All sums assessed to any Association member pursuant hereto, including any lots owned by the Grantor, together with interest and all costs and expenses of collection, including reasonable attorneys fees, shall be secured by a continuing lien on such lot in favor of the Association, which lien shall be effective from the date the Association certifies the lien to the Franklin County Recorder.

Section 10. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The

Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Storm Detention Area or Entry Easement Areas, or abandonment of his lot.

Section 11. The lien for sums assessed pursuant hereto may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio. In any such foreclosure, the owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorney fees. All such costs and expenses shall be secured by the lien being foreclosed. The owner shall also be required to pay to the Association any assessments against the lot which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date the owner's title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure or other legal sale to acquire the lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with the same as the owner thereof.

Section 12. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage which is given to or held by a bank, savings and loan association, FNMA, GNMA, insurance company, mortgage company or other institutional lender, or which is guaranteed or insured by the FHA or VA. The sale or transfer of any lot pursuant to foreclosure of such a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments which thereafter become due or from the lien thereof. The Association shall, upon written request, report to any such first mortgagee of an Association member's lot any assessments remaining unpaid for a period longer than thirty (30) days after the same shall have become due, and shall give such first mortgagee a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the lot; provided, however, that such first mortgagee shall have furnished to the Association written notice of the existence of its mortgage, which notice shall designate the lot encumbered by a proper legal description and shall state the address to which notices pursuant to this paragraph are to be given. Any such first mortgagee holding a lien on a lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Article.

Section 13. Every owner of a lot in the subdivision shall have a right and non-exclusive easement of enjoyment in and to the Storm Detention Area which shall pass with the title to every lot in the subdivision, subject to the following provisions: (a) the right of the Association, from time to time, in accordance with its By-Laws to establish, modify, amend and rescind reasonable rules and regulations regarding use of the Storm Detention Area; (b) the right of the Association to suspend the voting rights and right to the use of the Storm Detention Area by a Lot Owner for any period during which any assessment levied under this deed against the lot remains unpaid, and, for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and (c) the right of the Association to otherwise deal with the Storm Detention Area as provided by its Articles of Incorporation.

Any Association member may delegate, in accordance with the By-Laws, the right of enjoyment to the Storm Detention Area or Entry Easement Areas to the members of his family, his tenants or to contract purchasers, provided the foregoing actually reside at the Association member's lot. No damage to or waste of the Storm Detention Area or Entry Easement Areas or any part thereof shall be committed by any Lot Owner or any tenant or invitee of any Lot Owner. No noxious, destructive or offensive activity shall be permitted in the Storm Detention Area, Entry Easement Areas or any part thereof, nor shall anything be done thereon which may be or may become an unreasonably annoyance or nuisance to any other owner. No Lot Owner may erect any improvement or structure of any kind in the Storm Detention Area or Entry Easement Areas.

Section 14. At any time after the formation of the Association, the Storm Detention Area may be conveyed to the City of Columbus or other appropriate governmental entity; provided that said conveyance shall have the agreement of a majority of the total votes of the Association members at a meeting duly called for this purpose.

IN WITNESS WHEREOF, the Grantor has hereunto caused this instrument to be executed by its duly authorized joint venturers this 26<sup>th</sup> day of April, 1996.

Signed and acknowledged  
in the presence of:

WYNSTONE ASSOCIATES, an Ohio  
joint venture

By: BORROR CORPORATION, an Ohio  
corporation, managing joint venturer

Denise M. Cave  
Printed: Denise M. Cave

By: David S. Borrer  
David S. Borrer  
Executive Vice President

Patty G. Crocker  
Printed: Patty G. Crocker

BY: M/I SCHOTTENSTEIN HOMES,  
INC., an Ohio corporation,  
joint venturer

Janis A. Eckstein  
Printed: Janis A. Eckstein

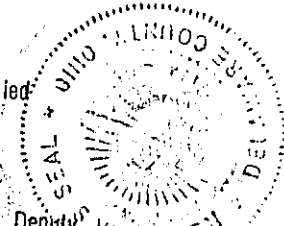
By: Irving E. Schottenstein  
Irving E. Schottenstein  
President

Elizabeth M. Coleman  
Printed: Elizabeth M. Coleman

I hereby certify that the within  
named Grantor-Grantee has complied  
with Section 1777.02 of the Ohio  
Revised Code.

Kay E. Conklin, Recorder  
Delaware County, Ohio

By: Cheryl Casart Deputy



STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of April, 1996, by David S. Borrer, Executive Vice President of Borrer Corporation, an Ohio corporation and managing joint venturer of Wynstone Associates, an Ohio joint venture, on behalf of the corporation and joint venture.

Patty G. Crocker  
Notary Public



PATTY G. CROCKER  
NOTARY PUBLIC - STATE OF OHIO  
My Commission Expires Feb. 26, 2000

STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of April, 1996, by Irving E. Schottenstein, President of M/I Schottenstein Homes, Inc., an Ohio corporation and joint venturer of Wynstone Associates, an Ohio joint venture, on behalf of the corporation and joint venture.

Janis A. Eckstein  
Notary Public

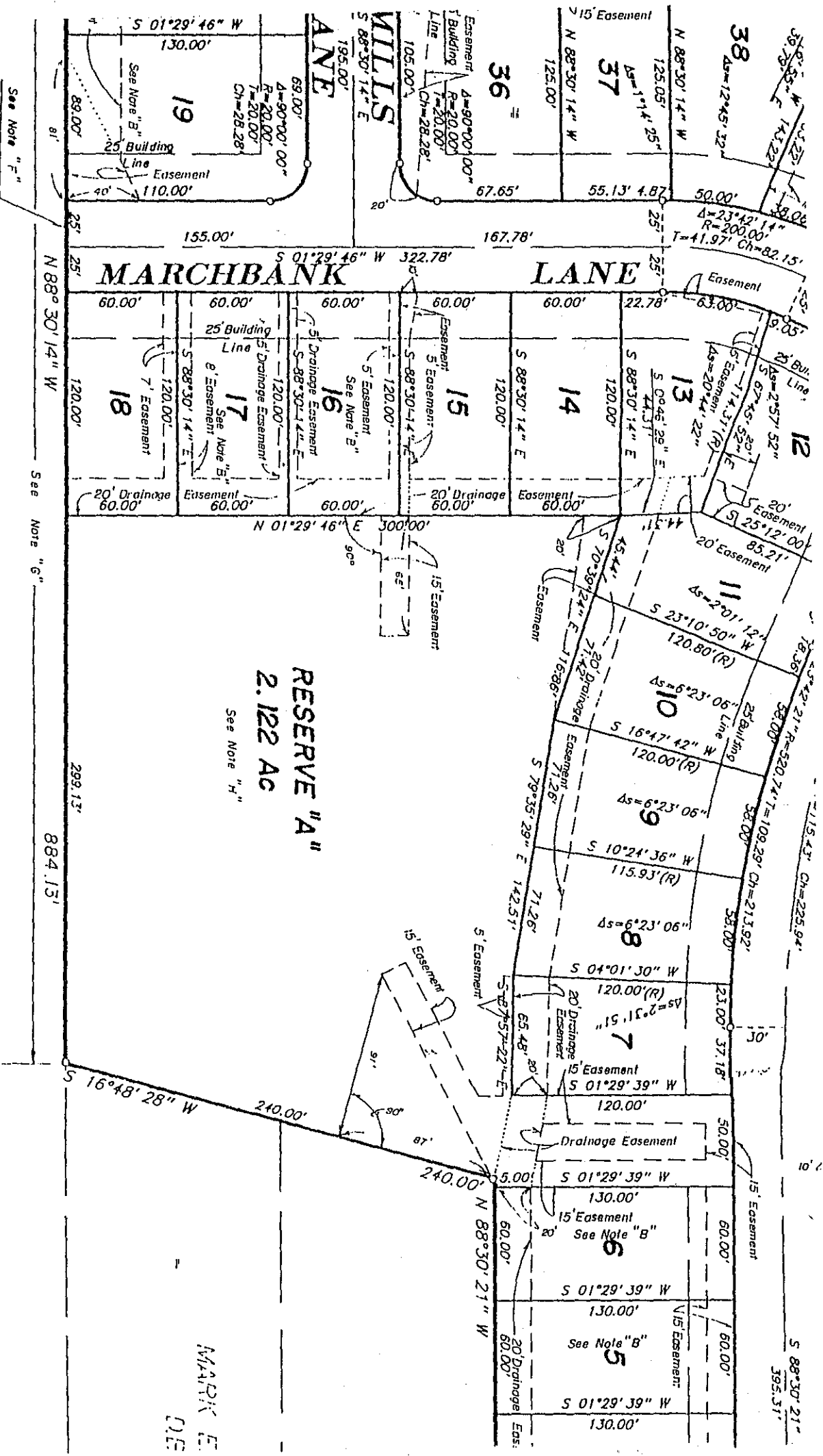


JANIS A. ECKSTEIN  
Notary Public - State of Ohio  
My Commission Expires 7-27-97

This instrument prepared by:  
Robert A. Meyer, Jr., Esq.  
Borrer Corporation  
5501 Frantz Road  
Dublin, Ohio 43017



EXHIBIT "A"



DOROTHEA F. PETERJOHN, TRUSTEE  
DB 542, P 9

See Note "F"

See Note "G"

MARK E.  
ME