The court makes the following conclusions of law:

- 1. The defendant has trespassed and continues to-trespass over the plaintiff's property in order to exit and enter his ranch.
- 2. The plaintiff's claim for damages was not proven by a greater weight of the evidence.
- 3. The plaintiff is entitled to a permanent injunction to prohibit the defendant, his agents, assigns and grantees from traveling on the property owned by the plaintiff.
- 4. The defendant proved by clear and convincing evidence the existence of an oral agreement between Waldron and E.B. Development Corporation that Waldron would have access to his property over the public roads of Westwoods in return for his consent to the abandonment of the public right-of-way. The defendant fully performed his obligation under the oral agreement. E.B. Development Corporation, however, filed a plat conveying private, not public, roads to plaintiff.
- 5. The oral agreement between Waldron and E.B. Development Corporation is not binding upon the plaintiff because the plaintiff acquired title to the roads for a valuable consideration and without notice. Section 695.01(1), Florida Statutes (1973).

It is ORDERED AND ADJUDGED as follows:

- 1. The court grants a permanent injunction and forever enjoins Thomas S. Waldron, his agents, employees, guests, tenants, and servants as well as his assigns and grantees, from traveling over or upon the property owned by Westwood Property Owners Association, Inc.
- 2. The court finds that the plaintiff Westwood Property Owners Association, Inc. shall recover nothing from the defendant Thomas S. Waldron on Count II of the complaint, and the defendant shall go forth hence without day.
- 3. The defendant's counterclaim for a non-exclusive perpetual easement for ingress and egress over and upon the plaintiff's private roads is hereby denied.
- 4. The court retains jurisdiction of the parties and the subject matter of this ligitation to enter further orders as may be necessary and to assess taxable costs upon proper notice.

B:6-1639 INTER-OFFICE COMMUNICATION

Palm Beach County DATE March 20, 1986 Lucille Carter, Supervisor Zoning & Builidng Department

Tony Miller, Project Coordinator Land Development Division

FILE WESTWOODS

FENCE PERMIT

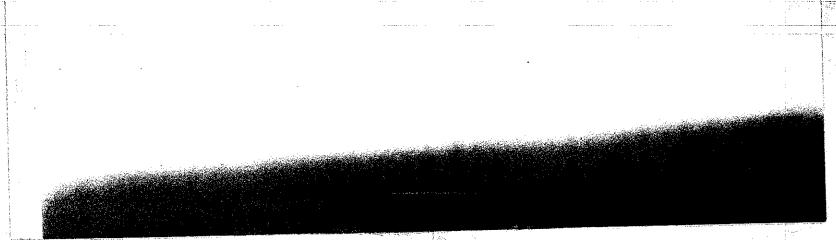
In view of the attached Final Judgment and in discussing the matter with Assistant County Attorney Richard Carlson, this office has no objections to the construction of the fence within the private right-of-way of Westwoods Circle by the Property Owners Association.

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

AAK:CTR:TWM:ev

Enclosure: Final Judgment

Signed Tony W. Tillle



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

CASE NO. 84-3385 CA (L) J

WESTWOODS PROPERTY OWNERS ASSOCIATION, INC.,

Plaintiff,

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.

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,
- 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.