

I certify that this instrument was filed on

DECLARATION OF LOCAL COVENANTS AND
RESTRICTIONS APPLICABLE TO ONO
ISLAND SUBDIVISION, UNIT THIRTEEN
BALDWIN COUNTY, ALABAMA

APR 14 1961 *WPM*

and that no tax was collected. Recorded in

Book *22*
Page *362-76* *Henry Poline*
Judge of Probate
F.P. \$1.00 Index \$ *1.00* By *WPM*

KNOW ALL MEN BY THESE PRESENTS, that:
Whereas, Ono East, Inc., an Alabama Corporation, owner of the hereinafter described real property, has heretofore placed of record in the Office of the Judge of Probate, Baldwin County, Alabama, a plat of subdivision of lands located in Baldwin County, Alabama, entitled Ono Island Subdivision, Unit Thirteen, said plat of subdivision being recorded on Slide 1144-B of the records in the Office of the Judge of Probate, Baldwin County, Alabama; and

WHEREAS, Ono Development Company, Inc., joined by Property Owners Association of Ono Island, Inc., an Alabama nonprofit corporation, has placed of record in said Probate Records a Declaration of General Covenants and Restrictions which are recorded in Misc. Book 22, Page 359, and which now apply to Ono Island Subdivision units of record and other properties which may be added thereto, under a common scheme of development as more particularly set out in said Declaration of General Covenants and Restrictions; and

WHEREAS, Ono East, Inc. as owner of all of the lands embraced in said Ono Island Subdivision, Unit Thirteen, in its determination to keep the development of the lands contained in Ono Island Subdivision, Unit Thirteen, at a high level for the benefit and pleasure of the residents and visitors to said property, and to protect the property values of said property, desires to place against all of the real property within said Ono Island Subdivision, Unit Thirteen, certain protective covenants relating specifically to the occupancy, use and/or improvement of said lands contained in said Ono Island Subdivision, Unit Thirteen, which said covenants, restrictions and limitations are in addition to those contained in said Declaration of General Covenants and not in limitation thereof.

MISC. 61-105 359

NOW THEREFORE THESE PRESENTS WITNESSETH: that ONO EAST, INC., does hereby ADOPT by reference the General Covenants applicable to Ono Island Subdivision recorded in Misc. Book 22, Page 359, the same as if set out herein in full, and does hereby make all of the lands in Unit Thirteen of said subdivision subject to said covenants; and does also hereby MAKE AND FILE the following declarations, reservations, protective covenants, limitations, conditions and restrictions regarding the use, occupancy and/or improvement of the property within the bounds of said Ono Island Subdivision, Unit Thirteen, including all roads, avenues, and streets within said subdivision, and the waters adjacent thereto, which said covenants are hereinafter sometimes referred to as "DECLARATION OF LOCAL COVENANTS AND RESTRICTIONS APPLICABLE TO ONO ISLAND SUBDIVISION, UNIT THIRTEEN," and are as follows:

ARTICLE I
USE RESTRICTIONS

- A. All lots in Ono Island Subdivision, Unit Thirteen, shall be known and designated as "RESIDENTIAL LOTS" and shall be used for residential purposes only.
- B. No commercial enterprise shall be carried on within the confines of any residential lot; or in, on or over the waters and areas adjacent to any residential lot within which any residential lot owner may have any riparian rights.
- C. No residential lot shall be divided or resubdivided unless all

portions of said lot are used to increase the size of adjacent lots as the same are shown upon the recorded plat of said subdivision.

D. No building shall be erected, altered, placed or permitted to remain on any residential lot, including any residential lot that may have been increased in size in the manner authorized under Article I, Section C hereof other than one (1) detached, single family dwelling not to exceed two stories in height and a private garage. (For additional permitted structures, variances, and limitations, see Article II and VII, pertaining to Architectural Control and Waterfront Lot Restrictions).

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

A. No building, fence, wall, driveway, or other structure of any nature shall be commenced, erected or maintained upon The Properties as defined in the Declaration of General Covenants and Restrictions applicable to this land, nor shall any exterior alterations or additions be made to any existing buildings or structures upon any of The Properties, until the building plans and specifications and plot and profile plans showing the elevation and location thereof have been approved as to conformity and harmony of external and structural design with existing structures in the subdivision, quality of workmanship and material, and as to location of any building upon any lot with respect to topography, finish grade elevation, and minimum setback; and until a building permit has been issued authorizing said construction. Said approval and building permit shall be issued by an Architectural Control Committee designated by Property Owners Association of Ono Island, Inc., or by a representative appointed by a majority of said committee, all as set out more particularly in said Declaration of General Covenants and Restrictions, which are by reference made a part hereof.

B. The said Architectural Control Committee shall have the authority to periodically inspect the exterior of any dwelling unit, or outbuilding, and also any retaining wall, sea wall, or similar structure situated at any location upon The Properties or the waters adjacent thereto, and if the same is determined by said committee to be unsafe, in need of repair, or in such condition that the adjoining property may be adversely affected thereby, then said committee may cause the owner of said property to correct any such condition, and/or said committee shall have authority to enter upon said property and correct the same; and for the purposes hereof an easement in, on, over and across all lots in this subdivision is hereby reserved in favor of said committee, its agents or employees, and no such entry, nor any action taken pursuant to this covenant, shall be deemed a trespass.

C. Variances. The Architectural Control Committee of the Property Owners Association of Ono Island, Inc. may, within its sole discretion grant to the owners of lots herein, variances from the restrictions, covenants and conditions set forth in the Declaration of General Covenants and Restrictions and/or any restrictions, covenants and conditions herein set forth, when in the opinion of said Architectural Control Committee, the literal enforcement of said restrictions, covenants and conditions would work an undue hardship upon such lot owner, and when in its sole discretion such variance will not unduly or unreasonably affect or inconvenience the owners of adjoining property.

ARTICLE III RESIDENTIAL SITE AND BUILDING SIZE

A. No single story dwelling with less than 1,200 square feet of enclosed livable area shall be permitted on any residential lot in Ono Island Subdivision, Unit Thirteen. All dwellings of more than one story shall have a minimum of 800 square feet of enclosed livable area on the main floor. For the purpose of computing the above required

MSC
61-116
369

minimum square foot areas, the following definitions and criteria shall govern:

Enclosed Livable Area: The "Enclosed Livable Area" is defined as that area of the building that is completely enclosed and protected from the weather, and intended as the living quarters of the home. Areas protected only by curtains, or by screens of any form, or by any combination thereof, shall not be computed as a portion of the enclosed livable area. The square footage area of the livable area shall be measured between the outside surfaces of the enclosing walls.

Covered Porches and Ground Level Structures. One half (1/2) of the square footage of actual usable floor area of any screened or open porch which is covered by the permanent roof of the main structure shall be included in computing the livable area. In the event any residence is constructed upon pilings or piers wherein the main floor is above ground level, one half of the square footage of that portion of any such residence which is located below the main floor and which is completely enclosed and protected from the weather shall be included in computing the livable area, provided said area is intended to be used as a portion of the living quarters of the home. The outside perimeter of the area below the main floor of any such elevated residence must be enclosed by lattices or similar material in any portions thereof which are not enclosed by more permanent walls.

Areas Not Considered. Neither any carport, garage, deck, patio, cabana, storage area below the main floor level, or outbuilding, nor any porch not covered by the permanent roof of the main structure, shall be considered in computing the required livable area.

B. No structure of a temporary character, trailer (with or without wheels) tent, shack, garage, barn, or other such building or outbuilding shall be used at any time on a residential lot for a residence or for sleeping purposes, either temporarily or permanently. Provided, however, that during the period of actual construction of a home, but in no event for more than 120 days, a contractor may locate one mobile trailer upon a residential lot. No tractors, tractor-trailers, or other vehicles weighing over 8,000 pounds may be parked overnight in any driveway or on any residential lot, street or road in this subdivision.

C. No changes in elevation of the land may be made, nor may any structures be erected, which will interfere with any natural drainage or endanger the lateral support of adjoining property.

D. No fence, sign, wall, hedge, shrub or plant which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on that portion of any corner lot or tract within the triangular area formed by the intersecting right of way lines adjacent to said lot and a line connecting them at points twenty five (25) feet from the intersection of said lines, or in the case of a rounded property corner, from the intersection of said right of way extended. No tree shall be permitted to remain within said triangular area unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

E. No water well or septic tank shall be located, constructed or maintained upon any lot in this subdivision. All residences and living units shall be equipped and furnished with mechanical food waste disposers, and a low pressure sewer grinder pump, which pump must be

MSC. 61-50E 370

approved by the Baldwin County Health Department and the Ono Water & Sewer Authority, Inc.

F. All owners constructing residences must pay a connection fee and connect to the central water supply system upon completion of such residence, and will be charged for such service on a meter basis with a fixed minimum charge. All owners of residences shall be required to connect to the central sewer system adjacent to the lot of said owner upon completion of said residence. All owners will be assessed a reasonable sewer connection fee and also a reasonable monthly sewer charge, which shall be due and payable to Ono Development Company, Inc., or the company supplying such service.

ARTICLE IV SETBACK RESTRICTIONS

The main dwelling upon any lot, and any garage, carport, or similar structure must be located within the area bounded by the front, rear and any other building setback lines. The front and rear setback lines for all lots shall be situated as shown upon the recorded plat of Ono Island Subdivision, Unit Thirteen. The front setback line shall be the line nearest the canal easement. No building shall be erected nearer than ten feet from any interior lot lines or side lot lines without approval in writing from the Architectural Control Committee. For the purposes of these covenants, eaves and steps shall not be considered as a part of any building. If any lot is increased in size in the manner authorized under Article I (C) hereof, all setback restrictions shall apply to the new external perimeter of any such lot. All questions pertaining to setback restrictions shall be subject to the interpretation of and/or variance by the Architectural Control Committee, and its decision on all such matters shall be final.

ARTICLE V EASEMENTS

A. All easements for utilities, drainage or other purposes shown on the said plat of Ono Island Subdivision, Unit Thirteen are reserved by Ono East, Inc. as perpetual easements for such purposes. An additional easement 10 feet in width is reserved over and across the land in each lot adjacent to the side lot lines for the installation, maintenance, and repair of any utilities, including poles and any necessary guy wires. The reservation of any of the above referred to easements or rights of access shall not prevent the use of a portion of any lot affected thereby by the owner for any permitted purposes, except for buildings. However, any planting or other improvements located in an easement area shall be removed upon the request of Ono East, Inc., its successors or assigns, or Property Owners Association of Ono Island, Inc. or any public utility using said area, all at the expense of the owner of such lot.

If any lot is increased in size in the manner authorized under Article I (C) hereof, all easements along the side lines (unless they then have utilities installed in such easements) shall shift to the new side lot lines and the old easement (unless there are utilities installed in it) shall be abandoned automatically and simultaneously upon recording of a Declaration by the owner consolidating title to any such adjacent lot, or portion thereof.

B. A right of pedestrian access by way of a driveway or open area is also hereby reserved in each lot, from the rear lot line to the front setback line, for use by the agents or employees of any utility company having an installation upon said lot.

C. Ono East, Inc. reserves unto itself, its successors and assigns a free and unobstructed right of access at all times subsequent hereto over, upon and across any and all parts of the areas designated as canal easements upon the plat of Ono Island Subdivision, Unit Thirteen, together with the exclusive right at all times to dig, dredge,

MSC. 61-AGE 371

excavate, and remove sand, soil, vegetation, and all other types of material lying within the area of said canal easement; together with the exclusive right to deposit said material on spoil areas upon Ono Island or other locations. Ono East, Inc., further reserves unto itself, its successors and assigns, the right at all times subsequent hereto, to widen, relocate, and in all other ways alter or change the design, location and boundaries of all canals or waterways located within said canal easements, together with the same rights with regard to the jetties extending into the waters adjacent to said subdivision. Ono East, Inc. reserves unto itself, its successors and assigns the exclusive right to transfer and assign full rights of ingress and egress, over, upon and across all canals located within the canal easements as shown upon the plat of Ono Island Subdivision, Unit Thirteen, to any and all parties at its sole discretion, regardless of whether said parties own all right, title or interest to lands within this subdivision.

ARTICLE VI
ADDITIONAL USE RESTRICTIONS

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

B. No sign of any kind shall be displayed to the public view on any residential lot, except one sign of not more than four (4) feet square in area, advertising the property for sale or rent. One sign of not more than four (4) square feet in area may be used by a builder or contractor during the construction period only, said sign to remain for a maximum of 120 days. No sign of any type shall be lighted.

C. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any residential lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any residential lots. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any residential lot.

D. No livestock or poultry of any kind shall be raised, bred or kept on any residential lot. Dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. No animal shall be allowed to run loose outside the perimeter of the owner's lot.

E. No residential lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept only in sanitary containers, which shall be maintained in a clean condition. No burning of trash, leaves, grass, debris or any other such matter shall be permitted.

F. No external clotheslines shall be located upon any lot in this unit of Ono Island Subdivision.

G. No fence, wall, hedge, or other border higher than three feet shall be located along any side lot line rearward from the rear setback line. No fence or wall in excess of six feet high shall be permitted along any side lot line between the front and rear setback lines. No fences, wall, hedge, or other border shall be located along any side lot line forward of the front setback line.

H. Each lot shall be maintained in a neat, orderly manner. No junked or inoperative refrigerators, stoves, bicycles, boats, motorcycles, cars, or other such items shall be permitted to remain on any lot. If a lot owner allows a lot to become unsightly, and after due notice, fails to remedy such condition, the Architectural Control Committee, its agents, servants or employees, acting on behalf of Property Owners Association of Ono Island, Inc. may enter upon the said lot, clear the same, and remove and dispose of any such unsightly material without recourse upon it, or its agents, servants or employees. No entry by the Architectural Control Committee, its agents, servants or employees pursuant hereto shall constitute a

MSC. 61-AGE 372

trespass, and an easement of entry for such purpose is hereby reserved upon all lots.

ARTICLE VII
ADDITIONAL COVENANTS AND RESTRICTIONS
PERTAINING TO WATERFRONT LOTS

A. No pavilion, boathouse, wharf, dock, pier, piling, anchoring mechanism, or other structure of any kind may at any time be erected over, upon, or in the waters of the canal located within the canal easement as shown on the plat of this subdivision, without the express written approval therefor having been first obtained from the Architectural Control Committee of Ono Island, which may, in its sole discretion, deny the erection of any and all such structures, or impose whatever limitations thereon which it, in its discretion as aforesaid, deems appropriate.

B. No dredging, dragline operation or any similar activity which shall alter the depth of the waters adjacent to or outward from any lot shall be conducted without prior approval therefor having been granted by the Architectural Control Committee of Ono Island and Ono East, Inc. No lot or parcel of land shall be increased in size by filling in the waters upon which it abutts.

No portion of any lot adjacent to a canal may be excavated to provide a boat slip or for any other purpose unless prior written approval therefor is obtained from the Architectural Control Committee of Ono Island, from the U.S. Corps of Engineers, and from all other appropriate governmental agencies, and provided such excavation is performed under the supervision and control of Ono East, Inc. Ono East, Inc. specifically retains all rights described in Article V-C hereof, and may, at its sole discretion, deny any and all such excavation; or in authorizing such excavation, may impose whatever conditions or limitations thereon which it deems appropriate.

C. No seawall or similar bulkhead shall be erected unless and until its location, design, materials, structure, strength, etc., shall have been approved by the Architectural Control Committee. All costs of maintenance, repair, and upkeep upon any such seawall shall be the exclusive expense and responsibility of the lot owner, but supervision and inspection thereof may be conducted by the Architectural Control Committee as more specifically set out under Article II B hereof, and as set out in the said Declaration of General Covenants and Restrictions.

D. If any boat, raft, or other structure designed to float shall sink within the area affected by the riparian rights of a lot owner, the said owner shall cause the same to be raised or removed within thirty days after receipt of registered notice thereof. If said raising or removal is not accomplished by said lot owner within this period, the Architectural Control Committee may take whatever action is necessary to have the same removed or destroyed, without recourse upon it or its agents, servants or employees.

E. The U. S. Corps of Engineers maintains the authority to close off the canals within this subdivision from Bayou St. John if water quality problems develop which cannot be satisfactorily remedied.

ARTICLE VIII
ROADS, PARKS AND OTHER RESERVED AREAS

All roads, streets, alleyways, easements and other similar areas shown on the plat of Ono Island Subdivision, Unit Thirteen which are usually dedicated to the public by the recording of a plat of subdivision are expressly reserved by Ono East, Inc., and are NOT DEDICATED, NOT DONATED AND NOT GRANTED to the public.

Each owner of a lot or living unit in this subdivision is granted the rights, privileges and easements to use said private roads and similar areas as set out in Article IV of the Declaration of General Covenants

MISC. 61-AGE 373

and Restrictions.

ARTICLE IX
DURATION OF RESTRICTIONS

These covenants and restrictions are to run with the land and shall be binding upon the undersigned and all parties and persons claiming under it until January 1st, 2000, at which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years, unless it is agreed to change said covenants in whole or in part, by vote of a majority of each class of members who are voting in person or by proxy at a meeting of Property Owners Association of Ono Island, Inc. called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting. Provided, however, the restrictions affecting frontage lots may not be changed or amended, unless, in addition to all other requirements, such change has the affirmative vote of a majority of the then owners of waterfront lots in the unit of the subdivision to be affected by such change.

ARTICLE X
SUCCESSORS AND ASSIGNS

Any and all provisions hereof referring either to Ono East, Inc., Property Owners Association of Ono Island, Inc., or to the Architectural Control Committee of said Property Owners Association of Ono Island, Inc. shall be deemed to also refer to and be enforceable by, and shall be binding upon the successors and/or assigns of any legal or equitable interest of said Ono East, Inc., Ono Development Company, Inc., Property Owners Association of Ono Island, Inc., or said Architectural Control Committee thereof.

ARTICLE XI
REMEDIES FOR VIOLATIONS

In the event of a violation or breach of any of these covenants and/or restrictions by any person or concern claiming by, through or under Ono East, Inc., or claiming by virtue of any judicial proceedings, then Ono East, Inc. or Property Owners Association of Ono Island, Inc., or any lot, living unit, or tract owner or owners, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof, and to prevent the violation or breach of any such covenants and/or restrictions, and to obtain a judgement for the costs and expenses incurred in connection therewith. In addition to the foregoing, Property Owners Association of Ono Island, Inc., its successors or assigns, shall have the right, whenever there shall have been built on any lot or tract any structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, and such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, restrictions, reservation or condition contained in this declaration of restrictions, or contained in the Declaration of General Covenants and Restrictions, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach, or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

ARTICLE XII
SEVERABILITY

Invalidation, variance from, or removal of any of these covenants by judgement, decree, Court order, or amendment by Ono East, Inc., Property Owners Association of Ono Island, Inc. or the Architectural Control Committee, or their successors or assigns, shall in no way

MISC. 61-1156 374

affect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, ONO EAST, INC., has caused these presents to be executed by its officers, all heretofore duly authorized, on this the 25th day of September, 1987.

ONO EAST, INC., an Alabama Corporation

BY: [Signature] (SEAL)
PRESIDENT

ATTEST

BY: [Signature] (SEAL)
SECRETARY

ACCEPTANCE AND CONSENT

Property Owners Association of Ono Island, Inc., agrees to all the terms and conditions of the above and foregoing Declaration of Local Covenants and Restrictions, and agrees to perform the obligations and duties imposed on it thereby.

PROPERTY OWNERS ASSOCIATION OF ONO ISLAND, INC.

BY: [Signature] (SEAL)
PRESIDENT

ATTEST

BY: [Signature] (SEAL)
SECRETARY

STATE OF ALABAMA

COUNTY OF MOBILE

I, the undersigned Notary Public, in and for said State and County, do hereby certify that JERE AUSTILL, JR., and EVAN AUSTILL, whose names as President and Secretary, respectively of ONO EAST, INC., an Alabama corporation, are signed to the foregoing document and who are known to me, acknowledged before me on this day, that being informed of the contents of said document, they, as such officers and with full authority, executed the same voluntarily, for and as the act of said corporation on the day the same bears date.

REC-61-06 375

GIVEN UNDER my hand and seal this 25 day of September 1987.

Virginia A. Meinhart NOTARY PUBLIC

MY COMMISSION EXPIRES: 5-1-90 (SEAL)

STATE OF ALABAMA

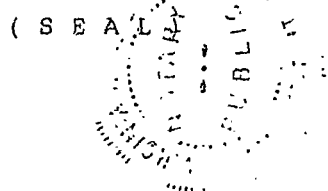
COUNTY OF MOBILE

I, the undersigned Notary Public, in and for said State and County, do hereby certify that JERE AUSTILL, JR., and EVAN AUSTILL, whose names as President and Secretary, respectively of Property Owners Association of Ono Island, Inc., an Alabama Corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day, that being informed of the contents of said document, they, as such officers and with full authority, executed the same voluntarily, for and as the act of said corporation on the day the same bears date.

GIVEN UNDER my hand and seal this 25th day of September 1987.

Virginia A. Reichardt NOTARY PUBLIC.

MY COMMISSION EXPIRES: 5-1-90



THIS INSTRUMENT WAS PREPARED BY:
JERE AUSTILL, JR., ATTORNEY AT LAW
1004-5 VAN ANTWERP BUILDING
MOBILE, AL. 36602

MISC. 61-AGE 376