

UPDATED

THE STATE OF NEW HAMPSHIRE

CARROLL, SS

SEPTEMBER TERM, 1987

SUPERIOR COURT

Equity No. 4574

Equity No. 4591

PROPERTY OWNERS ASSOCIATION AT SUISSEVALE, INC.

v.

BCS FINANCIAL CORPORATION,
SPECULATOR REALTY CORPORATION

and

JOHN P. RYAN

and

R & W REALTY COMPANY, INC.

and

SHERMAN D. HORTON, TRUSTEE

STIPULATION AND SETTLEMENT AGREEMENT

NOW COME the undersigned parties, and agree, in exchange for "neither party" docket markings and other good and valuable consideration, as follows:

Factual Background

R & W Realty Company, Inc., BCS Financial Corporation and John P. Ryan (collectively "R&W"), hold title to certain portions of Suissevale at Winnepesaukee, a subdivision in Moultonboro, County of Carroll, State of New Hampshire ("Suissevale").

Property Owners Association At Suissevale, Inc. ("POASI") is a New Hampshire Corporation representing the interests of all or significantly all of the individual Suissevale property owners other than R & W.

The above parties, since 1969, have been involved in protracted litigation arising out of property disputes involving the real property known as Suissevale.

The parties have, since the litigation in question was commenced in 1969, made numerous attempts to put their disputes to rest as evidenced by, among other documents, a "Stipulation for Settlement by Consent Decree" dated June 23, 1976 as incorporated in the judgment of the Carroll County Superior Court in Equity Action No.'s 4574 and 4591, portions of which were recorded in Volume 723, Pages 183-184 of the Carroll County Registry of Deeds.

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CARROLL COUNTY
REGISTER OF DEEDS

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The parties, in the interest of ending the dispute which arose on or before 1969, hereby enter the following Agreement which shall be filed in Equity Action Nos. 4574 and 4591 and with the Carroll County Registry of Deeds.

NOW, THEREFORE, FOR CONSIDERATION PAID, and in consideration of the premises and the representations and covenants set forth below, the parties hereto do hereby agree as follows:

I. Exchange of Lots

POASI shall consent to the conveyance from Sherman D. Horton and George W. Walker, trustees, to R&W Realty Co., Inc., a Louisiana Corporation, of all 42 "Horton/Walker" trust lots established by the 1976 Stipulation For Settlement By Consent Decree. R&W shall convey to POASI its interest in 23 lots selected by POASI from R&W's inventory of lots or from the lots previously held by the "Horton/Walker" trust. The deeds for lots conveyed are attached hereto as Exhibits "A" and "B" and are incorporated herein by reference.

II. Accounting For Tax Liabilities

POASI has, based upon receipt of proof of payment from R&W, accounted to R&W for all property taxes paid by R&W on the 23 lots R&W is conveying.

III. Approval of Developer

Should R & W obtain a developer for any or all of the undeveloped lots owned or controlled by R & W or any Ryan controlled entity ("Inventory Lots") in sections I-IV of Suissevale, POASI, subject to the requirement that it shall not act in an unreasonable manner, shall have the right to approve or disapprove said developer. No development activity shall be undertaken with regard to said Inventory Lots by an unapproved developer. Upon written notification to POASI by R & W of the identity of said developer, POASI shall have thirty days to communicate, in writing, its written disapproval to R & W and the reasons therefor or POASI shall be deemed to have waived its rights under this paragraph.

IV. Option To Segregate Section V

The parties agree that R&W shall have the right, if it notifies POASI in writing within 12 months of the execution of this agreement, to take steps to segregate Section V from Section I-IV to the extent possible and within the control of the parties hereto.

V. Relinquishment of Rights By R & W

In the event R&W elects to segregate Section V, R & W, its successors and assigns, as to all R & W properties in Section V

of Suissevale, as shown in Plan Book No. 10, Carroll County Registry of Deeds, ("The Plan") shall relinquish its rights appurtenant to the properties in Section I-IV of Suissevale, as shown in the Plan, and held in common with the owners of lots in Sections I-IV of Suissevale arising from any and all restrictive covenants, deeds or other agreements and/or the 1976 Consent Decree and Stipulation filed in Equity Actions numbered 4574 and 4591 in the Carroll County Superior Court; EXCEPTING from said relinquishment of rights the retention of beach and waterfront access rights to certain Section II property as further defined in Part VI of this Agreement. Said rights to be relinquished shall include, but not be limited to, those rights in common facilities described in paragraph five of said Consent Decree and Stipulation and those rights arising from the Declaration of easements, covenants, restrictions, agreements and changes affecting real property known as Suissevale at Winnepesaukee executed by Suissevale, Inc. on or about September 12, 1966 as amended October 20, 1966 and recorded in the Carroll County Registry of Deeds, Book 406, Page 411.

VI. Beach and Waterfront Access

In the event R&W elects to segregate Section V, owners of Section V property, provided they pay to POASI an annual maintenance fee, shall have the privilege to go on the following described premises for the purpose of using the lakeshore beach front of POASI located in Section II of Suissevale as shown in said Plan.

Use of said property shall be contingent upon payment by developed lot owners of an annual fee per developed lot in Section V. The fee shall be \$100.00 during 1987 and shall be subject to such reasonable increases established by POASI in subsequent years. The privilege granted herein is not exclusive and POASI reserves the right at any time to grant other or similar privileges to use or occupy the premises. "Developed lot" means a lot having a dwelling constructed thereon and suitable for seasonal or year round occupancy.

VII. Relinquishment Of Rights By POASI

In the event R&W elects to segregate Section V, POASI shall relinquish its rights appurtenant to Suissevale Section V property and held in common with R & W Section V lots, as shown in said Plan, arising from any and all restrictive covenants, deeds or agreements and/or the 1976 Consent Decree and Stipulation filed in Equity actions numbered 4575 and 4591 in the Carroll County Superior Court. Said rights shall include, but not be limited to, those rights in common facilities described in paragraph 5 of the Consent Decree and Stipulation and those rights arising from the Declaration of Easements, covenants, restrictions, agreements and changes affecting real property known as Suissevale at Winnepesaukee executed by Suissevale, Inc. on or about September 12, 1966 as amended October 20, 1966, and recorded in the Carroll County Registry of Deeds, Book 406, Page 411.

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FIRST RIGHTS!

VIII. Restrictions on Conveyance

A. With respect to real estate owned by R & W in Sections I-IV of Suissevale, R & W agrees that all conveyances to subsequent purchasers shall consist of not less than two contiguous Lots and that it will not hereafter, convey single lot parcels without first offering said single lot parcel to POASI on the same terms R&W proposes to sell said parcel to a third party. POASI shall have 60 days to either purchase said lot on the terms presented or allow R&W to enter the sale with the third party.

B. In the event that R&W does not elect to segregate Section V, with respect to real estate owned by R & W in Section V of Suissevale, R & W agrees that all conveyances to subsequent purchasers shall consist of not less than four contiguous lots having an area of not less than 40,000 square feet. If, however, R & W obtains valid authorization from the Town of Moultonboro, it may convey parcels of less than 40,000 square feet provided that all such conveyances consist of no less than two contiguous lots.

IX. Assignment of Rights

R & W, successor in interest to Suissevale, Inc., shall assign to POASI all rights of first refusal arising under paragraph 22 of the Suissevale, Inc., declaration of easements, covenants, restrictions, agreements and charges affecting real property known as Suissevale at Winnepesaukee executed on or about September 12, 1966 as amended October 20, 1966 ("Declaration of Covenants") and further waives any claims and ratifies any sales made under the said paragraph 22 during the period commencing with its succession in interest to Suissevale, Incorporated. Furthermore, R. & W hereby agrees to extend the notice period within which POASI must exercise its rights of first refusal from 10 days to 30 days.

R & W, successor in interest to Suissevale, Inc. shall further assign to POASI its right to approve or reject plans and specifications arising under paragraph 27 of The Declaration of Covenants for all structures to be erected on all lots other than those developed by an approved developer acting under a comprehensive development scheme.

X. Square Footage Building Requirements

The parties hereto agree that all dwellings constructed at Suissevale by or at the direction of any party, their heirs, successors and assigns shall have a minimum of 1400 square feet of floor space, exclusive of basement, if a one story dwelling and a minimum of 900 square feet per floor if a multi-story dwelling.

SM CONFLICT w/
LOT SIZE

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XI. Discharge of Liens

Undeveloped lots owned by R & W shall be construed as "Inventory Lots". Inventory Lots include those lots acquired by R & W Realty Company, Inc., BCS Financial Corporation or John P. Ryan, either as successors in interest to Suissevale, Inc. or by virtue of default on installment sales contracts. The parties acknowledge that inventory lots are not subject to charges and assessments of POASI as enumerated in the Declaration of easements, covenants, restrictions, agreements and charges affecting real property known as Suissevale at Winnepesaukee, a subdivision in Moultonboro, County of Carroll, State of New Hampshire, dated September 12, 1966, as amended. All liens on inventory lots for unpaid charges and assessments pursuant to said Declaration are hereby discharged. With respect to such liens POASI covenants that it will promptly execute discharges covering specific lots when requested to do so by R & W, for recording at the Carroll County Registry of Deeds.

XII. Miscellaneous

A) Successors Bound. This Agreement shall be binding upon the heirs, successors and assigns of each of the undersigned parties.

B) Controlling law. This Agreement and all rights and remedies of the undersigned parties shall be determined as to validity, construction, effect and enforcement, and in all other respects, by the laws of New Hampshire.

C) Severability. In the event any provision contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision of this Agreement, and the Agreement shall be construed as if the invalid, illegal or unenforceable portion was never contained herein.

Dated: Dec. 19, 1987

EXECUTED:

Witness:

Robert Bayan

PROPERTY OWNERS ASSOCIATION
AT SUISSEVALE, INC.

By: Robert C. Bayan
Its: PRESIDENT

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R & W REALTY COMPANY, INC.

Lana Boeckler

By: [Signature]
Its: [Signature]

BCS FINANCIAL CORPORATION

Lana Boeckler

By: [Signature]
Its: President

Lana Boeckler

[Signature]
John P. Ryan

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