

Plat cab C pg 140

DULY ENTERED FOR TAXATION

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS,  
LIMITATIONS, EASEMENT SAND APPROVALS APPENDED  
TO AS PART OF THE DEDICATION AND PLAT OF  
HOMESTEAD HILLS

DEC - 6 1996  
#960067773 Page 1

*[Signature]*  
RECORDER OF ALLEN COUNTY

Left Guard, Inc., an Indiana Corporation by Mark F. Hagerman, its President, hereby declares that it is the owner of the real estate shown and described in this plat and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on the final plat, being the certified plat appended hereto and incorporated herein. The Subdivision shall be know and designated as HOMESTEAD HILLS a subdivision in ABOITE Township, Allen County, Indiana. The lots are numbered from 1 to 23, inclusive, and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to the public use for their usual and intended purposes.

RECORDED  
12/06/1996 15:35:21  
RECORDER  
VIRGINIA L. YOUNG  
ALLEN COUNTY, IN  
Doc. No. 960067773  
Receipt No. 22176  
Date 12/06/1996 15:35:19  
DCFD 3.00  
PLAT 24.00  
PLAT 9.00  
Total meaning 36.00

**PREFACE**

HOMESTEAD HILLS is the entirety of a tract of real estate which is planned to be subdivided into a maximum of 23 residential lots. In addition to the recordation of the plat and this document, there will be recorded articles of incorporation of HOMESTEAD HILLS Community Association, Inc., it being the Developer's intention that each owner of a lot in HOMESTEAD HILLS will become a member of said association, and be bound by its articles of incorporation and bylaws.

**ARTICLE 1  
DEFINITIONS**

The following words and phrases shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

Section 1. "Articles" - The articles of incorporation adopted by the Association and approved by the Indiana Secretary of State, and all amendments to those articles.

Section 2. "Association" - HOMESTEAD HILLS Community Association, Inc., an Indiana not-for-profit corporation, and its successors and assigns.

Section 3. "Board of Directors" - The duly elected board of directors of the Association.

Section 4. "Bylaws" - The bylaws adopted by the HOMESTEAD HILLS Community Association, Inc., and all amendments to those bylaws.

Section 5. "Committee" - The Architectural Control Committee established under section 5 of the Covenants

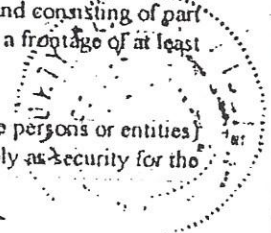
Section 6. "Common Area" - All real property owned by the Association for the common use and enjoyment of Owners. Common Area is designed as Block "A" on the face of the plat.

Section 7. "Covenants" - This document and the restrictions, limitations and covenants imposed under it.

Section 8. "Developer" - Left Guard, Inc., an Indiana corporation, and its successors in interest in the Real Estate.

Section 9. "Lot, and in plural form, "Lots" - Any of the platted lots in the Plat, or any tract(s) of Real Estate which may consist of one or more Lots or part(s) of them upon which a residence is erected in accordance with the Covenants, or such further restrictions as may be imposed by any applicable zoning ordinance; provided, however, that no tract of land consisting of part of Lot, or parts of more than one Lot, shall be considered a "Lot" under these Covenants unless the tract has a frontage of at least 80 feet in width at the established front building line as shown on the Plat.

Section 10. "Owner, and in the plural form, "Owners" - The record owner(s) (whether one or more persons or entities) of fee simple title to the Lots, including contract sellers, but excluding those having an interest in a Lot merely as security for the



*[Handwritten initials]*

performance of an obligation.

Section 11. "Plan Commission" - The Allen County, Indiana Plan Commission, or its successor agency.

Section 12. "Plat" - The recorded secondary plat of HOMESTEAD HILLS.

Section 13. "Subdivision" - The platted Subdivision of HOMESTEAD HILLS and its various sections.

## **ARTICLE 2 PROPERTY RIGHTS**

Section 1. "Owners' Easements of Enjoyment" - Each Owner shall have the right and an easement of enjoyment in the Common Area that is appurtenant to and passes with the title to every Lot, subject to the following rights which are granted to the Association.

1. To charge reasonable admission and other fees for the use of any recreational facility located in the Common Area.
2. To suspend the voting rights and right to the use of the recreational facilities in the Common Area for any period during which any assessment against the Owner's Lot remains unpaid, or an Owner is in violation of the Covenants, the Articles, the Bylaws, or any published rule of the Association.
3. To dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association's members. No such dedication or transfer shall be effective unless an instrument signed by at least two-thirds of each class of Association members agreeing to such dedication or transfer, is recorded.

Section 2. "Delegation of Use" - Any Owner may delegate, in accordance with the Bylaws, the Owner's right to use and enjoy the Common Area and recreational facilities in it, to members of the Owner's family and tenants or contract purchasers who reside on the Owner's Lot.

## **ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. The Association shall have the following two classes of voting memberships:

1. Class A - Class A membership consists of all Owners, except Developer. Class A members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be members. The vote for such lot shall be exercised as its Owners among themselves determine; but in no event shall more than one vote be cast with respect to a Lot.
2. Class B - Class B membership consists of Developer. The Class B member shall be entitled to 50 votes less that number of votes which Class A members are entitled to exercise. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:
  - a. When fee simple title to all Lots have been conveyed by Developer; or
  - b. on December 31, 2002.



**ARTICLE 4**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. "Creation of the Lien and Personal Obligation of Assessments" - Each Owner, except Developer, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements. Such assessments to be established and collected as provided in these Covenants and the Bylaws. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney fees, shall also be the personal obligation of the person who was Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2. "Purpose of Assessments" - The assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Subdivision, and for the improvement of facilities in the Subdivision including the maintenance of the Common Area.

Section 3. "Maximum Annual Assessments" - Until January 1 of the year immediately following the first conveyance by Developer of a Lot, the maximum annual assessment shall be One Hundred Fifty Dollars (\$150) per Lot. Subsequent assessments may be made as follows:

1. From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased each year by the Board of Directors, by a percentage not more than 8% above the annual assessment for the previous year, without a vote of the membership.
2. From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased by a percentage not more than 8% , only by vote or written assent of a majority of each class of members of the Association.

Section 4. "Special Assessments For Capital Improvements" - In addition to the annual assessments authorized in Article 4, Section 3, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any new construction, or repair or replacement of an existing capital improvement, in the Common Area, including fixtures and related personal property; provided that any such assessment require the vote or written assent of 75% of each class of members of the Association; and provided, further, that no such special assessment for any such purpose shall be made if the assessment in any way jeopardizes or affects the Association's ability to improve and maintain its Common Area.

Section 5. "Notice and Quorum For Any Action Authorized Under Article 4 Sections 3 and 4" - Any action authorized under Sections 3 and 4 shall be taken at a meeting of the Association called for that purpose, written notice of which shall be sent to all members not less than 30 days, nor more than 60 days, in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing, provided that same is obtained by an officer of the Association within 30 days of the date of such meeting.

Section 6. "Uniform Rate of Assessment" - Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis.

Section 7. "Date of Commencement of Annual Assessments/Due Dates" - The annual assessments allowed under Article 4 Section 3 shall commence as to all Lots then subject to an assessment, on the first day of the month following the conveyance. The first annual assessment shall be pro-rated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of the date the annual assessment is due. Written notice of the annual assessment shall be given to every Owner. The due dates shall be established by

the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

Section 8 "Effect of Nonpayment of Assessments/Remedies of the Association" -

1. Any assessment not paid within 30 days after its due date shall bear interest from the due date at the rate of 12% per annum or the legal rate of interest in Indiana, whichever is higher.
2. The Association may bring an action at law against each Owner personally obligated to pay the same, and foreclose the lien of an assessment against a Lot. No Owner may waive or otherwise escape liability for the assessments made under the Covenants by non-use of the Common Area or abandonment of a Lot. The lien for delinquent assessments may be foreclosed in Indiana. The Association shall also be entitled to recover the attorney fees, costs and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section.

Section 9 "Subordination of Assessment Lien to First Mortgages Liens" - The lien of the assessments made under the Covenants shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien against it. No sale or transfer shall relieve an Owner or Lot from liability for any assessment subsequently becoming due or from the lien of an assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer.

## ARTICLE 5 ARCHITECTURAL CONTROL

Section 1 "Architectural Control" - No building, improvement, construction, excavation, landscaping, fence, wall, swimming pool or spa or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until two (2) sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee in accordance with the Design Standards. All approvals shall be requested by submission to the Architectural Control Committee of plans and specifications in duplicate, showing the following:

1. The Dwelling Unit, and other improvements, access drives, and other improved areas, and the locations thereof on the site;
2. All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), mail boxes, and exterior ornamentation. Landscaping shall be installed no later than 180 days from occupancy of or completion of dwelling unit, whichever occurs first.
3. Plans for all floors and elevations, including projections and wing walls;
4. Exterior lighting plans;
5. Walls, fencing and screening;
6. Patios, decks, pools, hot tubs, and porches.
7. Yard Lighting - It shall be the responsibility of the lot owner to install a post type yard light in front of the residence. The light shall be hard wired to the house panel and shall operate on a photo cell and be illuminated during all non daylight hours. Location and specifications of all yard lights shall be approved by the committee prior to installation.

8. Free-Standing Poles - No clothesline or clothes poles, or any other free-standing, semi-permanent or permanent poles, rigs, or devices, regardless of purpose, shall be constructed, erected, or located or used on a Lot, except that a pole supported bird feeder or bird house, no larger than 2 cubic feet in size and approved by the committee, may be constructed in the rear yard of a lot only and except that a single pole support for a basketball goal is allowed. A flagpole may be installed with architectural control approval.
9. Signs - No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet, advertising such Lot for sale, or signs used by a builder to advertise such Lot during the construction and sales period.
10. Radio and Television Antennas - No radio or television antenna shall be attached to any Dwelling Unit. No free-standing radio or television antenna shall be permitted on any Lot. No television receiving disk or dish shall be permitted on any Lot or on any Dwelling Unit without prior approval of architectural control committee. No solar panels attached or detached shall be permitted.
11. Exterior Building Surfaces - All exterior building surfaces, materials and colors shall be harmonious and compatible with colors of the natural surrounding and other Dwelling Units. The Architectural Control Committee shall have the right to approve or disapprove materials and colors so controlled.

Section 2. The Committee shall have the exclusive authority and responsibility to review plans for construction of all primary residences in the Subdivision. The Committee may delegate to the Board of Directors (or to such other entity designated in the Articles or Bylaws) the authority and responsibility to review plans for construction of fences and other structures excluding primary dwellings) in the Subdivision. Such delegation shall be made in writing, signed by a majority of the Committee members, and delivered or mailed to the Association's registered office.

Section 3. After primary residences are constructed on all Lots in the Subdivision, the Board of Directors (or other entity designated under its Articles or Bylaws) shall succeed to the Committee's responsibility under this Article 5 to review subsequent construction, modifications and additions or structures in the Subdivision.

Section 4. In the event the Committee (or Board of Directors or other entity acting under Article 5, Sections 2 or 3), fails to approve or disapprove the design and location of a proposed structure within 30 days after said plans and specifications have been submitted to it, approval will not be required, and approval under this Article 5 will be deemed to have been given.

## ARTICLE 6 GENERAL PROVISIONS

Section 1. Land Use. 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 dwelling units not to exceed two and one-half stories in height. Each dwelling shall include not less than a two car garage, no more than a three car garage, which shall be built as part of said structure and attached thereto.

Section 2. Dwelling Size. No building shall be built on any lot having a ground floor area upon the foundation, exclusive of one-story open porches, breezeways or garages of less than 1750 square feet for a one-story dwelling nor less than 1200 square feet ground floor for a one and one half story or two story home.

Section 3. Building Location. No building shall be located on any Lot nearer to the front Lot, rear or side line of the lot than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located nearer to an interior Lot line than 7 feet. No building shall be located on any lot nearer than 25 feet to the rear Lot line.

Section 4. Lot Area and Width. No dwelling shall be erected or placed on any Lot having a width of less than 80 feet at

the minimum building setback line, nor shall any dwelling be erected or placed on any Lot having an area less than 9000 square feet.

Section 5. Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 10 feet of each Lot except Lots bordering Homestead Road. No owner of any Lot shall erect or grant to any person, firm or corporation, the right, license or privilege to erect or use or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical, telephone or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. All of said easements shall be kept free of permanent structures (except those installed by any such municipal public or quasi public corporation) and removal of any obstruction by any such utility company shall in no way obligate the utility to pay damages or to restore any such removed obstruction to its original form. All such obstructions, whether temporary or permanent, shall be subject to the paramount rights of any such utility company to construct, install, repair, maintain or replace its utilities and/or sewer installations.

Section 6. Drainage Easements. Surface drainage easements used for drainage purposes as shown on the plat are intended for either period or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained in an unobstructed condition and the proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 7. Landscape Easements. As shown on the plat.

Section 8. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 9. Temporary Structures. No structure of a temporary character, trailer, boat trailer, camper or camping trailer, basement, tent, shack, garage, or barn shall be either used or located on any lot at any time or used as a residence either temporarily or permanently.

Section 10. Outside Storage. No boat, boat trailer, recreational vehicle, motor home, truck, camper or any other wheeled vehicle shall be permitted to be parked ungaraged on a Lot for periods in excess of 48 hours, or for a period of which is in the aggregate in excess of 8 days per calendar year. The term "truck" as used in this section means every motor vehicle designed, used, or maintained primarily for the transportation of property, which is rated one-ton or more.

Section 11. Time for Building Completion. Every Dwelling Unit on any Lot in the Subdivision shall be completed within twelve (12) months after the beginning of such construction.

Section 12. Maintenance of Lot. In the event a Lot owner does not start construction upon taking ownership, it will be the Lot owner's responsibility to maintain the appearance of the subject Lot and the weed control.

Section 13. Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 14. Livestock and Poultry. 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 15. Garbage and Refuse Disposal. 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. No incinerators or outside incinerators shall be kept or allowed on any lot.

Section 16. Building Materials. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos siding, or siding containing asphalt or tar as one of its principal ingredients shall be used on the exterior construction of any building on any lots of said Subdivision, and no roll roofing of any description or character shall be used on the roof of any dwelling house or attached garage on any of said lots.

Section 17. Driveways. All driveways from the street to the garage shall be of poured concrete not less than 16' in width. No driveway may be permitted to access on Homestead Road.

Section 18. Utilities. No individual water supply system, or individual sewage disposal system shall be installed, maintained or used on any lot in this Subdivision.

Section 19. Utility Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all public utility companies, the proprietors of the land herein platted, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets.

Section 20. Storm Water. No rain and storm water run off of such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Run Off Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Run Off Sewer System.

Section 21. Installation of Improvements. Before any house or building on any lot or tract in this subdivision shall be used and occupied as a dwelling or as otherwise provided by the Subdivision restrictions above, the developer or any subsequent owner of said lot or tract shall install improvements serving said lot or tract as provided in said plans and specifications for this Addition filed with the ALLEN COUNTY Plan Commission. This covenant shall run with the land and be enforceable by the County of Allen, State of Indiana, or by any aggrieved lot owner in this Subdivision.

Section 22. Pre-inhabitation. Before any lot or tract may be used or occupied, such user or occupier shall first obtain from the ALLEN COUNTY Zoning Administrator or successor the Improvement Location Permit and Certificate of Occupancy as required by the ALLEN COUNTY Zoning Ordinance.

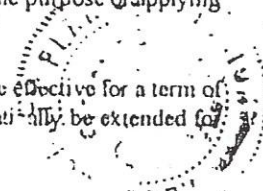
Section 23. Enforcement. The Association, Developer, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these covenants and restrictions. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Violation of any of the restrictions or covenants contained herein shall not, however, operate as a forfeiture or right of reversion of any interest in the real estate.

Section 24. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 25. Further Subdivision of Land. No lot or combination of lots may be further subdivided to create an additional lot until approval therefore has been obtained from the ALLEN COUNTY Plan Commission or its successor agency.

Section 26. Single Owner Contiguous Lots. Whenever two (2) or more contiguous Lots in the Subdivision shall be owned by the same person, and such Owner shall desire to use two (2) or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Architectural Control Comm. for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single Dwelling Unit.

Section 27. Term. The covenants and restrictions herein contained shall run with the land, and be effective for a term of 20 years from the date these covenants and restrictions are records, after which time they shall automatically be extended for



successive periods of 10 years; provided these covenants and restrictions may be amended by an instrument signed by not less than 75% of the Lot Owners, and provided further the Developer, its successors or assigns shall have the exclusive right for 2 years from the date of recording of the plat to amend any of the covenants and restrictions without the necessity of obtaining approval from any of the Lot Owners.

Section 28. Sidewalks. Plans and specifications for this Subdivision on file with the ALLEN COUNTY Plan Commission require the installation of 4-foot wide concrete sidewalks within the street rights-of-way. Installation of said sidewalks shall be the obligation of the owners of any such lot, exclusive of the Developer, shall be completed in accordance with said plans and specifications and prior to the issuance of a certificate of occupancy for any such lot and the cost of said installation shall be a lien against any such lot enforceable by the ALLEN COUNTY Plan Commission. Should such certificate of occupancy be issued to the Developer, said corporation shall be considered an owner for purposes of the enforcement of this covenant.

Section 29. Attorney Fees and Related Expenses. In the event the Association, Developer, an Owner, or the Plan Commission is successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, or charge now or subsequently imposed by the provisions of these Covenants, the successful party shall be entitled to recover from the party against whom the proceeding was brought, the attorney fees and related costs and expenses incurred in such proceeding.

Section 30. Flood Protection Grades. In order to minimize potential damage to residences from surface water, minimum flood protection grades are established of 815.0 feet Mean Sea Level for Lots 15 through 19. All residences on such Lots shall be constructed so that the minimum elevation of the first floor, or the minimum sill elevation of any opening below the first floor, equals or exceeds the applicable minimum flood protection grade established in this Section 30.





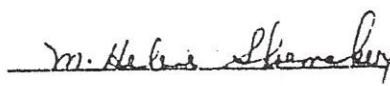
IN WITNESS WHEREOF, Left Guard, Inc., an Indiana Corporation by Mark F. Hagerman, its President and owner of the real estate described in said plat, has hereto set its hand and seal by its duly authorized officers, this 2<sup>ND</sup> day of Dec., 1996.

Left Guard, Inc.

  
Mark F. Hagerman, President

STATE OF INDIANA)  
)SS:  
COUNTY OF ALLEN)

Before me, a Notary Public, in and for said County and State, personally appeared Mark F. Hagerman, known by me to be the duly authorized and acting President of Left Guard, Inc., and acknowledge the voluntary execution of the above and foregoing instrument on behalf of said corporation for the purposes and uses therein set forth this 2<sup>ND</sup> day of Dec., 1996.

  
A resident of Allen County, Indiana  
My commission expires 10-14-97



This document prepared by Andrew C. Kurtz

