

IN THE MATTER OF
INTERNATIONAL TELEPHONE AND TELEGRAPH
CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2854. Complaint, Dec. 10, 1976 — Decision, Dec. 10, 1976

Consent order requiring a New York City conglomerate and its Miami, Fla., subsidiaries, ITT Community Development Corporation and Palm Coast, Inc., among other things, to cease misrepresenting or failing to make pertinent oral and/or written disclosures regarding the risks, value, and soundness of land development; misrepresenting the degree of development of the land they offer; failing to disclose additional costs to be incurred and misrepresenting the property's proximity to waterways, major roads, shopping and recreational facilities; and failing to disclose purchasers' rights to cancellation and refunds. Further, the order requires construction of particular facilities intended to improve the value of land already sold, and limits the sale of registered lots for a period of fifteen (15) years.

Appearances

For the Commission: *Edward J. Carnot, W. Roland Campbell, and Barbara S. Schanker.*

For the respondents: *Charles Lister, Covington & Burling, Washington, D.C.*

Complaint

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, as amended, the Federal Trade Commission having reason to believe that International Telephone and Telegraph Corporation, a corporation, ITT Community Development Corporation, a corporation, and Palm Coast, Inc., a corporation, hereinafter referred to as respondents, by themselves and through their wholly-owned subsidiaries, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent International Telephone and Telegraph Corporation ("ITT") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 320 Park Ave., New York, New York. ITT is a conglomerate engaged directly and/or through its subsidiaries in numerous and diverse businesses including, among others: developing, manufactur-

ing, distributing, servicing and operating electronic and telecommunication equipment and other industrial and consumer products; processing wood pulp; manufacturing and distributing food products and automotive parts; and providing business and consumer services. In 1974, ITT had sales of approximately \$10 billion and assets of \$10 billion, making it one of the ten largest domestic corporations in terms of sales and assets.

PAR. 2. Respondent ITT Community Development Corporation ("ICDC") is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its principal place of business located at 5225 Northwest 87th Ave., Miami, Florida. ICDC is a wholly-owned subsidiary of ITT. ICDC's predecessor was ITT Levitt Development Corporation, a wholly-owned subsidiary of ITT Levitt and Sons, Inc.

PAR. 3. Respondent Palm Coast, Inc. is a corporation organized, existing and doing business under the laws of the State of Florida, with its principal place of business located at 5225 Northwest 87th Ave., Miami, Florida. Palm Coast, Inc. is a wholly-owned subsidiary of ICDC.

PAR. 4. Respondents are now and for some time last past have been engaged, directly or through their subsidiaries, in the business of acquiring undeveloped land, subdividing said land into homesite lots, advertising, developing, offering for sale, and selling said homesite lots to the public. The subdivision in which lots have been and are being offered for sale by respondents is known as Palm Coast, and is located in Flagler County, Florida. The acreage of this subdivision is over 90,000 acres and, as of March 31, 1975, there were less than 700 shelter units at Palm Coast. Land sales are generally effected through sales offices operated by wholly-owned subsidiaries or independent real estate brokers.

PAR. 5. Respondents, directly or through their subsidiaries, sell the lots at Palm Coast to purchasers by use of standard form contracts, entitled "Homesite Purchase Agreement" (hereinafter sometimes referred to in this complaint as a "contract") whereby the purchaser pays monthly installments over terms ranging from one to ten years. According to the provisions of the contract, title to the lot remains in ICDC's name until final payment is made, or the lot completion date stated in the contract is reached, whichever is later; at the later date, title to the lot is to pass to the purchaser. Purchasers pay interest to the respondents during the contract term on the unpaid balance owing on the contract.

PAR. 6. In the course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, now cause and, for some time last past, have caused promotional materials, contracts and

various business papers to be transmitted through the U.S. mail and other interstate instrumentalities from their places of business in Florida and New York to their agents, representatives, employees, customers and prospective customers in various other States and territories of the United States and the District of Columbia. Respondents now maintain and operate and, for some time last past, have maintained and operated places of business and have made substantial sales to purchasers in the various other States of the United States and the District of Columbia. Respondents maintain and, at all times mentioned herein, have maintained a substantial course of trade in said land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 7. In the course and conduct of the aforesaid business and at all times mentioned herein, respondents have been and now are in substantial competition, in or affecting commerce, with corporations, firms and individuals in the sale of land.

PAR. 8. In the course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, disseminate advertisements through television and radio broadcasts and in various publications of general circulation, distribute promotional material through the mail and in person to members of the public, and make sales presentations by means of oral and written statements, slides and movies. By and through such means, respondents have made various statements and representations, directly or by implication, concerning the size, good reputation, financial security, and integrity of International Telephone and Telegraph Corporation.

PAR. 9. By and through the use of such statements and representations, respondent International Telephone and Telegraph Corporation permitted and participated in the use of its name for the purpose of selling land and deriving pecuniary benefits therefrom.

PAR. 10. By and through the statements and representations alleged in Paragraph Eight, respondents have represented, directly or by implication, that respondent International Telephone and Telegraph Corporation is legally responsible for the debts and commitments of its subsidiary ICDC and the development of Palm Coast.

PAR. 11. In truth and in fact, ITT is not legally responsible for debts and commitments of its subsidiary ICDC or for the development of Palm Coast. Therefore, the acts or practices alleged in Paragraph Eight herein are unfair or deceptive.

PAR. 12. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have disseminated advertisements through television and radio broadcasts and in various publications of general circulation, distributed promotional materials

through the mail and in person to members of the public, and have made sales presentations by means of oral and written statements, movies and slides. By and through such means, respondents have made various statements and representations concerning the supply of and demand for land; the liquidity or marketability of land; land prices and values; land as an investment principles of buying land; personal financial security; inflation; the stock market, banks and annuities; population growth and movement; the location of industrial, commercial and recreational facilities; the past, present and future suitability of lots in respondents' property for investments or homesites; the financial terms for real estate investment; the various options or financial protections afforded purchasers of respondents' land; and the repurchase or resale by respondents of lots acquired by purchasers from respondents.

PAR. 13. By and through the statements and representations alleged in Paragraph Twelve herein, respondents, directly or through their subsidiaries, have represented, directly or by implication, that the lots which respondents are offering for sale are, at the prices at which respondents are offering them for sale, excellent investments, and that there is little or no financial risk involved in the purchase of said lots at said prices.

PAR. 14. In truth and in fact, in a significant number of instances, the lots which respondents are offering for sale, at the prices at which respondents are offering them for sale, are not excellent investments involving little or no financial risk to purchasers. Therefore, the acts or practices alleged in Paragraph Twelve herein are unfair or deceptive.

PAR. 15. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have offered and are offering for sale lots in their land development without disclosing to prospective purchasers that the lots being offered are, at the prices at which respondents are offering them, uncertain investments in that, *inter alia*, the future value of the lots being offered is uncertain and the purchaser probably will be unable to sell his lot, or his interest in it under the contract, at or above the purchase price without significant community development and population growth. Therefore, respondents have failed to disclose material characteristics of their lots which, if known to certain prospective purchasers, would be likely to affect their consideration whether to purchase a lot from respondents. Such failure to disclose is an unfair or deceptive act or practice.

PAR. 16. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have made various statements and representations to members of the public, by means of advertisements in various publications of general circulation, promo-

tional materials, TV and radio broadcasts, telephone calls and sales presentations involving oral statements, written statements, movies, and slides, concerning the past, present, and future development of respondents' property. The aforesaid statements and representations use words or terms such as "planned community," and "master plan," and other words or terms of similar import.

PAR. 17. By and through the statements and representations alleged in Paragraph Sixteen herein, respondents have represented, by implication, that substantially all lots are now, or by approximately the end of the purchaser's scheduled payments will be, located within a self-contained and fully developed community.

PAR. 18. In making the statements and representations alleged in Paragraph Sixteen herein containing express or implied references to the past, present and future development of respondents' property, respondents have failed to disclose clearly and conspicuously, and in reasonable conjunction with such statements and representations, the following information:

(a) Lots in respondents' property are not now and will not be, by approximately the end of the purchaser's scheduled payments, located within a self-contained and fully developed community.

(b) Respondents' property consists primarily of vacant acreage with limited industrial, commercial, shopping and recreational facilities; limited amenities, and limited public services. The amount of building that has occurred is modest in relation to the total acreage of the property.

Each element of information set forth above is a material fact, knowledge of which would be likely to affect the decision of certain prospective purchasers whether to sign a contract for the purchase of respondents' land. The acts or practices alleged in Paragraphs Sixteen and Seventeen and/or the failure to clearly and conspicuously disclose the aforesaid information are unfair or deceptive.

PAR. 19. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, through statements or promotional materials, have represented, by implication, that the resale of a lot purchased from respondents is not difficult.

PAR. 20. In truth and in fact, there is virtually no resale market for lots, other than waterfront or core area lots, purchased at respondents' subdivision. Therefore, the representations, acts or practices alleged in Paragraph Nineteen herein are unfair or deceptive.

PAR. 21. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have made and are making statements orally in sales presentations concerning the prices and locations of the lots being offered for sale and to be offered for sale.

PAR. 22. By and through the statements alleged in Paragraph Twenty-One, respondents, directly or through their subsidiaries, have represented, directly or by implication, that a prospective purchaser must purchase a lot immediately to insure that the price will not increase or that the desired location will be available.

PAR. 23. In truth and in fact, most prospective purchasers do not have to purchase immediately to insure that prices will not increase or that desired locations will be available. Therefore, the acts or practices alleged in Paragraph Twenty-One herein are unfair or deceptive.

PAR. 24. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have presented purchasers and prospective purchasers with a contract, a property report required to be provided to the purchaser by Federal or State law, and in some instances additional lengthy or detailed documents. These documents contain information and provisions which could affect the decision of certain consumers to sign a contract for the purchase of respondents' land. Respondents, directly or through their subsidiaries, frequently have made available the aforesaid documents at dinner parties or other gatherings sponsored by respondents in circumstances where it is likely that many purchasers will not read such documents at all because they are insufficiently aware of their utility or significance, or it is likely that many prospective purchasers will not read such documents carefully, completely or with full comprehension of their meaning and import. The soliciting or obtaining, under such circumstances, of an agreement to purchase respondents' land, involving a substantial financial commitment by purchaser, is an unfair or deceptive act or practice.

PAR. 25. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have solicited and obtained signatures to the contract from purchasers, in circumstances where the purchasers do not have the opportunity to seek assistance of counsel or other professional advice to aid in understanding said provisions. Respondents, directly or through their subsidiaries, have discouraged purchasers from obtaining assistance of counsel or other professional advice in order to understand said provisions. The soliciting or obtaining of an agreement to purchase respondents' land, involving a substantial financial commitment by the purchaser, when the purchaser has not had an opportunity to seek assistance of counsel or other professional advice, together with the discouragement of purchasers who wish to seek assistance of counsel before entering into such agreement, constitute unfair or deceptive acts or practices.

PAR. 26. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have made various

oral statements in sales presentations concerning the import or significance of signing a contract for the purchase of respondents' land. By and through such statements, respondents have obscured the legal or practical significance of signing a contract. Therefore, the acts or practices alleged in this paragraph are unfair or deceptive.

PAR. 27. Respondents' land sales contracts contain various conditions and provisions which are printed on the reverse side of the "Homesite Purchase Agreement" without adequate warning to purchasers and prospective purchasers that the reverse side of the contract should be examined.

PAR. 28. The practice alleged in Paragraph Twenty-Seven herein is unfair or deceptive because it has a tendency and capacity to cause purchasers or prospective purchasers of Palm Coast lots to ignore conditions and provisions printed on the reverse side of the agreement and to mislead such purchasers as to the significance of such conditions and provisions.

PAR. 29. In the further course and conduct of the aforesaid business, respondents, directly or through their subsidiaries, have used and are using in their standard form contracts a provision whereby defaulting purchasers forfeit all payments previously made to respondents under the contract.

PAR. 30. The use by respondents of the aforesaid contract provision as described in Paragraph Twenty-Nine constitutes an unfair act or practice, in so far as that provision causes purchasers to forfeit, in the event of default, a sum larger than the damages suffered by respondents as a result of the default.

PAR. 31. In the further course and conduct of the aforesaid business, respondents have represented that certain facilities or improvements in Palm Coast will be available in the immediate future.

PAR. 32. In truth and in fact, some of the facilities or improvements referred to in Paragraph Thirty-One herein will not in the immediate future be made available at Palm Coast. Therefore the acts or practices alleged in Paragraph Thirty-One herein are unfair or deceptive.

PAR. 33. The "Homesite Purchase Agreement" used by respondents, directly or through their subsidiaries, contains a six-month refund provision according to the terms of which the purchasers must visit the lot in order to obtain a refund of all monies paid under the contract. Respondents, directly or through their subsidiaries, conduct tours of their subdivision so that purchasers may examine their land and decide whether or not to request cancellation of the contract. In most instances, however, purchasers do not see their own homesite lots; and respondents have sometimes sought to use these tours to sell purchasers

more land and to discourage such purchasers from exercising their cancellation privilege.

PAR. 34. The use of the tours in the manner described in Paragraph Thirty-Three constitutes an unfair or deceptive act or practice.

PAR. 35. In the further course and conduct of the aforesaid business, respondents have failed to provide purchasers and prospective purchasers with clear and adequate notice of various fees and charges which will or may have to be paid to respondents or others to utilize a lot for residential purposes. Further, such information is material, knowledge of which would be likely to affect the decision of certain purchasers or prospective purchasers whether to sign a contract for the purchase of respondents' land. The failure to clearly and conspicuously disclose the aforesaid information is unfair or deceptive.

PAR. 36. The use by respondents, directly or through their subsidiaries, of the aforementioned unfair or deceptive statements, representations or practices has had the capacity and tendency to mislead and deceive the purchasing public.

PAR. 37. The aforementioned acts and practices, as herein alleged, were and are all to the prejudice and injury of the public and respondents' competitors and constituted and now constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished with a copy of a draft of complaint which the Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, as amended; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its

charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent International Telephone and Telegraph Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 320 Park Ave., New York, New York.

Respondent ITT Community Development Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 5225 Northwest 87th Ave., Miami, Florida.

Respondent Palm Coast, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 5225 Northwest 87th Ave., Miami, Florida.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

For the purposes of this order, the following definitions shall apply:

1. "Business Day" shall mean any calendar day except Saturday, Sunday and the following holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

2. "Contract" shall be limited to contracts for the sale of land.

3. "Land" shall be limited to any residential lot which has been or is being sold by one or more of the respondents to any purchaser.

4. "Purchaser" shall mean any person, partnership, corporation or other entity who has signed a contract to purchase land from one or more of the respondents.

5. "Property Report" shall be understood to include any Public Offering Statement, prospectus or other report required by State or Federal law to be provided to a purchaser or prospective purchaser of land.

As used in this order, a requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting directly or by implication.

For purposes of this order, all required disclosures shall be made in a clear and conspicuous manner.

It is ordered, That respondents International Telephone and Telegraph Corporation ("ITT"), ITT Community Development Corporation ("ICDC"), Palm Coast, Inc., ("Palm Coast"), and their officers, and their subsidiaries and the officers of those subsidiaries, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporate or other device in connection with the advertising, offering for sale to prospective purchasers, or sale to purchasers of land, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Misrepresenting that respondent ITT or any business entity or third party is legally responsible for any debts or obligations of respondent ICDC or any of ICDC's subsidiaries.
2. (a) Failing, if ITT has not assumed legal responsibility for any of the debts or obligations of ICDC or any of its subsidiaries, to disclose in any property report the following statement:

The debts and obligations of ITT Community Development Corporation are NOT legally guaranteed by International Telephone and Telegraph Corporation, and International Telephone and Telegraph Corporation has not pledged its assets for the development of Palm Coast.

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- (b) Failing, if ITT has assumed legal responsibility for some or all of the debts or obligations of ICDC or any of ICDC's subsidiaries, to disclose in any property report the following statement, in which the blank portions are to be accurately completed:

ITT has assumed legal liability for approximately — percent [to the nearest 5 percent] of the total debts and obligations of [names of corporations for which debts and obligations have been guaranteed].

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3. Failing to set forth as the title of any contract in boldface type the following language: "CONTRACT FOR THE PURCHASE OF LAND."
4. (a) Failing to include the following statement in 12 point boldface type on the first page of any contract:

This is a contract by which you agree to purchase land.

The future value of this land, as well as all undeveloped real estate, is speculative. You should not assume that the value of land will increase. Do not assume that you will be able to resell your land without significant community development and population growth.

You have ten (10) business days in which to determine whether to continue this contract or cancel it with full refund. See the attached "Notice of Cancellation" form for an explanation of your rights. Use this time to examine with care the property

report (also called a Public Offering Statement) which must be given to you at or before the time you sign this contract. It is suggested that you have both this contract and the property report reviewed by a qualified professional.

(b) Failing to include the following statement in any property report relating to land for which neither respondents nor any other parties are legally obligated to make a central sewer system available:

ITT Community Development Corporation is not legally obligated to provide a central sewer system in Section [number] of [name of subdivision]. Installation of a septic tank will be at your expense, which is now approximately [amount].

The use of a septic tank on your lot is contingent on approval by governmental authorities.

(c) Failing to include the following statement, completed as appropriate, in any property report relating to land for which a central sewer system may or will become available in the future, or such other language as clearly and fully sets forth and discloses the amount of any sewer connection fee(s) and the time and circumstances in which such fee(s) must be paid:

A central sewer system [may or will] be available to your lot in the future. [If or when] it becomes available, you will be required to pay a sewer connection fee, which is now approximately [amount], on the date that the sewer is available to your lot, whether or not connection is actually made at that time, or at the time [name of respondent] conveys title to the lot, whichever date occurs later.

(d) Failing to include the following statement in any contract:

Note to buyer: See page [insert page number] of the property report for statements relating to the additional expense for sewerage systems.

5. Failing to disclose the following statement in any promotional material relating to the sale of land:

Since land values are uncertain, you should consult a qualified professional before purchasing.

Provided, however, that the above statement need not be included in the following:

- (a) billboard advertisements;
- (b) radio or television advertisements of ten (10) seconds or less;
- (c) magazine advertisements of one-eighth page or less; or
- (d) newspaper advertisements of one-eighth page or less.

6. Failing to disclose in all sales presentations relating to the sale of land the following statement:

The future value of this land, as well as all undeveloped real estate, is speculative. You should not assume that the value of land will increase. Do not assume that

you will be able to resell your lot without significant community development and population growth. You should consult a qualified professional before purchasing.

7. Failing, where any provisions or conditions are set forth on the reverse side of the contract, to disclose at the bottom of the front side of the contract that the purchaser should examine the reverse side.

8. (a) Failing to include in boldface type in any contract, in immediate proximity to the space reserved in the contract for the signature of the purchaser, the following statement:

You, the purchaser(s), may cancel this transaction at any time prior to midnight of the tenth (10th) business day after the date on which you signed this contract. See the attached "Notice of Cancellation" form for an explanation of this right.

(b) Failing to provide each purchaser, at the time any contract is entered into, with two copies of a "Notice of Cancellation" granting the purchaser at least ten (10) business days after receipt of the notice in which to cancel the contract without any loss, expense, penalty or obligation.

9. Failing to inform a prospective purchaser orally, at or before the time a contract is signed, of his or her right to cancel the contract in accordance with the provisions of Paragraph 8 of this order.

10. Whenever respondents offer a refund that is contingent upon the purchaser taking a company-guided inspection tour of the property in which the purchaser's land is located:

(a) Failing to afford the purchaser three (3) business days after taking such tour in which to request a refund;

(b) Failing to include in any contract, in immediate proximity to any provision setting forth the availability of a refund upon the completion of a company-guided inspection tour of the property, the following statement:

You, the purchaser(s), have a right to cancel this contract if you take the company-guided tour of the property and notify the company prior to midnight of the third business day after the date of such tour.

(c) Failing orally to inform each purchaser of any such cancellation right at or before the execution of any contract and at the time any such tour is taken;

(d) Failing to furnish each purchaser immediately upon the conclusion of such tour, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be completed in accordance with subparagraph (e) of this paragraph, and shall consist of the following statements:

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NOTICE OF CANCELLATION

[enter date of company-guided
inspection tour
of property]

[enter contract number]

YOU MAY CANCEL YOUR CONTRACT, WITHOUT ANY LOSS, EXPENSE, PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD (3rd) BUSINESS DAY AFTER THE ABOVE DATE.

IF YOU CANCEL, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT WILL BE RETURNED WITHIN TEN (10) BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE.

TO CANCEL YOUR CONTRACT, DELIVER OR MAIL (CERTIFIED MAIL, RETURN RECEIPT REQUESTED, IS RECOMMENDED) A SIGNED COPY OF THIS CANCELLATION NOTICE OR ANY SIMILAR WRITTEN CANCELLATION NOTICE, OR SEND A TELEGRAM OF CANCELLATION TO: ITT COMMUNITY DEVELOPMENT CORPORATION, AT [address of place of business] NOT LATER THAN MIDNIGHT OF _____.

IF TWO OR MORE PERSONS HAVE SIGNED THE CONTRACT AS PURCHASERS, EACH OF THOSE PERSONS SHOULD SIGN THIS NOTICE, IN ORDER TO CANCEL THE CONTRACT.

IF, HOWEVER, ALL OF THE PURCHASERS DO NOT SIGN THE NOTICE, THOSE WHO DO SIGN THEREBY REPRESENT THAT THEY ARE DULY AUTHORIZED TO ACT ON BEHALF OF ALL OF THE OTHER PURCHASERS.

I (WE) HEREBY CANCEL THE CONTRACT.

Date

Signature(s)

(e) Failing, before furnishing to the purchaser the "Notice of Cancellation" set forth in subparagraph (d) of this paragraph, to complete both copies of such notice by entering the address of ICDC's place of business, the date of the company-guided inspection tour of the property, and the date, not earlier than the third business day following the date of such tour, by which the purchaser may give notice of cancellation.

11. Failing or refusing to honor any valid and timely notice of cancellation submitted by a purchaser in accordance with the provisions of Paragraphs 8 and 10 of this order, and within ten (10) business days after the receipt of such notice, to refund all payments made and cancel any indebtedness under the contract.

12. Failing in any promotional material, contract or sales presenta-

tion that expressly refers or relates to one or more specific lots, to disclose the existence, nature and location of any easements, mortgages and covenants running with the land.

13. Representing that any of respondents' lots is located within any property or portion thereof designated or described as a "self-contained" or "fully developed" community or designated or described by words or terms that are of similar import to "self-contained" or "fully developed" unless:

(a) those facilities, amenities and public services normally associated with a "self-contained" and "fully developed" community, including but not limited to shopping, commercial, recreational and industrial facilities, public services, and amenities, are available within the property in which each lot is located; and

(b) paved roads, electricity, telephone service, central water, and a sewer system or septic tanks are available to all lots within each property or portion thereof designated or described as a "self-contained" or "fully developed" community or by words or terms of similar import.

14. Failing to include in any contract a provision that if any utility or improvement which respondents are legally obligated to make available under the terms of a contract is not available to the lot which is the subject of the contract or if any of the facilities required by the contract to be provided by respondents are not completed

(i) within six (6) months of the date(s) certain specified in the contract or property report, for the availability or completion of the utility, improvement or facility, or, if there is no such date, within six (6) months after the maturity date of the contract, plus, whether or not there is such a date certain, the actual number of days of delay in the availability of any such utility, improvement or facility that are caused by any strike, work stoppage or other such event beyond respondents' control, or

(ii) if the availability of any such utility, improvement or facility is delayed by reason of any act or omission of any Federal, State or local governmental agency or officer, within eighteen (18) months after such date certain, or, if none, the maturity date of the contract,

respondents will, upon conclusion of the applicable period, provide the purchaser within fifteen (15) business days with notice of the unavailability or failure to complete, and of the purchaser's right to cancel and receive a full refund of monies paid, plus interest at the rate of seven percent (7%) per annum compounded annually on each payment made by the purchaser from the date of the payment to the date upon which the purchaser received notification of a right to refund.

15. (a) Failing, if any utility or improvement required to be provided by respondents under the terms of a contract is not available to the lot which is the subject of the contract or any facility required to be provided by respondents under the terms of a contract is not completed

(i) within six (6) months of any date certain specified in the contract or property report, for the availability or completion of the utility, improvement or facility, or, if there is no such date, within six (6) months after the maturity date of the contract, plus, whether or not there is such a date certain, the actual number of days of delay in the availability of any such utility, improvement or facility that are caused by any strike, work stoppage or other such event beyond respondents' control, or

(ii) if the availability of any such utility, improvement or facility is delayed by reason of any act or omission of any Federal, State or local governmental agency or officer, within eighteen (18) months after such date certain, or, if none, the maturity date of the contract,

to provide each purchaser with a notice by certified mail, return receipt requested, immediately upon the conclusion of the applicable period, which is titled "Important Notice of Your Right to a Refund." Such notice must clearly disclose the fact of default and state that the purchaser is entitled to a full refund plus interest at the rate of seven percent (7%) per annum compounded annually on the amount to be refunded, computed in accordance with the provisions of Paragraph 14 of this order.

(b) Failing to refund, to any purchaser who exercises the option for a refund, within sixty (60) days of receipt of such notification from the purchaser, all monies paid by the purchaser pursuant to the contract plus interest at the rate of seven percent (7%) per annum, compounded annually on each payment made by the purchaser, from the date of the payment to the date upon which the notification of the right to refund is received by the purchaser.

16. Imposing any condition or limitation upon the right of a purchaser to a refund as set forth in Paragraphs 14 and 15 of this order; *provided, however*, that respondents may require a purchaser to exercise an option for a refund within a stated time period of not less than thirty (30) days after the receipt by the purchaser of the notice required by Paragraphs 14 and 15 of this order; and may offer by mail to each purchaser the additional option of exchanging his or her land for other land in the same or a different portion of respondents' property; and may require a purchaser to execute a quitclaim deed or other documents necessary to release his or her interest in the land as to

which the purchaser has elected to accept a refund or exchange. All such documents shall be included in the same envelope used to mail the notice of right to refund described in Paragraphs 14 and 15 of this order and the purpose for which such documents are being sent shall be disclosed.

17. Making any statement or representation concerning the proximity to respondents' property of any city, the Atlantic Ocean, the Intracoastal Waterway, major shopping center, recreational or educational facility, or access to I-95, A1A or U.S. Highway 1 without disclosing, in immediate conjunction therewith and with the same conspicuousness as such statement or representation, the distance in road miles to the nearest two miles from such place or facility to the Welcome Center or similar facility on respondents' property.

18. Making any statement or representation using words such as "adjacent," "near to," or any word or term of similar import or meaning to describe the proximity to any specific lot in respondents' property of any city, the Atlantic Ocean, the Intracoastal Waterway, major shopping center, recreational or educational facility, or access to I-95, A1A or U.S. Highway 1, without disclosing, in immediate conjunction therewith and with the same conspicuousness as such statement or representation, the distance in road miles to the nearest two miles from such place or facility to the specific lot referred to in the statement or representation; *provided, however*, that if such distance is less than two miles, such distance shall be disclosed to the nearest one-fifth of a mile.

19. Making any statement or representation concerning any past, present or future population, employment or industrial statistic or trend or other statistic or trend, unless respondents have a reasonable basis to believe that such statistic or trend has or will in the near future have relevance to respondents' property or any part thereof to which such statement or representation relates.

A reasonable basis for a statement or representation shall consist of current, relevant and objective statistical or economic data or studies, where such data are collected or such studies are conducted in accordance with accepted applicable demographic, economic or statistical principles.

20. Making any written statement or representation concerning the purchase price of any land without disclosing:

(i) the nature and approximate amount of any additional payments that must be made by a purchaser to respondents in order to purchase such land;

(ii) the approximate cost of sewage connection or septic tank installation, as appropriate; and

(iii) the approximate cost of any tree stump removal, if necessary.

21. Failing, at least once during any sales presentation in which any statement or representation is made concerning the purchase price of any land, to disclose:

(i) the nature and approximate amount of any additional payments that must be made by a purchaser to respondents in order to purchase such land;

(ii) the approximate cost of sewage connection or septic tank installation, as appropriate; and

(iii) the approximate cost of any tree stump removal, if necessary.

22. Failing to include in any contract entered into on or after January 1, 1974, a provision limiting the amount forfeited, in the event of default, to an amount not larger than 44.8 percent of the cash price disclosed in the contract.

23. Soliciting the written acknowledgement of a purchaser that he or she has been afforded an opportunity to inspect respondents' land and has concluded that the land is satisfactory and in accord with all contractual agreements. This provision shall not be construed to prohibit respondents from providing a form of acknowledgement to the purchaser at the same time as the notice of cancellation required by Paragraph 10 herein, and informing such purchaser that he or she may elect at his or her option to return to respondents by mail the notice of cancellation, the acknowledgement, or neither of them.

24. Representing that the purchase for resale of land in respondents' property is a way to achieve financial security, to deal with inflation, or to become wealthy.

25. Representing that real estate is a good or safe investment, or the purchase of land in respondents' property is a good or safe investment.

26. Making any statement or representation that refers to or concerns investment in stocks, bonds, annuities or any other form of investment other than respondents' land.

27. Making any statement or representation concerning the approximate number of homes presently located in respondents' property without disclosing in conjunction therewith and with the same prominence the approximate number of residential lots [to the nearest 1,000 lots] planned to be located within the property after respondents have finished subdividing it.

28. Representing that the prices of respondents' land periodically rise or that prices are increasing, have increased, or will increase, without disclosing at the same time, and by the same medium by which such representation is communicated, that such price increases are

made at respondents' discretion and do not necessarily relate to changes in the value of the land.

29. Representing, unless such is the fact, that respondents may or will buy back land from or resell for purchasers, or may or will set up a resale division, or that purchasers can resell their land or their interest therein at a profit.

30. Representing that respondents have undertaken any legal obligation or commitment to provide any facility or amenity without, in conjunction with any such representation, stating the calendar year during which the facility or amenity is, at the time of the representation, reasonably expected to be available.

31. Making any statement or representation as to any increase in the number of residents in respondents' property without disclosing in conjunction therewith the approximate number of such residents at the time the representation is made.

32. Making any statement or representation as to any increase in the number of facilities in respondents' property without disclosing in conjunction therewith the number of such facilities at the time the representation is made.

33. Making any statement or representation concerning possible visits by any purchaser or prospective purchaser to any lot in respondents' property without disclosing in conjunction therewith that such purchaser or prospective purchaser may not be able to visit such lot, unless such lot is capable of being reached by automobile.

34. Misrepresenting that land similar to that being offered for sale may not or will not be available in the future.

It is further ordered:

(a) That respondents deliver, by certified mail or in person, a copy of this order to all of their present or future salesmen, independent brokers, advertising agencies, and other employees of respondents who sell or, through personal contact or telephone communication with potential purchasers, promote the sale of land;

(b) That respondents provide a form to each of their present or future salesmen, independent brokers, others who, on behalf of respondents, sell land, and each person conducting tours for any purchaser or prospective purchaser on respondents' property, to be returned to respondents, clearly affirming the intention of that person to be bound by and to conform his business practices with the requirements of this order;

(c) That respondents inform each of the persons referred to in subparagraph (a) of this paragraph that respondents are required by this order not to use, and shall not use, any such person to sell or to

promote the sale of land unless that person complies with the provisions of this order;

(d) That respondents continue and improve their program of surveillance to determine whether the business operations of the persons described in subparagraph (b) of this paragraph conform with the applicable provisions of this order;

(e) That respondents upon receiving any information that any of the persons referred to in subparagraph (b) of this paragraph has violated any of the applicable provisions of this order shall cause such person to receive instruction in the terms and requirements of this Order, and if respondents subsequently receive reliable information that such person has, despite such instruction, continued to violate any provision of this order, respondents shall take steps promptly to suspend or terminate the employment or contractual relationship of the offending person with respondents.

It is further ordered, That if the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§1701-20 (1970), or any regulation that has been or may be promulgated pursuant thereto, requires an act or practice that is prohibited by any provision of this order, or prohibits an act or practice that is required by any such provision, or is otherwise wholly or partly inconsistent with any such provision of this order, any such provision of this order shall be without legal force or effect, except insofar as such provision increases any time period within which any act may be performed.

It is further ordered, That nothing in this order shall be understood to prevent respondents from accurately representing or describing any contributions or services made or provided by ITT or any of its subsidiaries to ICDC or any of ICDC's subsidiaries.

It is further ordered, That, for a period of fifteen (15) years after the service upon respondents of this order, except with the prior authorization of the Federal Trade Commission, respondents shall limit and restrict the development presently known as Palm Coast and consisting of approximately 93,000 acres, to a maximum of approximately 48,000 registered lots in a maximum of 42,000 acres, including substantial areas set aside for commercial, industrial and reserve parcels, locations for multi-family housing, and areas of conservation and preservation; and, accordingly, respondents shall neither register any lots nor sell any registered lots in the balance of such approximately 93,000 acres.

It is further ordered, That the provisions of this order shall have no application to the sale of ten (10) or more residential lots by any of the respondents to a builder, developer or other person who purchases the lots for purposes of development. *Provided* that, for a period of fifteen (15) years after the service upon respondents of this order (or, if under

the following two paragraphs the Commission extends the fifteen-year period, for an additional period equal to any such extension), except with the prior authorization of the Federal Trade Commission, such sales of ten (10) or more residential lots at Palm Coast shall be confined to the 42,000 acres referred to in the preceding paragraph.

It is further ordered, That respondents shall, 720 days prior to the expiration of the aforementioned fifteen-year period, submit to the Commission a written report in which they shall describe the extent of development at Palm Coast, including, but not limited to, information regarding the number of dwelling units, the extent of recreational facilities, and the extent of public and commercial services.

It is further ordered, That unless, at the time of the submission of the report referred to in the preceding paragraph, it reliably appears that the number of dwelling units located or under construction at Palm Coast after the expiration of the fifteen-year period referred to above will be equal to at least 50 percent of the number of lots at Palm Coast then authorized for residential use as to which deeds are at that time held by purchasers or their assignees, the Commission may initiate proceedings under Section 3.72 of the Commission's Rules to extend the fifteen-year period for an additional period not to exceed five years. Any such extension must be ordered not later than the expiration of the fifteen-year period. Respondents shall not, by reason of this order, be deemed to have waived or abandoned any procedural step or right other than the right to seek judicial review of any proceedings provided for in this paragraph.

It is further ordered, That respondents shall not represent that as the result of any portion of this order any agency of the United States Government has endorsed or approved the land development presently known as Palm Coast.

It is further ordered, That, not later than six (6) years after the service upon respondents of this order, respondents shall cause the corporate headquarters of ICDC to be transferred to and located at respondents' property at Palm Coast, Florida.

It is further ordered, That respondents shall provide or lawfully cause others to provide, not later than six (6) years after the service upon respondents of this order, each of the following:

(1) shopping center building or buildings located upon respondents' land at Palm Coast with a total floor space of at least 40,000 square feet;

(2) an office and research park area located upon respondents' land at Palm Coast, to consist of at least 40 acres, which shall include appropriate roads, water lines, sewers and landscaping suitable for possible future construction of office buildings or research facilities;

(3) a multi-purpose office structure located within the office and research park area referred to in (2) herein, which shall have a total floor space of at least 5,000 square feet;

(4) an office building located upon respondents' land at Palm Coast, which shall be suitably designed to house the corporate headquarters of ICDC, and shall have a total floor space of at least 30,000 square feet;

(5) an interchange, substantially similar to plans submitted to the Florida Department of Transportation on or about August 17, 1972, that affords access to and egress from Highway I-95 at a location on or adjacent to respondents' property at Palm Coast; *provided, however*, that respondents' obligations with respect to such an interchange are conditioned upon (a) receipt of any and all authorizations and approvals that may be required from Federal, State and local governmental agencies, and (b) the agreement of all appropriate Federal, State and local governmental agencies that any such interchange shall form part of, and shall be administered and maintained by governmental authorities as part of, Highway I-95; and

(6) paving of the existing St. Joe Road, Flagler County, Florida, between Highway I-95 and U.S. Highway Route 1; *provided, however*, that respondents' obligations with respect to such paving are conditioned upon (a) the receipt of any and all authorizations and approvals that may be required from Federal, State and local governmental agencies, and (b) the agreement of all appropriate Federal, State and local governmental agencies that St. Joe Road shall continue to be a public road, and shall continue to be administered and maintained by governmental authorities as a public road.

It is further ordered, That respondents shall make good faith efforts to encourage a supermarket operator to establish a supermarket in the shopping center building or buildings referred to in this order to be provided at Palm Coast, including, if necessary, a good faith offer to agree to reasonable financial incentives, to continue for a period of at least two years, for the establishment of such supermarket.

It is further ordered, That respondents shall give notice to the Commission at least thirty (30) days in advance of the date of effectiveness of any proposed legal change in respondents' corporate form if that change may significantly alter or affect respondents' compliance with the provisions of this order.

It is further ordered, That respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Order

88 F.T.C.

IN THE MATTER OF
INDIAN ARTS & CRAFTS, INC., ET AL.

Docket 8965. Interlocutory Order, Dec. 14, 1976

Denial of respondents' motion to correct official transcript of oral argument on appeal on grounds of mootness.

Appearances

For the Commission: *David R. Pender, Thomas C. Armitage, and Thornton P. Percival.*

For the respondents: *Carl Pruzan, Casey & Pruzan, Seattle, Washington, J. Richard Carr, Dempsey & Koplovitz, Washington, D.C. and David Shimek, Matthews, Dunn & Baily, Anchorage, Alaska.*

ORDER DENYING MOTION TO CORRECT OFFICIAL TRANSCRIPT OF
ORAL ARGUMENT ON APPEAL

By motion received October 26, 1976, respondents in Dkt. 8965 asked that the transcript of oral argument before the Commission on appeal be corrected in certain designated respects. Complaint counsel opposed this request by response received November 3. Since the proceedings have been dismissed there is no need to resolve this disagreement between the parties and accordingly the motion to correct the transcript will be denied on grounds of mootness. A copy of respondents' motion will, however, as is customary, remain part of the public record of the case, thereby representing respondents' recollection as to the substance of the oral argument. Therefore,

It is ordered, That respondents' motion to correct official transcript of oral argument on appeal be, and it hereby is, denied.