

Prepared by and Return to:
Allen C. Dunstan
Armstrong Allen, PLLC
6060 Poplar Avenue, Ste. 140
Memphis, TN 38119
901-761-1263

STATE MS. - DESOTO CO.

JAN 17 3 15 PM '03

Document refers to → W 349-456, ~~457~~,
349-458

BK 436 PG 307
W.F. DAVIS CH. CLK.

TEMPORARY VARIANCE FROM DEED RESTRICTIONS

THIS TEMPORARY VARIANCE ("Variance") is made and entered into as of this 10th day of January, 2003, by and between ALLEN C. DUNSTAN and ALISON D. DUNSTAN ("Dunstan") and MARK J. MATZ and SARAH MATZ ("Matz").

RECITALS:

WHEREAS, on the 27th day of April, 1998, Dunstan purchased from F. Marvin Gilmer ("Gilmer") approximately 23 acres in DeSoto County, Mississippi, being more particularly described on Exhibit A attached hereto.

WHEREAS, Matz purchased 30 acres from Gilmer subsequent to the purchase by Dunstan, the Matz's property lying immediately adjacent to and south of Dunstan's property, and being more particularly described on Exhibit B attached hereto. (The Dunstan Property and the Matz Property being sometimes referred to as the Property.)

WHEREAS, both Deeds from Gilmer to Dunstan and Matz respectively contained the following language:

"The Seller's remaining property and the property bought by Purchaser are subject to the following Restrictions. Both parcels are restricted so that there will be no house trailer, mobile homes, modular housing and the like permitted on the properties as primary residences, unless the owners of both properties agree to remove these Restrictions." (The "Restriction")

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4. Due to unforeseen circumstances at the time the restrictions were imposed, the parties do hereby wish to temporarily agree to allow a variance from the Restrictions barring house trailers and mobile homes on either property.

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, the parties do hereby agree as follows:

1. Dunstan and Matz hereby agree for a Temporary Variance from the Deed Restrictions relative to house trailers and mobile homes being located on the Property. This Variance shall remain in effect, unless otherwise terminated, for a period of one year from the date hereof. Any extension of time for the Variance after one year shall be mutually agreed upon by the parties and an instrument shall be filed in DeSoto County setting forth any extension. If no agreement is reached, then this Variance shall terminate and the trailer shall be removed. At termination, this Agreement shall become null and void and all of the Restrictions contained in the Matz Deed and the Dunstan Deed shall be in full force and effect. No further recording or documentation shall be required to cancel the Variance from the Restrictions.

2. As further consideration for the Variance set forth herein, Matz agrees that the mobile home or house trailer to be located on their property shall be located immediately south of the currently existing barn so that said trailer or mobile home cannot reasonably be seen from the Dunstan residence located north of said barn. The trailer shall be removed upon completion of construction of the Matz's residence.

3. Any violation of the terms and conditions of this Temporary Variance by Matz, after ten days written notice from Dunstan to Matz setting forth the details of Matz's default hereunder, shall entitle Dunstan to unilaterally terminate this Variance, to notify the DeSoto County Planning Commission and the DeSoto County Board of Adjustment and to require Matz to immediately remove said mobile home or house trailer and to comply strictly with the terms and conditions of the Deed Restrictions contained in Matz's and Dunstan's Deeds. Dunstan shall be entitled to any and all other remedies in equity or at law and if an attorney is employed for the purpose of enforcing this Variance or the Restrictions, Matz agrees to pay all reasonable attorney's fees, court costs and expenses of recording any documents.

4. Matz shall pay for recording costs to record this Variance.

IN WITNESS WHEREOF, the parties have executed this Temporary Variance as of the day and date first written above.

[Signature]
ALLEN C. DUNSTAN

[Signature]
ALISON D. DUNSTAN

[Signature]
MARK J. MATZ

[Signature]
SARAH MATZ

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Allen C. Dunstan and Alison D. Dunstan, to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and Notarial Seal at office this 10th day of January, 2003.

My Commission Expires:



[Signature]
Notary Public

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Mark J. Matz and Sarah Matz, to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and Notarial Seal at office this 19th day of ^{FEBRUARY} January, 2003.

My Commission Expires:

MY COMMISSION EXPIRES MAY 17, 2005

[Signature]
Notary Public

BK 0440PG0637

OWNER'S FORM
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE A

Office File No.	Date of Policy	Date of Policy	Amount of Insurance
A992847	Shelby County -	DeSoto County -	
Policy Number	March 5, 1999 at	March 26, 1999	\$300,000.00
43 902 107 992847	10:25 A.M.	at 1:54 P.M.	

- Name of Insured:

Mark J. Matz and Sara K. Matz
- The estate or interest in the land described herein and which is covered by this policy is: Fee Simple
- Title to the estate or interest in the land is vested in:

Mark J. Matz and Sara K. Matz
- The land referred to in this policy is described as follows:

Land situated in DeSoto County, Mississippi:

Parcel I - Fee Parcel

Part of the Gilmer Property as described in Book 204, Page 558, in DeSoto County, Mississippi:

South west 1/4 of the SW 1/4 of sec 17 T 1 R 5W

Beginning at an iron pin found in Forest Hill Irene Road, also being in the west line of Section 17, Township 1 South, Range 5 West, being 4613.84 feet south of the physical centerline of Holmes Road; thence North 89 degrees 58 minutes 35 seconds East a distance of 1968.98 feet to an iron pin found, said iron pin being in the west line of the Manning Trust property as described in Book 297, Page 566 (Tract II) in DeSoto County, Mississippi; thence South 00 Degrees 27 minutes 26 seconds West along the said west line a distance of 659.20 feet to an iron pin found; said iron pin being in a north line of the Robinson property as described in Book 247, Page 56 in DeSoto County, Mississippi; thence North 89 Degrees 56 Minutes 38 Seconds West along the said north line a distance of 1961.11 feet (deed = 1980 feet more or less) to an iron pin found, said iron pin being in the west line of Section 17, Township 1 South, Range 5 West and an east line of the Robinson property, thence North 00 Degrees 13 Minutes 40 Seconds West along the west line of Section 17 a distance of 656.46 feet to the point of beginning.

PARCEL II - EASEMENT

Across Part of the Dunston property as described in Book 332, Page 455 in DeSoto County, Mississippi:

Beginning at an iron pin set in Forest Hill Irene Road, also being in the west line of Section 17, Township 1 South, Range 5 West at the Accepted Mississippi-Tennessee State Line being 4109.91 feet (deed = 4125 feet more or less) south of the physical centerline of Holmes Road; thence North 89 Degrees 38 Minutes 29 Seconds East along the north line of Parcel 1B a distance of 50.00 feet to a point; thence South 00 Degrees 13 Minutes 40 Seconds East parallel with the west line of Section 17, Township 1 South, Range 5 West, a distance of 504.23 feet to a point in the north line of Parcel 2; thence South 89 degrees 58 minutes 35 seconds West along the north line of Parcel 2, a distance of 50.00 feet to an iron pin set, said iron pin being in the west line of Section 17, Township 1 South, Range 5 West and in the east line of the Robinson property as described in Book 247, Page 56; thence North 00 degrees 13 minutes 40 seconds West along the west line of Section 17, Township 1 South, Range 5 West a distance of 503.93 feet to the point of beginning.

BK 0440PG0638

OWNER'S FORM
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE A (continued)

Office File No.: A992847

Policy No.: 43 902 106 992847

Land situated in Shelby County, Tennessee:

PARCEL III - EASEMENT

Across of Part of the Dunston property as described in Instrument No. HJ 2538 in Shelby County, Tennessee:

Beginning at an iron pin set in Forest Hill Irene Road, also being in the west line of Section 17, Township 1 South, Range 5 West at the Accepted Mississippi-Tennessee State Line and being 4109.91 feet (deed = 4125 feet more or less) south of the physical centerline of Holmes Road, said point being in the north line of Parcel 1; thence North 00 Degrees 13 Minutes 40 Seconds West along the west line of Section 17, Township 1 South, Range 5 West and the east line of the Robinson property as described in Book 247, Page 56 in DeSoto County, Mississippi a distance of 50.00 feet to a point; thence North 89 Degrees 38 Minutes 29 Seconds East parallel with the Accepted Mississippi-Tennessee State Line a distance of 50.00 feet to a point; thence South 00 Degrees 13 Minutes 40 Seconds East parallel with the west line of Section 17, Township 1 South, Range 5 West a distance of 50.00 feet to a point in the Accepted Mississippi-Tennessee State Line; thence South 89 Degrees 38 Minutes 29 Seconds West along the Accepted Mississippi-Tennessee State Line a distance of 50.00 feet to the point of beginning.