

STATE OF ARIZONA }
COUNTY OF PIMA }

I hereby certify that the within instrument was filed for record in Pima County, State of Arizona

No. 019976

Book 6222 Page 830-839

Date: FEB 25 1980 - 3 25 PM

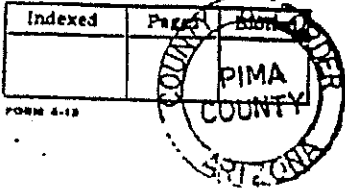
Request of: City Clerk's Office

Witness my hand and Official Seal.

JOE BEHARD
County Recorder

By: Karen Jones
Deputy

Fee: \$.50



C12-79-43

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MIRA LOMA TOWNHOUSES

THIS DECLARATION, made this 13 day of FEBRUARY, 1980, by LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7354-T, and LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7364-T, hereinafter referred to as "Developer".

W I T N E S S E T H :

WHEREAS, Developer is the owner of real property located in Pima County, Arizona, described as follows:

MIRA LOMA TOWNHOUSES Lots 1-44, Lots 45-103 and Common Area A, being a subdivision of the South Half of Lot 1 of Section 6, Township 15 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona, excepting therefrom any portion lying within Campbell Avenue as now established, and further excepting the North 310 of the East 600 of the said South Half of Lot 1 and further excepting the West 375.36 feet of the South Half of Lot 1 and further excepting any portion previously conveyed in Docket Book 5138 at page 608 and in Docket Book 5138 at page 606, as recorded in the Pima County Recorder's office, Pima County, Arizona, in Book 32 of Maps and Plats at Pages 15 and 16.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MIRA LOMA HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be added to the development by the Developer.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. Common Area shall include but not limited to the swimming pool, pumps, sewer system, trees, recreational areas, sidewalks, walkways, pavement, streets, pipes, walls, conduit and public utility lines and Common Area referred to in the recorded plat.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Roadways" shall mean those areas designated as roadways and private drives of the MIRA LOMA TOWNHOUSE DEVELOPMENT hereinabove mentioned.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Developer" shall mean and refer to LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7354-T, and LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7364-T, their successors and assigns who acquire more than one undeveloped Lot from LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7354-T and LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7364-T, their successors and assigns.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(b) The right of the Association to limit the number of guests of members and Owners;

(c) The right of the Association to establish rules and to regulate the use of any recreational or common facility situated upon the Common Area;

(d) The right of the Association, in accordance with its Articles and By-Laws, and/or the laws of the State of Arizona relating to nonprofit corporations, to borrow money for the purpose of improving and maintaining the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgage in said properties shall be subordinate to the rights of the homeowners hereunder; provided, however, no mortgage or other encumbrances shall be placed against the Common Area without the affirmative vote of not less than two-thirds (2/3) of the Class A members;

(e) The right of the Association 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 members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded, provided that written notice of the proposed action is sent to each member at least thirty (30) days in advance.

Section 2. Delegation of Use. Any Owner may delegate in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B member(s) shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership, or

(b) On February 22, 1987

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, 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 hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvements and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Annual Assessment shall be Thirty Dollars (\$30.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Annual Assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without an affirmative vote of not less than two-thirds (2/3) of each class of membership.

(b) The Board of Directors may fix the Annual Assessment at an amount not in

excess of the maximum.

- (c) Notwithstanding the above, the maximum monthly assessments to be levied against each undeveloped Lot shall not exceed twenty-five (25%) percent of the amount of the monthly assessment then being levied against fully developed Lots. Each fully developed Lot owned by the Developer shall be assessed the full monthly assessment commencing on the first day of the month following substantial completion of the improvements upon a Lot (ready for occupancy).

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized

Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 15 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding 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 basis, except as to the assessment against undeveloped Lots as provided in Section 3 of this Article IV.

Section 7. Date of Commencement of Monthly Assessment.

The monthly assessment for each undeveloped Lot shall commence on the first day of the month following the conveyance by the Developer of a Lot to an individual Owner. The monthly assessment for each fully developed Lot owned by the Developer shall commence on the first day of the month following the unit being ready for occupancy.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. X

Section 9. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage. Sale or transfer of any Lot shall not affect the assessment lien.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer prior to the completion of the development and thereafter by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, it shall be presumed that the Board disapproves said plans and no changes or alterations shall be permitted. X

ARTICLE VI

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: paint and/or repair all exterior walls, replace and care for trees, shrubs, walks and other exterior improvements, except such exterior maintenance shall not include glass surfaces, roofs, or enclosed areas within patios, but shall include carports. The Association shall accept responsibility for control, maintenance, safety and liability of the private streets, roads and Common Area within the development. X

In the event that the Board of Directors determine that the need for maintenance or repair has been caused through

the willful or negligent act of the Owner, his family or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of homes upon the properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a partywall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of any dispute arising concerning a partywall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII

USE RESTRICTIONS

Section 1. No buildings or structures other than townhouses, being residence units joined together by party walls, or recreation facility in the Common Area, shall be built on any parcel where the builder therefore programmed and constructed a townhouse or recreation facility. No structures

of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any portion of the premises at any time as a residence either temporarily or permanently, other than for a Watchperson during construction.

Section 2. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Developer, its builder, successors or assigns to maintain during the period of construction such buildings as they deem necessary for sale, storage area, business office, construction yards, signs, model units and watchpersons quarters.

Section 3. All unsightly objects, including but not limited to, clotheslines on patios only, equipment, garbage cans, service yards, woodpiles, or storage items shall be kept in patio areas only, screened from view of neighboring townhouses and streets. ✓

Section 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other household pets provided they are not kept for commercial purposes and do not conflict with the Association rules and regulations.

Section 5. All plantings of any kind shall be restricted to the patio areas of each townhouse. No other wall, fence or hedge except those built with the original construction or approved by the Association's Board of Directors or their designated representatives may be built.

Section 6. No business of any kind may be conducted on any Lot or in any townhouse except that of Developer during the construction and sale of said townhouses and thereafter the Mira Loma Townhouse Association. Further, no advertising signs, billboards or unsightly objects shall be placed on the premises. All antennas must have written approval from the Association Board of Directors before they can be installed. ✓

Section 7. All Common Areas shall remain undivided and shall at all times be owned by the Association or its successors.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 this Declaration. 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 hereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty (60%) percent of Lot Owners, and thereafter by fifty (50%) percent of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the properties by the Developer without the consent of the members within seven (7) years of the date this instrument is recorded.

ARTICLE X

EASEMENTS

There is hereby created a blanket easement upon, across, over and under the above-described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone and electricity. By virtue of this easement, it shall be expressly permissible for each individual Owner or public service utility company or municipality to erect and maintain the necessary poles, house sewer connections, main sewer lines and other necessary equipment or lines on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits or house sewer connections above, across and under the townhouses, including the roof and exterior walls of each unit. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said premises except as initially programmed and approved by the major builder of said premises or thereafter approved by the Association's Board of Directors. This easement shall in no way effect any other recorded easements on said premises.

Each townhouse and the common elements shall be subject to an easement for encroachments created by construction, settling

and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of the same, so long as they stand, shall and does exist. In the event the multi-family structure is partially or totally destroyed, and then rebuilt, the Owners of townhouses agree that encroachments not to exceed one (1) foot of parts of the adjacent townhouse units or common elements due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

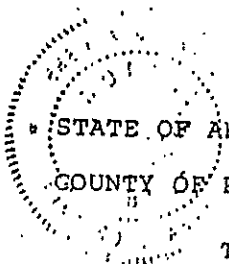
IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set their hands and seals this 10 day of January, 1980.

LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7354-T *and not otherwise*

By Sharon Haugherty
Its TRUST OFFICER

LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7364-T *and not otherwise*

By Sharon Haugherty
Its TRUST OFFICER



STATE OF ARIZONA]
COUNTY OF PIMA] ss.

The foregoing instrument was acknowledged before me this 10 day of January, 1980, by Sharon Haugherty of LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7354-T and LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee under Trust No. 7364-T.

Frank C. Cicello
Notary Public

My Commission expires:
