

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR POLK COUNTY

1980 DEC -3 AM 8:23

LAKESITE PROPERTIES, INC., :  
a Florida corporation, and :  
CONSOLIDATED UTILITY SERVICES, :  
INC., a Florida corporation, :  
Plaintiffs, :

vs. :

INDIAN LAKE CIVIC ASSOCIATION, :  
INC., a nonprofit corporation, :  
as representative of and on :  
behalf of its members and all :  
other residents and property :  
owners at Indian Lake Estates, :  
Polk County, Florida, similarly :  
situated; MERRILL JEFFERSON, :  
ARTHUR CARMAN, CHARLES STUMPF, :  
WILLIAM HUBER, EMANUEL CAVALLARO :  
MADELEINE BRAUN, GARNET DUBUC, :  
GEORGE SMITH, individually, and :  
on behalf of all other property :  
owners at Indian Lake Estates, :  
Polk County, Florida, similarly :  
situated; and POLK COUNTY, a :  
political subdivision of the :  
State of Florida, :

CASE NO. GC G 78-363

FILED  
DEC 10 1980  
CLERK OF CIRCUIT COURT  
POLK COUNTY, FLORIDA

Defendants. :

FINAL JUDGMENT

THIS CAUSE pursuant to record notice to all parties having came on this day for trial and for the entry of a Final Judgment as provided by the laws of the State of Florida with counsel for all parties being present, and the Court having considered the allegations of the Complaint and the Answer filed on behalf of Defendants, POLK COUNTY, and Defendants, INDIAN LAKE CIVIC ASSOCIATION, INC., a nonprofit corporation, as representative of and on behalf of its members and all other residents and property owners at Indian Lake Estates, a subdivision located in Polk County, Florida, MERRILL JEFFERSON, ARTHUR CARMAN, CHARLES STUMPF, WILLIAM HUBER, EMANUEL CAVALLARO, MADELEINE BRAUN, GARNET DUBUC, GEORGE SMITH, individually, and on behalf of all other property owners at Indian Lake Estates, and reviewed the evidence, heard the testimony, examined the stipulations heretofore reached by the parties and as set forth herein, and being otherwise fully advised in the premises, finds and decides as follows:

- 1. This is an action for declaratory relief being brought

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by the Plaintiffs as a class action pursuant to RCP 1.220 for purposes of declaring the respective rights of the parties to the lands described herein.

2. The Court has jurisdiction of the parties to this cause and the subject matter.

3. Indian Lake Estates is a platted unincorporated subdivision located in Polk County, Florida, consisting of a total of seventeen plats and revisions as recorded in the public records of Polk County, Florida, and hereinafter referred to as Indian Lake Estates.

4. LAKESITE PROPERTIES, INC. is a Florida corporation which has an interest in the real property described in the attached Exhibit "A" as more fully set forth herein.

5. CONSOLIDATED UTILITY SERVICES, INC. is a Florida corporation furnishing utilities at Indian Lake Estates and is the owner of the real property described in the attached Exhibit "B".

6. Defendant, POLK COUNTY, is a political subdivision of the State of Florida.

7. Defendant, INDIAN LAKE CIVIC ASSOCIATION, INC. is a nonprofit association incorporated for the purpose of rendering services for the preservation of the welfare of the lot owners and residents of Indian Lake Estates and has in excess of 500 members consisting of both in and out of state property owners.

8. Defendants, MERRILL JEFFERSON, ARTHUR CARMAN, CHARLES STUMPF, WILLIAM HUBER, EMANUEL CAVALLARO, MADELEINE BRAUN, GARNET DUBUC, and GEORGE SMITH own lots at Indian Lake Estates.

9. The class represented by the Defendants, INDIAN LAKE CIVIC ASSOCIATION, INC., MERRILL JEFFERSON, ARTHUR CARMAN, CHARLES STUMPF, WILLIAM HUBER, EMANUEL CAVALLARO, MADELEINE BRAUN, GARNET DUBUC, and GEORGE SMITH includes all persons who own property at Indian Lake Estates.

10. The number of individuals who own lots at Indian Lake Estates exceeds 3,000 making it impracticable to bring all of them before the Court as individual defendants.

11. The issues of this action are of common and general interest to all owners of real property at Indian Lake Estates

and affect all of them in the same manner as those individuals named as defendants as well as those members of the named Defendant association; said individuals and association being fairly and adequately representative of the interests of such class.

12. Pursuant to court order heretofore entered in this cause, Plaintiff has caused a copy of the Notice of Class Action to be mailed to each individual property owner who is a member of the defendant class, thereby giving all known lot owners at Indian Lake Estates notice of this action and an opportunity to intervene and participate in this class action.

13. The primary issue presented by this cause is whether owners of property at Indian Lake Estates acquired or have any rights with respect to that portion of the plats of Units 15 & 16 at Indian Lake Estates designated "golf course", being more particularly described in the attached Exhibits "A" and "B" which are incorporated by reference and made a part of this judgment.

14. The apparent intent of the original developer of Indian Lake Estates, Indian Lake Estates, Inc., in the creation of the subdivision was to reserve to the developer all interests to avenues, common drives, parkways, parks, beaches, recreational areas, greenways, and golf course areas, without dedication of such areas to the public.

15. Any appearance of dedication of the portions of the plats of Units 15 & 16 of Indian Lake Estates as described in the attached Exhibit "A" designated as "golf course" to the public by reason of an error or omission in specific reservation by the original developer, has been obviated by appropriate response of the Board of County Commissioners of Polk County, Florida, which vacated the portions of the plats of Units 15 & 16 of Indian Lake Estates described in the attached Exhibit "A" designated as "golf course" and effectively discontinued any and all rights that Polk County, the State of Florida and the public may have had in and to said golf course area. Said vacation having occurred with the specific knowledge of all named defendants herein and

without objection therefrom.

16. Indian Lake Development, Inc., a successor in title to the original developer, Indian Lake Estates, Inc., has, with the exception of the lands described in the attached Exhibits "A" and "B", heretofore specifically dedicated all streets and roads, all greenway areas, the pier area, lagoons, golf course and clubhouse area in Unit 8, beach area and yacht basin, and recreational areas to the specific use and benefit of the present and future title holders of lots at Indian Lake Estates. LAKESITE PROPERTIES, INC., in recognition of such previous dedication, has heretofore disclaimed any interest other than as to lots owned by LAKESITE PROPERTIES, INC. and the lands described in Exhibits "A" and "B" in said dedicated areas. Said dedication is irrevocable and vests in all present and future title holders of lots in Indian Lake Estates the permanent use and enjoyment of said described portions of Indian Lake Estates.

17. That portions of the plats of Units 15 & 16 of Indian Lake Estates designated as "golf course" more particularly described in the attached Exhibits "A" and "B" are in a vacant state and have never been used as a golf course or for any other type recreational activity.

18. Property owners at Indian Lake Estates have not realized or enjoyed any beneficial uses from the lands described in the attached Exhibits marked "A" and "B".

19. The development of the lands described in Exhibits "A" and "B", attached, will benefit present and future property owners in Indian Lake Estates by enhancing the overall development of the subdivision, principally through the provision of additional service and recreational amenities accessible to all present and future property owners.

20. Legal title to the real property described in the attached Exhibit "A" was conveyed to a trustee with the expressed purpose of allowing the Plaintiff, Lakesite Properties, Inc., to bring the present class action seeking judicial determination

of the respective rights and interests of the Plaintiffs and Defendants in and to said real property described in the attached Exhibit "A", in accordance with the provisions of that certain Trust Agreement herein referenced and introduced into evidence, marked Plaintiff's Exhibit No. 1.

21. Legal title to the real property described in the attached Exhibit "A" is presently vested in Samuel E. Duke, Successor Trustee, and LAKESITE PROPERTIES, INC. seeks a conveyance from the trustee of said property for the purpose of developing said property for residential use, in single and multi-family modes in concentrations not to exceed 6.5 residential units per acre.

22. Plaintiff, CONSOLIDATED UTILITY SERVICES, INC., seeks judicial declaration as to its status of title to the property described in the attached Exhibit "B".

23. Plaintiffs and the representative Defendants have stipulated as follows:

(a) Plaintiff, LAKESITE PROPERTIES, INC., except as an owner of lots in Indian Lake Estates, makes no claim in and to all properties heretofore described in Paragraph 16 of this judgment and hereby confirms that certain disclaimer in said described property heretofore executed by Plaintiff on July 26, 1971 and recorded in the Public Records of Polk County, Florida in Official Record Book 1374 at Page 42; and confirms such previous dedication by Indian Lake Development, Inc. of these properties to the use of all present and future owners of property in Indian Lake Estates, with the exception of the properties described in the attached Exhibits "A" and "B".

(b) All streets and roads created by the Plaintiffs, or their successors in title in conjunction with the development of the properties described in the attached Exhibits "A" and "B" shall be perpetually available for use to all present and future owners of residential property within the subdivision of Indian Lake Estates.

(c) Any and all recreational and/or social amenities

created by the Plaintiffs or their successors during the development for residential use of the properties described in the attached Exhibits "A" and "B" shall be perpetually available for use, subject only to reasonable and uniform fees or charges for use and/or membership, to all present and future owners of residential property within the subdivision of Indian Lake Estates, permanent members of their households and their invited guests.

(d) All future owners, individuals or otherwise of residential properties, whether occupied or vacant, and which shall consist of any portion of the properties described in the attached Exhibits "A" and "B" shall become responsible for the timely payment of a pro rata share of appropriate maintenance fees assessable by and due to Indian Lake Maintenances, Inc. upon taking title to said residential property upon the development of same by Plaintiffs and/or their successors or assigns.

Therefore, it is ORDERED AND ADJUDGED as follows:

24. The Court takes jurisdiction of this cause for the purposes of declaring the respective rights of the parties hereto.

25. There has been no intention to dedicate the lands described in the attached Exhibits "A" and "B" to the public, and the public has acquired no interest in and to these lands.

26. The past, present and future owners of residential property in Indian Lake Estates have acquired no private rights of use or interest in and to those portions of Units 15 & 16 of the plat of Indian Lake Estates recorded in Plat Book 40 at Pages 48 and 49, and being specifically described in the attached Exhibits "A" and "B", except as otherwise set forth and provided for in this judgment.

27. The perpetual right of access to and use of those certain properties described in Paragraph 16 hereinabove by all present and future owners of residential property in Indian Lake Estates and members of their households is hereby declared to be permanently dedicated and shall be a covenant of use running with the land.

28. The perpetual right of use of all improvements created

for the purposes set forth in Paragraph 23 (b) and (c) hereinabove, are hereby dedicated, within the limitations set forth in Paragraph 23 (c) hereinabove, to the benefit of all present and future owners of residential property in Indian Lake Estates and members of their households and such rights of use, within the limitations set forth, are declared to be a covenant running with the land.

29. That legal title to the lands described in the attached Exhibit "A" is presently vested in Samuel E. Duke, Successor Trustee, and as Trustee, he is hereby authorized and ordered to convey said lands to LAKESITE PROPERTIES, INC. free and clear of the rights and interests of the public and, except as otherwise provided for and set forth in this judgment, the rights and interests of present and future property owners in Indian Lake Estates; and LAKESITE PROPERTIES, INC. shall hold title for its private use, free and clear of all rights of the defendants to this action and against all persons whomsoever claiming by, through, or under them, except as otherwise provided for and set forth in this judgment.

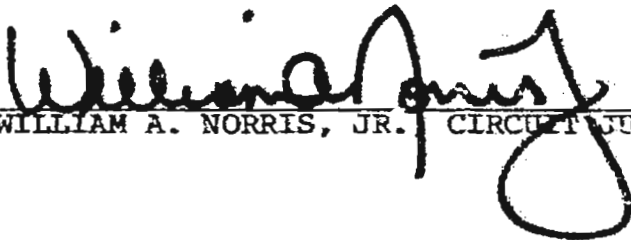
30. Legal title to the lands described in the attached Exhibit "B" is vested in CONSOLIDATED UTILITY SERVICES, INC. free and clear of the rights and interest of the public and except as otherwise provided for and set forth in this judgment the rights and interests of present and future residential property owners in Indian Lake Estates and the title of CONSOLIDATED UTILITY SERVICES, INC. in and to said lands is hereby declared cleared and confirmed forever fully and completely as against the rights and interests of all the defendants to this action and all persons whomsoever claiming by, through or under them except as otherwise provided for and set forth in this judgment.

31. This Court shall reserve and assume continuing jurisdiction over any and all properties subject to this suit and described herein for the purpose, as necessary, of enforcing appropriate judicial compliance with the directions of this judgment; and any party to this cause or their successor in interest may petition this Court, without notice to the absent members of the class for the purpose of seeking such compliance of all parties with the tenor and declarations of this judgment and/or for the purpose of compliance

by Plaintiffs or their successor in interest with all pertinent Federal, State and County statutes, ordinances and regulations relating to any development whatsoever of the properties described in Exhibits "A" and "B" attached.

32. No legal obligation of any nature whatsoever shall hereby be construed as being imposed upon the Plaintiffs or their successor in interest to develop any or all of the properties described in Exhibits "A" and "B" attached at the present or at any time in the future; however, any and all development of the described properties shall be in compliance of this judgment.

DONE AND ORDERED in Chambers at Bartow, Polk County, Florida, this 1st day of December, 1980.

  
WILLIAM A. NORRIS, JR. CIRCUIT JUDGE

Copies furnished to:

Jack P. Brandon, Esq.  
James R. Meyer, Esq.  
Monte Tillis, Jr., Esq.



EXHIBIT "A"

The area designated as "Golf Course" on the plat of Unit 15, INDIAN LAKE ESTATES, according to the plat of said Unit 15 as recorded in Plat Book 40, at Page 48, public records of Polk County, Florida; said golf course area being an area bounded on the North by Althea Drive, on the East by Lake Haven Drive, on the South by Verbena Drive, and on the West by the western boundary of said Unit 15; and

The area designated as "Golf Course" on the plat of Unit 16, INDIAN LAKE ESTATES, according to the plat of said Unit 16, as recorded in Plat Book 40, at Page 49, public records of Polk County, Florida; said golf course area being bounded on the North by Althea Drive, on the East by the eastern boundary of said Unit 16, on the South by Verbena Drive, and on the West by Pinnata Drive; LESS AND EXCEPT the following tracts: (a) Beginning at a point on the South right of way line of Althea Drive, said point being 300 ft. East of the center line of Lake View Drive; thence South 1320 ft.; thence West 1320 ft.; thence North 1320 ft.; thence East 1320 ft. to the point of beginning; (b) a Strip of land 40 feet in width lying 20 feet to each side of a center line, which center line is described as, beginning at the S.W. corner of the excluded site heretofore described in Paragraph (a), run thence South to the right of way of Florida State Road No. 630; and (c) an area for Lift Station No. 10 described as follows: Beginning at a point which bears East 70 feet from the N.E. corner of Lot 1, Block 420, Unit #16, Indian Lake Estates, as recorded in Plat Book 40, Page 49 of the Public Records of Polk County, Florida; thence East 70 feet; South 70 feet; West 70 feet; and North 70 feet to the point of beginning.

EXHIBIT "B"

(a) Beginning at a point on the South right of way line of Althea Drive, said point being 300 ft. East of the center line of Lake View Drive; thence South 1320 ft.; thence West 1320 ft.; thence North 1320 ft.; thence East 1320 ft. to the point of beginning as recorded in Plat Book 40 at Page 49, public records of Polk County, Florida; and

(b) A strip of land 40 feet in width lying 20 feet to each side of a center line, which center line is described as beginning at the S.W. corner of the site heretofore described in Paragraph (a), run thence South to the right of way of Florida State Road No. 630 as recorded in Plat Book 40 at Page 49, public records of Polk County, Florida; and

(c) An area for Lift Station No. 10 described as follows: Beginning at a point which bears East 70 feet from the N.E. corner of Lot 1, Block 420, Unit #16, Indian Lake Estates, as recorded in Plat Book 40, Page 49, of the Public Records of Polk County, Florida, thence East 70 feet, South 70 feet; West 70 feet; and North 70 feet to the point of beginning.

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FILED, RECORDED AND  
RECORD VERIFIED  
E.D. DIXON, CLERK  
POLK COUNTY, FLA.  
BY *mo* D.S.