

DOC # 1998-0495224

AUG 06, 1998 4:22 PM

Recording Requested By:

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1998

RESTATED DECLARATION OF RESTRICTIONS

FOR

OCEANSIDE MANOR

(PACIFICA)

A Senior Residential Planned Development

Oceanside Manor Unit Nos. 1, 2, and 3, Map Nos. 7648, 8348, 8462,
and Lots 55 and 56, Map No. 8419
City of Oceanside, County of San Diego, State of California

TABLE OF CONTENTS

RECITALS	1
ARTICLE 1 - DEFINITIONS	3
ARTICLE 2 - SENIOR RESIDENCY REQUIREMENTS	4
2.1 Senior Housing Development	4
2.2 Federal Requirements	4
2.3 State Requirements	4
2.4 Qualified Exceptions to State Law	4
2.5 Enforcement	5
2.6 Laws	5
2.7 Amendments to Reflect Law	5
2.8 Conflict	5
ARTICLE 3 - USE RESTRICTIONS AND COVENANTS	5
3.1 Right to Use Common Area	5
3.2 Delegation of Rights	5
3.3 Storage on or Obstruction of Common Area	6
3.4 Modifications to Common Area	6
3.5 Board Powers over Common Area	6
3.6 Restrictions on Construction; Alteration	6
3.7 Restrictions on Minerals; Wells	6
3.8 Restrictions on Commercial Use of Lots	6
3.9 Leasing and Renting	7
3.10 Dangerous Activities Affecting Insurance	7
3.11 Restrictions on Burning and Fire Hazards	7
3.12 Restrictions on Modification of Protective Systems	7
3.13 No Nuisances Allowed	7
3.14 Signs	8
3.15 Pets	8
3.16 Uses of Garage	8
ARTICLE 4 - MAINTENANCE AND LANDSCAPING	8
4.1 Standards of Maintenance	8
4.2 Common Area Maintenance	8
4.3 Drainage Structures	9
4.4 Association Maintenance Responsibility with Respect to Lot Improvements	9
4.5 Owner Maintenance Responsibilities	9
4.6 Size of Landscape Easement Areas	9
4.7 Access over Common Area	10
4.8 Party Walls	10
4.9 Failure to Maintain	10

4.10	Termite Control-----	10
4.11	Damage Caused by Owner or Item under Control of Owner-----	10
4.12	Maintenance Responsibility List -----	11
ARTICLE 5 - ARCHITECTURAL COMMITTEE AND RESTRICTIONS-----		14
5.1	Architectural Committee-----	14
5.2	Architectural Modifications Requiring Prior Approval-----	14
5.3	Architectural Restrictions-----	14
5.4	Architectural Changes Not Requiring Prior Approval-----	15
5.5	Procedures for Obtaining Approval of Architectural Changes-----	15
5.6	Approval by Governmental Agencies -----	16
5.7	Inspection of Work -----	16
5.8	Enforcement-----	17
5.9	No Precedence-----	17
5.10	Architectural Rules and Guidelines -----	17
5.11	Liability -----	17
ARTICLE 6 - ASSOCIATION-----		17
6.1	Organization of the Association-----	17
6.2	Membership -----	18
6.3	Membership Class; Voting Rights -----	18
6.4	General Powers and Authority -----	18
6.5	Rules and Regulations-----	19
ARTICLE 7 - ASSESSMENTS AND COLLECTION PROCEDURES -----		19
7.1	Covenant to Pay -----	19
7.2	Purpose of Assessments -----	19
7.3	Regular and Special Assessments-----	19
7.4	No Offsets -----	20
7.5	Lots Not Subject to Assessment -----	20
7.6	Late Charges and Interest-----	20
7.7	Statement of Delinquent Assessment-----	20
7.8	Collection of Delinquent Assessments and Late Charges -----	20
7.9	Priority of Assessment Lien -----	20
ARTICLE 8 - ENFORCEMENT -----		20
8.1	Right to Enforce; Remedies -----	20
8.2	Nuisance-----	21
8.3	Violation of Law-----	21
8.4	Enforcement Procedures; Notice and Hearing -----	21
8.5	Failure to Enforce -----	22
8.6	Compliance with Statute-----	22
ARTICLE 9 - INSURANCE -----		22
9.1	Fire and Casualty Insurance-----	22

9.2	General Liability Insurance-----	23
9.3	Directors and Officers Liability Insurance-----	23
9.4	Fidelity Coverage -----	23
9.5	Other Association Insurance-----	24
9.6	Review; Notice of Cancellation or Modification-----	24
9.7	Owner and Lender Notification of Insurance -----	24
9.8	Failure to Acquire Insurance-----	24
9.9	Trustee for Policies -----	24
9.10	Insurance Premiums -----	24
9.11	Owner Property Insurance -----	24
9.12	Owner Liability Insurance-----	25
9.13	Limitation of Liability -----	25
ARTICLE 10 - DAMAGE OR DESTRUCTION-----		25
10.1	Duty to Restore Lot -----	25
10.2	Duty to Restore Common Area -----	25
10.3	Cost of Repair -----	25
10.4	Insurance Proceeds -----	26
10.5	Certificates by Board -----	26
10.6	Disbursements upon Termination -----	26
10.7	Certificates by Attorneys or Title Insurance Companies-----	26
ARTICLE 11 - EMINENT DOMAIN -----		26
11.1	Association as Trustee for Owners -----	26
11.2	Condemnation of a Lot-----	26
ARTICLE 12 - AMENDMENTS-----		27
12.1	Owner Approval of Amendments-----	27
12.2	Approval of Specified Amendments-----	27
ARTICLE 13 - EASEMENTS-----		27
13.1	Drainage and Slope Easements-----	27
13.2	Easements over Lots -----	27
13.3	Encroachment Easements-----	27
13.4	Utility Easements -----	28
ARTICLE 14 - GENERAL PROVISIONS -----		28
14.1	Term -----	28
14.2	Severability; Invalidity-----	28
14.3	Number and Headings-----	28
14.4	Attorney Fees -----	28
14.5	Document Priorities -----	28
14.6	Conflict with Statutes -----	28
EXHIBIT 'A' - DEFINITIONS-----		29

**1998 RESTATED DECLARATION
OF RESTRICTIONS
FOR
OCEANSIDE MANOR
(PACIFICA)**

THIS DECLARATION is made on the day and year hereinafter written, by Oceanside Manor Homeowners Association, a California nonprofit mutual benefit corporation ("Association") with reference to the following Recitals.

RECITALS

A. The Association is a corporation whose Members are the Owners of all the Lots within that certain real property in the City of Oceanside, County of San Diego, State of California more particularly described as follows:

LEGAL DESCRIPTION

Lots 1 through 87, inclusive, of Oceanside Manor Unit No. 1, in the City of Oceanside, in the County of San Diego, State of California, according to Map thereof No. 7648 filed in the Office of the County Recorder of San Diego County on May 30, 1973, the boundaries of some of which Lots having been changed by Parcel Map No. 2123, filed in the Office of the County Recorder of San Diego County of November 30, 1973;

Lots 88 through 155, inclusive, of Oceanside Manor Unit No. 2, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 8348, filed with the County Recorder of San Diego County on July 26, 1976;

Lots 156 through 237, inclusive of Oceanside Manor Unit No. 3, in the City of Oceanside, County of San Diego, State of California, according

to Map thereof No. 8462 filed with the County Recorder of San Diego County on January 19, 1977; and

Lots 55 and 56, inclusive, of Pacific Hermosa, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 8419 filed with the County Recorder of San Diego County on November 24, 1976;

hereinafter referred to as "Property."

B. The Property was developed as a Planned Development, as defined in Section 1351(k) of the California Civil Code, and consists of two hundred twenty-three (223) Residential Lots and twelve (12) Common Area Lots. The Common Area includes a pool, sauna, jacuzzi, tennis courts, clubhouse, park area, private streets and drives, and landscaping.

C. The Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the following documents:

1. Declaration of Restrictions, recorded February 6, 1974, as File/Page No. 74-031699;
2. First Amendment to Declaration of Restrictions, recorded April 30, 1974, as File/Page No. 74-110604;
3. Declaration of Annexation, recorded November 4, 1974, as File Page No. 74-292090;
4. Declaration of Annexation, recorded December 13, 1976, as File/Page No. 76-416678;
5. Declaration of Annexation, recorded December 13, 1976, as File/Page No. 76-416679;
6. Declaration of Annexation, recorded December 13, 1976, as File/Page No. 76-418676;
7. Declaration of Annexation, recorded January 26, 1977, as File/Page No. 77-031327;
8. Declaration of Annexation, recorded January 26, 1977, as File/Page No. 77-031328;
9. Second Amendment to Declaration of Restrictions, recorded May 6, 1977, as File/Page No. 77-173536;
10. Third Amendment to Declaration of Restrictions of Oceanside Manor Homeowners Association, recorded May 3, 1985, as File/Page No. 85-156349;
11. Fourth Amendment to Declaration of Restrictions of Oceanside Manor Homeowners Association, recorded December 18, 1990, as Document No. 1990-0671949; and

12. Fifth Amendment to Declaration of Restrictions of Oceanside Manor Homeowners Association, recorded December 3, 1991, as Document No. 1991-0622109.

All of the above documents are recorded in the Official Records of the County Recorder of San Diego County, and are hereinafter referred to together as "Declaration," unless the context clearly indicates otherwise.

D. The Association now desires to replace the Declaration in its entirety with this Restated Declaration. The Association further desires that, upon recordation of this Restated Declaration, the Property shall be subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges contained herein, and that this Restated Declaration shall take the place of and relate back in time to the recording of the original Declaration.

E. The Declaration, in paragraph 12(g), provides that it may be amended by the affirmative vote or written consent of two-thirds (2/3) of the voting power of the Association. The undersigned President and Secretary of the Association certify that, to the best of their knowledge, the affirmative vote or written consent of at least the required percentage of Association Members has been obtained.

F. Paragraph 12(g) requires the approval of beneficiaries of First Trust Deeds to any changes to paragraphs 4(e) and 9(a) of the Declaration. As paragraph 4(e) has been included herein as Section 7.9, and paragraph 9(a) has been included herein as Section 9.1, the approval of such beneficiaries is not necessary.

NOW, THEREFORE, the Association hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Restated Declaration, and as may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Restated Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs, executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Lot.

DECLARATION

ARTICLE 1 - DEFINITIONS

Attached hereto as Exhibit "A," and incorporated herein by reference, are the definitions of terms used in this Restated Declaration. Unless otherwise indicated, the definitions contained in Exhibit "A" shall apply to the terms in this Restated Declaration.

ARTICLE 2 - SENIOR RESIDENCY REQUIREMENTS

- 2.1 **Senior Housing Development.** To the fullest extent permitted by federal, state, and local law, residency in Oceanside Manor shall be restricted to seniors.
- 2.2 **Federal Requirements.** The provisions of the Federal Fair Housing Amendments Act of 1988 regarding familial status do not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit that qualifies as housing for older persons under Federal law. Oceanside Manor meets these requirements.
- 2.3 **State Requirements.** At least one person in each residence shall be fifty-five (55) years of age or older (Qualifying Resident), and other residents must be a Qualified Permanent Resident, a Permitted Health Care Resident, or a resident qualified under one of the exceptions to the age requirements of the Unruh Civil Rights Act (Civil Code Section 51 et seq.).
- 2.4 **Qualified Exceptions to State Law.** The following persons are qualified for residency as exceptions to the above requirement that residents be fifty-five (55) years of age or older:
- 2.4.1 A person who had the right to reside in, occupy, or use the Lot on January 1, 1985 shall not be deprived of the right to continue that residency.
- 2.4.2 A Permitted Health Care Resident who is hired to provide live-in, long term, or hospice care for the period of time that such a person provides such care.
- 2.4.3 A guest of a Qualifying Resident or Qualified Permanent Resident who may visit for a period of time that, in the aggregate, is less than sixty (60) days in any calendar year.
- 2.4.4 A Qualified Permanent Resident means a person who meets all of the following requirements:
- A. Was residing with the Qualifying Resident prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the Qualifying Resident.
 - B. Was forty-five (45) years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the Qualifying Resident.
 - C. Has an ownership interest in, or is in expectation of an ownership interest in, the dwelling unit within the housing development that limits occupancy, residency, or use on the basis of age.
- 2.4.5 A Qualified Permanent Resident, who is under fifty-five (55) years of age, may continue to reside in the Lot until such time as the Lot is sold or transferred, unless

such residency would cause the number of Lots occupied by a person fifty-five (55) years of age or older to fall below the percentage required by the Federal Fair Housing Law.

- 2.5 **Enforcement.** The Board and any one or more of the owners shall be empowered to enforce compliance with all applicable federal, state and local "Laws" which permit age restrictions in housing, and may use any proceeding at law or in equity to enforce the provisions of this Article. The Board's requirements may include pre-screening and ongoing certification for all residents.
- 2.6 **Laws.** In addition to the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Section 3601 et seq., the California Unruh Civil Rights Act, California Civil Code Section 51 et seq., California Civil Code Section 799 et seq., and California Government Code Section 12955.9, the word "Laws" in this Article shall also include, without limitation, all statutes, ordinances and other forms of legislative enactments, regulations, rulings and guidelines, as each may be amended from time to time, and decisions and interpretations from or arising out of administrative enforcement proceedings and court decisions.
- 2.7 **Amendments to Reflect Law.** To avoid costly and time-consuming amendments to this Restated Declaration, the Board shall be empowered to amend this Restated Declaration from time to time to achieve compliance with any change in the Laws pertaining to age restrictions, notwithstanding the amendment provisions of Article 12, herein. Such amendments shall be duly recorded with the County.
- 2.8 **Conflict.** If there is any inconsistency or conflict between this Article and any other provision of the Restated Declaration, the terms of this Article shall control. Furthermore, in the event of any inconsistency between the Governing Documents and applicable law, applicable law shall control.

ARTICLE 3 - USE RESTRICTIONS AND COVENANTS

- 3.1 **Right to Use Common Area.** Owners and their guests, invitees, or other persons deriving rights from such Owners shall have a nonexclusive easement for the use and enjoyment of the Common Area and shall be subject to the covenants and restrictions contained in this Restated Declaration and the Rules and Regulations, and shall be subject to any enforcement actions of Article 8. The Association, through the Board of Directors, shall be responsible for the enforcement of these provisions.
- 3.2 **Delegation of Rights.** Owners who have leased or rented their Lot shall be deemed to have delegated their rights to use and enjoy the Common Area for so long as the delegation remains effective. The rights of a tenant shall be subject to the same restrictions and regulations as are applicable to Owners.

- 3.3 **Storage on or Obstruction of Common Area.** No Owner may permit anything to obstruct the Common Area or store anything on the Common Area without the prior written permission of the Board.
- 3.4 **Modifications to Common Area.** Except as provided in the Rules and Regulations or the Architectural Rules and Guidelines, Owners may not alter, construct, plant, or remove anything on or from the Common Area.
- 3.5 **Board Powers over Common Area.** With regard to the use and disposition of the Common Area, the Board may:
- 3.5.1 Adopt and enforce reasonable Rules and Regulations for the use of the Common Area including, but not limited to: (1) limiting the number of residents using a Common Area facility, (2) charging a fee or deposit for use of facilities, and (3) prohibiting entry into certain portions of the Common Area for health, safety, or other concerns.
 - 3.5.2 Regulate traffic flow on streets within the Project, control parking, and remove any vehicle within the Project parked in violation of this Restated Declaration or the Rules and Regulations in accordance with the provisions of California Vehicle Code Section 22658.2 and any amendments thereto.
 - 3.5.3 Limit the temporary parking of recreational vehicles such as motor homes, trailers, campers, and boats to twenty-four (24) hours, and the parking of commercial vehicles except when servicing the area.
 - 3.5.4 Approve the construction of additional improvements in the Common Area or the alteration of existing improvements under the limitations of the Bylaws concerning approval by the Owners.
 - 3.5.5 Convey easements, licenses, or rights-of-way in, on, over, and under portions of the Common Area as provided in Article 13.
 - 3.5.6 Sell or lease the Common Area or portions thereof to any private party or entity with the approval of two-thirds (2/3) of the voting power of the Association.
- 3.6 **Restrictions on Construction, Alteration.** Owners may not modify, construct, build, or otherwise alter any portion of their Lot or Dwelling other than as provided in Article 5 and the Architectural Rules and Guidelines.
- 3.7 **Restrictions on Minerals, Wells.** Owners may not explore for minerals or water.
- 3.8 **Restrictions on Commercial Use of Lots.** Owners may not use their Dwelling or permit any part of a Lot to be used for any purpose other than as a private residence. The Board may allow certain home occupations which (1) are compatible with the normal residential usage of the Project, (2) do not cause any external effects which are detrimental to

neighboring Lots or the Project, and (3) do not publicly advertise the address as a place of business.

- 3.9 **Leasing and Renting.** All leases or rental agreements shall comply with the following:
- 3.9.1 All leases and rental agreements must be in writing and for a period of not less than thirty (30) days.
 - 3.9.2 All leases and rental agreements shall be subject in all respects to the Governing Documents and shall provide that failure to comply with the requirements of the Governing Documents shall constitute a default under the lease or rental agreement which may be cured by eviction of the tenant either by the Owner or the Association.
 - 3.9.3 Owners may not enter into any lease or rental agreement that would violate the restrictions on residency in Article 2. Tenants must comply with age verification procedures. All leases and rental agreements that violate these senior residency restrictions shall be void and of no effect.
 - 3.9.4 Owners who lease or rent their Lot shall promptly notify the Association in writing of the names and ages of all tenants, and the address and telephone number where the Owner can be reached.
 - 3.9.5 Tenants shall abide by the Rules and Regulations and the Architectural Rules and Guidelines. Owners must furnish a copy at their expense.
- 3.10 **Dangerous Activities Affecting Insurance.** Owners may not perform any act or keep anything on or in any Lot or in the Common Area that could increase the rate of insurance on the Common Area without the Board's prior written consent. Owners shall not permit anything to be done or kept on their Lot or in the Common Area that would result in the cancellation of insurance on any Lot or on any part of the Common Area, or that would violate any law. Reasonable quantities of household flammable substances or toxic materials may be stored only in appropriate containers.
- 3.11 **Restrictions on Burning and Fire Hazards.** There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designed for such purpose. No Owner or resident shall permit any condition to exist on the Lot which creates a fire hazard.
- 3.12 **Restrictions on Modification of Protection Systems.** Owners may not disconnect nor tamper with any protection system such as fire alarms.
- 3.13 **No Nuisances Allowed.** Owners may not engage in any illegal, noxious, or offensive activity in any part of the Project, nor do any act which threatens the health, safety, and welfare of other residents of the Project. Owners shall not allow or permit excessive noise or noxious odors to come from their Lot, nor cause any nuisance stated in the Rules and Regulations.

- 3.14 **Signs.** Owners may not erect or display any sign on any Lot or Common Area except as allowed by Sections 712 and 713 of the California Civil Code, and the Rules and Regulations.
- 3.15 **Pets.** Residents may keep pet(s) only as allowed by the following:
- 3.15.1 Residents may keep pets on the Project subject to the provisions of the Rules and Regulations. Livestock, poultry, or other "farm animals" are not included in the term "pets."
- Residents may not keep pets which interfere with the rights of any resident of a Lot. If the Board determines that any pet(s) creates an unreasonable nuisance, the keeping thereof shall be discontinued within a reasonable time after notification.
- 3.15.2 Notwithstanding the above, persons with special disabilities may keep such animals as are needed, if documented, written evidence is provided to the Board that such trained animal would assist the resident in carrying out major life activities which are limited by the resident's disability and that the particular animal in question has been trained to provide such assistance.
- 3.15.3 All pets must be properly fenced, caged, or leashed, and must be under the control of a person capable of controlling the pet. No pets shall be permitted in the Common Area except as permitted in the Rules and Regulations.
- 3.15.4 Residents may not raise animals for commercial purposes.
- 3.15.5 The Association shall have no liability for any damage or injury caused by any pet.
- 3.16 **Uses of Garage.** Owners may not (1) convert or use any garage for a residence, (2) hinder parking of their vehicle(s), nor (3) store unreasonable amounts of household goods that create a fire, health, or safety hazard.

ARTICLE 4 - MAINTENANCE AND LANDSCAPING

- 4.1 **Standards of Maintenance.** The Association and all Owners are required to fulfill the maintenance requirements imposed by the Governing Documents. The Board shall have the power to determine the standards of such maintenance to keep an orderly, safe, and sanitary condition necessary to preserve the attractive appearance of the Project.
- 4.2 **Common Area Maintenance.** The Association shall be responsible for all maintenance, repair, replacement, landscaping, and watering within the Common Area which includes the landscape easement areas.

- 4.3 **Drainage Structures.** All drainage structures, the drainage tunnel, water pumps, water intrusion barrier beneath the eastern block wall with associated brow ditch, and any natural drainage courses within the Common Area shall be maintained by the Association.
- 4.4 **Association Maintenance Responsibility with Respect to Lot Improvements.** The Association shall provide exterior maintenance upon each Lot and Dwelling which is subject to Assessments hereunder, as follows:
- 4.4.1 Paint, stain, repair, and replace the exterior building surfaces of all Dwellings including roofs, builder-installed downspouts, driveways, fences and privacy walls, and builder installed gates. The Association shall not be responsible for the repair and replacement of exterior doors, screen doors, lighting fixtures, other hardware, glass surfaces, or any Owner-installed improvements.
- 4.4.2 Replace and care for trees, shrubs, grass, walks, and other landscaping improvements in the landscape easement area. Minor alterations or plantings in these areas by the Owner are provided in the Rules and Regulations.
- 4.5 **Owner Maintenance Responsibilities.** Except as specifically provided in Section 4.4 above:
- 4.5.1 Owners shall be responsible for the maintenance and repair of their Dwelling and Lot, including without limitation the glass surfaces, glass doors, windows, screens and screen doors, other exterior doors, window fixtures, any hardware, improvements within private enclosed areas, the plumbing, electrical, heating and air conditioning systems servicing the Dwelling, and the interior of their Dwelling. The Owners shall also be responsible for the maintenance of all of the landscaping and the proper drainage of the private enclosed areas on their Lot.
- 4.5.2 There shall be no exterior painting of Dwellings by the Owners (except new owner-installed garage doors to match exterior walls) nor repair or replacement of original roofs.
- 4.5.3 Owners shall be responsible for the maintenance, repair, or replacement of any improvements installed or planted by the Owner, any resident in the Owner's Lot, or the Owner's predecessor.
- 4.6 **Size of Landscape Easement Area.** The Board may increase or decrease the landscape easement area subject to common area maintenance with the approval of a majority of the voting power of the Owners. All Owners shall receive equitable increases or decreases in common landscaping services. Such easements in favor of the Association shall become part of the Common Area.

- 4.7 **Access over Common Area.** An Owner shall be entitled to reasonable access over and through the Common Area for the purposes of performing any maintenance, repairs, or replacement as required by the Governing Documents.
- 4.8 **Party Walls.** Each wall which is part of the Duplexes within the Project and placed on the dividing line between the Lots shall constitute a Party Wall, and the general rules of law regarding Party Walls shall apply thereto.
- 4.9 **Failure to Maintain.** If an Owner fails to maintain the areas described in this Article pursuant to the standards set by the Board, the Board may notify the Owner of the work required and request that the same be done within a reasonable time. In the event the Owner fails to carry out such maintenance within said time period, the Board may, following a notice and a hearing, cause such work to be done and the cost thereof shall immediately be paid by such Owner to the Association. Until paid, it shall bear interest at the maximum rate authorized by law.
- 4.10 **Termite Control.** The responsibility for control of wood destroying pests or organisms shall be as follows:
- 4.10.1 Owners shall be responsible for the maintenance and repair of their personal property and their Dwelling as required to control the presence of or damage caused by wood-destroying pests or organisms.
- 4.10.2 The Association shall be responsible for the maintenance and repair of the Common Area which includes the builder-installed gates, fences and privacy walls as required to control the presence of or damage caused by wood destroying pests or organisms.
- 4.10.3 The Association and the Owners are solely responsible for their respective areas.
- 4.11 **Damage Caused by Owner or Item under Control of Owner.** Should any damage to the Common Area or any Lot result from the willful or negligent act or neglect of any Owner, or such Owner's tenants, guests, invitees, pets, or other persons deriving any interest through such Owner, or from any item the maintenance, repair, or replacement of which an Owner is responsible, the cost of all repairs shall be borne solely by the culpable Owner.
- 4.11.1 If the culpable Owner disputes or refuses to pay any repair costs incurred by the Association, the Association, after reasonable notice and hearing procedures, may charge the cost of those repairs to such Owner as an individual or special assessment with the full authority to lien on such amount in the event of non-payment. If the damage is covered by any insurance carried by the Association, the Board may, at its sole discretion, elect to submit the claim for the cost of repairs to its insurance carrier. The culpable Owner shall be responsible for the cost of any deductible applicable to the covered claim. If the submitted claim is not covered by the Association's insurance, the Owner shall be responsible for the total cost of repair.

- 4.11.2 All repairs performed to correct any damage shall be sufficient to return the damaged property only to its condition prior to the damage with upgrades as may be required to conform with any applicable building codes in effect at the time the damage is repaired.
- 4.11.3 The Association shall be responsible for performing the repair of any damage to the Common Area or items over which the Association has control at the culpable Owner's expense. The culpable Owner shall be responsible for performing the repair of any other damage to their Lot. The Owner of any other Lot which sustained damage shall be responsible for performing the repair at the culpable Owner's expense.
- 4.12 **Maintenance Responsibility List.** In accordance with the requirements of Sections 4.2 to 4.5, above, attached hereto and incorporated herein by reference is the Maintenance Responsibility List setting forth certain specific items within the Project and the responsibility for their maintenance. The provisions of this list shall control.
- 4.12.1 Refer to Maintenance Responsibility List on following pages.

4.12.1 MAINTENANCE RESPONSIBILITY LIST (p. 1 of 2)

The following is a listing of certain items within the Project, the maintenance, repair and replacement duty for which Owners and the Association are responsible:

COMPONENT (S)	OWNER	ASSOC
Air Conditioning System - Clubhouse		X
Air Conditioning System - Homes	X	
Appliances - Clubhouse		X
Appliances - Homes	X	
Caulking - Exterior, except Windows and Doors		X
Caulking - Interior	X	
Chimney - Exterior Stucco and Paint		X
Common Areas and Facilities		X
Crawl Spaces in Attic, including personal contents	X	
Damage caused by owners, tenants, guests	X	
Doorbell - all components and wiring	X	
Doors - Entry - all types and all maintenance except scheduled exterior painting	X	
Downspouts - installed by builder on Flat-roofed Units		X
Drainage Systems - Backyard	X	
Drainage Systems - Common Areas		X
Drains - Bathtubs, Showers, Sinks	X	
Dryer Vents - cleaning and repair	X	
Drywall - Interior - Replace, repair all problems except damage from roof leakage	X	
Electrical - Interior	X	
Exhaust Fans	X	
Exterior Building Surfaces		X
Exterior Faucets - Dwelling	X	
Fences and Privacy Walls		X
Fireplace - All repair and maintenance	X	
Floor Coverings - Carpet, Vinyl, and Tile	X	
Furnace - Homes	X	
Garage Doors - Exterior - Scheduled painting		X
Garage Doors - Replacement, maintenance and openers	X	
Garbage Disposal	X	
Gates - Builder-supplied Fence-gate		X
Gates - Homeowner-added	X	
Glass - Homes - Windows and Doors	X	
Glass - Recreation Areas		X
Hose Bibs - Homes	X	
Insulation	X	

4.12.1 MAINTENANCE RESPONSIBILITY LIST (p. 2 of 2)

COMPONENT (S)	OWNER	ASSOC
Landscaping - Common Areas and Landscape Easement Areas		X
Landscaping - Locked Homeowner-added Gated Areas and Backyards	X	
Lighting Fixtures - Common Areas		X
Lighting Fixtures - Homeowner controlled	X	
Owner-installed Improvements -Gutters, Front Gates, Patios, etc.	X	
Painting - Exterior scheduled		X
Painting - Interior	X	
Patio - Slab and Improvements	X	
Plumbing Fixtures - Interior	X	
Plumbing Lines - Home, regardless of location	X	
Plumbing Lines - Common Area Facilities and Landscaping		X
Pool, Pool Building, Jacuzzi, Sauna, Equipment		X
Pressure Regulators - Water	X	
Roofs		X
Screens - All	X	
Sewer Lines - Clubhouse only		X
Sewer Lines - Single use	X	
Sidewalks - Outside Back Gated Areas		X
Skylights and Solar Tubes	X	
Slab - Homes	X	
Streets and Driveways		X
Stucco - Painting, repair, and replacement of exterior surfaces		X
Termite Control - Common Areas, Builder-installed Gates, Fences and Privacy Walls		X
Termite Control - Dwellings	X	
Termites - Relocation expenses	X	
Wallpaper/Paneling - Homes	X	
Walls - Bearing and Non-bearing, Studs, Frames, Tie-Downs, etc. (except in Common Areas)	X	
Walls - Exterior surfaces only		X
Walls - Party	X	
Water Heaters and Softeners - Homes	X	
Windows - all components and maintenance	X	
Wiring - Electrical - Homes	X	
Wiring - Telephone	X	
Wood Trim - Exterior - Painting, repair and replacement unless caused by termites		X

ARTICLE 5 - ARCHITECTURAL COMMITTEE AND RESTRICTIONS

- 5.1 **Architectural Committee.** The powers and duties set forth in this Article shall be vested in and exercised by the Architectural Committee as authorized by the Board. This committee shall consist of not less than three (3) members who shall assist the Board by reviewing architectural submittals for approval or disapproval.
- 5.1.1 The Board shall have the right to appoint all of the members of the committee or fill vacancies. Such appointees shall be members of the Association but not members of the Board. One shall be designated as chairman.
- 5.1.2 Members shall be appointed for an indefinite term. Notwithstanding the foregoing, any or all members of the committee may be removed by the Board at any time with or without cause.
- 5.1.3 Members of the committee shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred in the performance of their duties.
- 5.1.4 The committee shall meet as often as necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.
- 5.1.5 The vote or written consent of the majority of the committee shall be required for any decision.
- 5.1.6 An up-to-date file by Lot number shall be kept on all materials relating to a submittal, Board action, and final inspection.
- 5.2 **Architectural Modifications Requiring Prior Approval.** Any architectural change or improvement to the exterior of a Dwelling or any portion of a Lot shall be governed by this Article and the Architectural Rules and Guidelines. These changes need prior approval and should follow the procedures of Sections 5.5 through 5.7.
- 5.3 **Architectural Restrictions.** In addition to the required approval by the Architectural Committee, the following restrictions apply:
- 5.3.1 The exterior finish, color, and architectural style of any building or structure shall harmonize, complement, and be of similar materials as existing units.
- 5.3.2 There shall be no interference with slope ratios nor any change of water flow patterns.
- 5.3.3 No awning, patio cover, or other exterior improvements can be made of metal or plastic except: (1) metal garage closures of the approved type and the same color as the unit, (2) skylights with a permit, licensed contractor, and a signed Indemnity Agreement, (3) security devices such as wrought iron gates and window or door

protection, and (4) other preapproved metal or plastic items listed in the Architectural Rules and Guidelines.

- 5.3.4 U.S. flags may be displayed from an attachment on the front of the Unit. Other flagpoles are allowed only in the Owner's private backyard (not the Common Area or Landscape Easement Areas) provided the federal regulations on how to display the flag are observed.
- 5.3.5 Exterior air conditioners or heaters may not be mounted near a neighbor's designated bedroom, on any roof, or on the Common Area.
- 5.3.6 There shall be no outside antennas visible from the Common Areas except, if necessary, to fulfill the requirements of the state law on satellite dishes.
- 5.3.7 Modifications made to facilitate handicapped access as provided in California Civil Code 1360 must be removed by the Owner at his sole expense once the handicapped access is no longer necessary.

5.4 Architectural Changes Not Requiring Prior Approval. Notwithstanding Section 5.3 above, no approval shall be required for (1) repair or replacement of items in accordance with the plans and specifications previously approved by the Architectural Committee, (2) backyard improvements that are not seen nor attached to the Building, and (3) individualizing decorations that harmonize and follow any Architectural Rules and Guidelines.

Nothing contained herein shall limit the right of an Owner to paint the interior of the Dwelling any color desired, or to improve or alter any improvement within the interior, provided such improvement or alteration does not impair or alter the Dwelling structure, any utilities, or other systems servicing the Common Area or other Lots.

5.5 Procedures for Obtaining Approval of Architectural Changes. The procedure for obtaining approval of any architectural change shall be as follows:

- 5.5.1 When considering a change or alteration, Owners shall obtain an application form from the Architectural Committee box in the clubhouse and return it when completed with the information requested in Section 5.5.2.
- 5.5.2 Complete plans and specifications showing the nature, kind, shape, color, size, height, materials to be used, location of any proposed improvements or alteration, the proposed contractor, and any other information required in the Architectural Rules and Guidelines shall be prepared by the requesting Owner and submitted to the Architectural Committee.
- 5.5.3 The Architectural Committee shall review the submission for conformity with this Article 5 and the Architectural Rules and Guidelines. Additional factors may be considered including, but not limited to, the safety to the Dwelling structure, the

design and harmony of the improvement with existing structures, the location of the improvement in relation to surrounding structures, drainage, finish grade elevation, Owner and contractor insurance coverage, compliance with governmental permit requirements, and contractor license status.

A written decision as to approval or rejection, including the reasons, shall be sent to the requesting Owner within forty-five (45) days.

- 5.5.4 Owners who disagree with the decision may submit a letter with supporting materials outlining their position to the Architectural Committee to pass on to the Board.
- 5.5.5 The Board shall review the committee's decision and the Owner's letter within thirty (30) days of the receipt of both. The Board, at its sole discretion, may choose to (1) uphold or reject the Architectural Committee's decision, (2) appoint a member or members of the Board to meet with the Owner and/or the Committee to work out a solution, or (3) call for a hearing with at least a quorum of the Board and Architectural Committee present along with the Owner and pertinent witnesses.
- 5.5.6 The foregoing notwithstanding, the Board shall be solely responsible for approving or rejecting appealed architectural submittals.
- 5.5.7 The Board and its Architectural Committee may impose reasonable conditions on its approval of any architectural submittal. These may include, but are not limited to, the execution and recording of a maintenance or indemnity agreement, an inspection of the completed work, and the employment of a licensed contractor. An Owner must comply with all conditions and is solely responsible for the costs to satisfy such conditions.
- 5.5.8 Once an Owner has obtained approval, work on such approved submittal shall be carried out in a neat, safe manner and be completed within the reasonable time limit as set by the Architectural Committee or the Board..
- 5.6 **Approval by Governmental Agencies.** Prior to commencing any alterations or improvement that has received approval, the Owner shall comply with all appropriate governmental laws and regulations. An Owner's failure to obtain such governmental approval may subject the Owner to certain penalties imposed by the governmental entity. Notwithstanding the approval by the Board or Architectural Committee, these penalties shall be the responsibility of the Owner. Neither the Association, the Board, nor the Architectural Committee shall be responsible for any noncompliance nor be obligated to enforce the provisions of this section.
- 5.7 **Inspection of Work.** Upon completion of the project, the Owner shall inform the Architectural Committee so it can arrange for a final inspection. Any costs are the responsibility of the Owner. If the work does not comply with requirements, the Owner shall promptly correct the deficiency and reapply for another inspection.

- 5.8 **Enforcement.** In addition to other enforcement remedies set forth in this Restated Declaration, the Architectural Committee as authorized by the Board shall have enforcement rights with respect to any architectural matters required to be submitted to and approved by it, and may enforce such architectural control by any proceeding at law or in equity.
- 5.8.1 No work for which approval is required shall be considered approved simply because it has been completed without a complaint, notice of violation, or the commencement of a suit to enjoin such work.
- 5.8.2 The Board through its Architectural Committee shall have the authority to order an abatement of any construction, alteration, or other matter for which approval is required if it has not been approved by the Architectural Committee or the Board, or if it does not conform to the plans and specifications that were approved.
- 5.8.3 Procedures to be followed if the Owner fails to remedy any noncompliance within thirty (30) days are detailed in Article 8.
- 5.9 **No Precedence.** The approval by the Architectural Committee or the Board of any proposal requiring approval shall not constitute a waiver of any right to withhold approval of any similar proposal. A different location, size, proximity to other residences or the Common Area, and other factors may affect the decision on the proposal.
- 5.10 **Architectural Rules and Guidelines.** Upon the recommendation of the Architectural Committee, the Board may adopt or amend the rules known as the "Architectural Rules and Guidelines," which shall interpret and implement the provisions of this Article by setting guidelines for architectural design, placement of additions, color schemes, exterior finish and materials, and similar features. Information on requirements for submittals and other committee requirements may also be included.

The Architectural Rules and Guidelines cannot be in conflict with the language or the intent of the Governing Documents. Owners shall receive a copy after adoption and be updated on changes.

- 5.11 **Liability.** Neither the Board, the Architectural Committee, nor any member thereof shall be liable to the Association or any Owner for any claims based upon their approval or rejection of any submittals or any actions relating to architectural decisions, provided they acted in good faith on the basis of the information received.

ARTICLE 6 - ASSOCIATION

- 6.1 **Organization of the Association.** The Association is incorporated as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. The Association is created for the purpose of managing the Project and is charged with the

duties and invested with the powers prescribed by law and set forth in the Governing Documents. The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in the Governing Documents.

- 6.2 **Membership.** Every Owner is automatically a Member of the Association. Ownership of a Lot is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations as set forth in the Governing Documents. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Lot. All memberships shall be appurtenant to the Lot conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee.
- 6.3 **Membership Class; Voting Rights.** The Association shall have one class of membership. Owner(s) of a Lot shall be entitled to only one (1) vote for each Lot owned, subject to the provisions set forth in the Bylaws and the Corporations Code.
- 6.4 **General Powers and Authority.** The Association shall have all the powers of a nonprofit mutual benefit corporation, subject to any limitations set forth in the Governing Documents. Its powers shall include, but are not limited to:
- 6.4.1 The power and authority to perform any and all acts necessary to assure compliance with the residency restrictions established in Article 2 herein entitled "Senior Residency Requirements" and qualify the Project as Housing for Older Persons.
- 6.4.2 The power to establish, fix, levy, collect, and enforce the payment of assessments in accordance with the procedures set forth in Article 7 herein.
- 6.4.3 The right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest, as provided in the California Civil Code and Code of Civil Procedure.
- 6.4.4 The right to impose penalties for violation of any of the provisions of the Governing Documents, subject to the limitations set forth in Section 8.4 herein.
- 6.4.5 The right for its agents and employees to enter any Lot when necessary in connection with any maintenance, landscaping, or construction work for which the Association is responsible. This entry shall be made only upon reasonable notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable. Any damage caused thereby shall be repaired by the Association at its own expense.
- 6.4.6 The power to grant variances, without limitation, to restrictions upon use contained in Article 3, restrictions on maintenance and landscaping in Article 4, and architectural restrictions in Article 5, when circumstances such as topography, location, engineering, economy, hardship, aesthetic or environmental considerations

warrant. The Board may enact additional Rules and Regulations regarding the variance process, fees, indemnity agreements, and the circumstances under which a variance may be granted.

6.5 **Rules and Regulations.** The Board shall have the power to adopt reasonable Rules and Regulations governing the use of the Lots and Dwellings, the Common Area, any common facilities and Association owned property, and the conduct at Board and Members' meetings, in accordance with the following:

6.5.1 The Rules and Regulations may include, but are not limited to: (a) reasonable restrictions on use of the Common Area, Lots and Dwellings by the Owners and their families, guests, employees, tenants and invitees, and their conduct thereon; (b) reasonable regulations and procedures to verify compliance with restrictions on residency based upon age; (c) the setting of reasonable deposits and use fees for any Common Area facilities; (d) in accordance with Section 8.4 herein, the establishment of reasonable hearing procedures related to violations of any provisions of the Governing Documents.

6.5.2 A copy of the current Rules and Regulations and all modifications, revisions and updates shall be given to each Owner within thirty (30) days of adoption by the Board.

ARTICLE 7 - ASSESSMENTS AND COLLECTION PROCEDURES

7.1 **Covenant to Pay.** Each Owner by acceptance of the deed to the Owner's Lot is deemed to covenant and agree to pay to the Association all assessments and other charges duly levied by the Board pursuant to the provisions of this Restated Declaration and the Bylaws. Any assessment, late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article and the Bylaws, shall also be a personal debt of each Owner of the Lot at the time the assessment or other sums are levied. No Owner may waive or otherwise escape liability for these assessments by nonuse of the Common Area or abandonment of the Owner's Lot.

7.2 **Purpose of Assessments.** The Board shall levy assessments sufficient to perform its obligations. The assessments levied by the Board shall be used exclusively for the operation, replacement, improvement, and maintenance of the Project, and for the discharge of any other obligations of the Association under this Restated Declaration. All assessment payments shall be put into operating and reserve funds to be used for the specified purposes.

7.3 **Regular and Special Assessments.** The Board shall determine and levy such regular and special assessments as necessary to comply with applicable law. Regular assessments may be increased, or special assessments may be imposed, in accordance with the requirements of Section 1366 of the California Civil Code.

Both regular and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. Notice of any increases in assessments or the imposition of any special assessments shall be provided to Owners.

- 7.4 **No Offsets.** All assessments shall be payable in the amounts specified by the Association, and no offsets against such amount shall be permitted for any reasons, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance, operation, or enforcement.
- 7.5 **Lots Not Subject to Assessment.** The Common Area Lots are not subject to assessment. In the event of future Association acquisitions, those Lots would not be subject to assessment during the period of Association ownership.
- 7.6 **Late Charges and Interest.** Late charges and interest may be levied by the Board for the delinquent payment of assessments in accordance with Section 1366(d) of the California Civil Code and the Bylaws in accordance with the Assessment and Billing Collection Policy adopted by the Board.
- 7.7 **Statement of Delinquent Assessment.** The Association shall provide any Owner, upon written request, with a statement specifying the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Lot.
- 7.8 **Collection of Delinquent Assessments and Late Charges.** Delinquent assessments and any related late charges, reasonable costs of collection (including actual attorneys' fees), and interest, shall become a lien upon the Lot in accordance with the Bylaws and Section 1367 of the California Civil Code and other applicable statutes. Liens may be collected and foreclosed upon as provided in the applicable provisions of the Civil Code.
- 7.9 **Priority of Assessment Lien.** The lien of the fees and assessments provided for anywhere in this Restated Declaration shall be subordinate to the lien of any bona fide mortgage or deed of trust given for value. Sale or transfer of any Lot shall not affect the fees and assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or trust deed foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability of any assessments thereafter becoming due or from the lien thereon.

ARTICLE 8 - ENFORCEMENT

- 8.1 **Right to Enforce; Remedies.** 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 Governing Documents. The remedies provided for herein are to be considered cumulative and the use of one remedy shall not preclude the use of any other.

- 8.2 **Nuisance.** The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, or reservation contained in the Governing Documents is violated in whole or in part, is declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner and/or the Association.
- 8.3 **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Lot within the Project is declared to be a violation of this Declaration and subject to any or all of the enforcement procedures herein set forth.
- 8.4 **Enforcement Procedures; Notice and Hearing.** In addition to the rights of the Association as provided in the Bylaws, the Association may impose certain penalties for violation of any of the provisions of the Governing Documents by one or more of the following: (1) suspending the Member's membership rights, including voting rights, (2) imposing monetary charges and interest, (3) recording Notice of Claim of Breach with the Recorder's Office of San Diego County, (4) recording a lien against the Lot with the Recorder's Office, and (5) proceeding in any lawful manner to enforce the penalties subject to the following limitations:
- 8.4.1 An Owner shall be given at least ten (10) days prior written notice of the intent of the Board to hold a hearing to consider imposition of a monetary charge, a suspension, and/or a Notice of Claim of Breach. The Owner shall have the opportunity to be heard orally or in writing, and may call pertinent witnesses. If the Owner so requests, the hearing may be held in Executive Session according to California Civil Code 1363.05.
- 8.4.2 An Owner's membership privileges may be suspended for up to thirty (30) days for any violation of the Governing Documents, and/or during any period of time that the Owner is delinquent in the payment of assessments. Suspension of membership privileges shall include suspension of the right of a Member to vote at meetings of the Association and the right to use any Common Area facilities.
- 8.4.3 Any Notice of Claim of Breach shall identify the subject Lot, the name of the Owner, describe the nonconforming use, and specify the provision of the Governing Documents that is being violated.

Such breach may be enjoined, abated, or remedied by appropriate proceedings commenced within sixty (60) days after the recording. Upon correction, the Notice shall be of no force and the Association shall execute and record a certificate rescinding the Notice of Claim of Breach and confirming that the Lot is in conformity.

If no action to correct the breach is started in the sixty (60) days, the Association shall commence legal action to enforce the remedy of the breach. The prevailing party shall be entitled to costs and reasonable attorney's fees.

- 8.4.4 Except as provided in Article 7 herein relating to foreclosure for failure to pay assessments, or as a result of the judgment of a court, or a decision arising out of arbitration, the Association shall in no way abridge the right of any Owner to the full use and enjoyment of his or her Lot.
- 8.4.5 Any Member whose membership is suspended shall remain liable for any assessments or charges duly levied by the Association during the period of such suspension.
- 8.4.6 Notwithstanding the foregoing, under circumstances involving conduct that constitutes an immediate threat of a fire or safety hazard, material damage to any Unit or the Common Area, or an unreasonable infringement of the safety or the quality of life of other Owners, the Board or its agents may undertake immediate corrective action and conduct a hearing as soon thereafter as reasonably possible, either as requested by the offending Owner or on its own initiative.
- 8.5 **Failure to Enforce.** Failure by the Association or any Owner to enforce any provisions of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.
- 8.6 **Compliance with Statute.** All activities of the Association and the Owners to enforce the provisions of the Governing Documents shall be conducted in accordance with all applicable laws, statutes and ordinances. This includes use of Alternative Dispute Resolution procedures as described in the California Civil Code 1354 summary distributed to Owners annually.

ARTICLE 9 - INSURANCE

- 9.1 **Fire and Casualty Insurance.** The Association shall keep (1) all buildings in the Common Area and Dwellings located on the Lots insured at their maximum insurable replacement value against loss by fire and other insurable risks covered by a standard risk of loss and peril insurance policy and (2) all personalty owned by the Association insured with coverage at the maximum insurable replacement value of said structures and the fair market value of such personalty as determined annually by an insurance carrier selected by the Association.
- 9.1.1 If notified of a change in the policy, Owners of a Dwelling on the Lots will be responsible to inform themselves of the insurance procured by the Association to determine what risks of loss are not covered by such insurance.
- 9.1.2 The Association will be named as sole loss payee for insurance proceeds payable for improvements in the Common Area. The Association and the Owners of any structures on the Lots, or any beneficiary on a deed of trust who has a right thereto and makes written demand to the Association that payment be made to it, will be named as joint loss payees for insurance proceeds for improvements on a Lot.

- 9.1.3 In the event of any loss, damage, or destruction to improvements in the Common Area, the Association shall cause same to be replaced, repaired, or rebuilt. In the event of any loss, damage, or destruction of improvements on a Lot, the Owners or the Association at the Owners' request shall cause the same to be repaired, replaced, or rebuilt in conformity with the provisions of Article 5 of the Restated Declaration.
- 9.1.4 The Association may determine that any structure on the Lots or Common Area which has been wholly or partially damaged as to result in an offense to the senses or interferes with the comfortable enjoyment of life or property in the Properties constitutes a nuisance. If such a nuisance has not been repaired, replaced, or rebuilt in conformity with the provisions of Article 5 of the Restated Declaration within sixty (60) days, the Association may cause such nuisance to be abated on its own.
- 9.1.5 Should the cost of repair, replacement, or rebuilding of Common Area improvements (a) exceed the insurance proceeds available, or (b) no insurance proceeds are available, the deficiency or the full cost thereof shall be assessed to the Owners of Lots then affected by this Restated Declaration.
- 9.1.6 Any deductible provision of insurance obtained in compliance with this Section 9.1 shall be paid by the Association from insurance reserves, if available, or by Special Assessment of the Owners of Lots then affected by this Restated Declaration.
- 9.2 **General Liability Insurance.** The Association shall annually obtain from generally acceptable insurance carriers a comprehensive public liability and property damage liability policy or policies insuring the Association, Board members, any manager, Owners, residents of Lots against any liability for bodily injury, death, and property damage arising from ownership and use of the Common Area. Limits of liability under the insurance shall not be less than three (3) million dollars (or as required by law) of combined single limit liability covering all claims for death, personal injury and property damage arising out of a single occurrence.
- 9.3 **Directors and Officers Liability Insurance.** The Association shall obtain annually one or more policies of insurance which include coverage for individual liability of officers and directors of the Association for negligent acts or omissions of those persons acting in their capacity as officers and directors. Committee members and any member while acting on behalf of or at the direction of the Board are included. Limits of liability under this insurance shall be determined by the Board at its sole discretion, but shall not be less than one (1) million dollars.
- 9.4 **Fidelity Coverage.** The Association shall annually purchase fidelity coverage for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. If an agent handles Association funds, such agent shall be covered by the Association's coverage, unless such agent provides similar coverage. The

Association's coverage may be in the form of a separate bond, a separate policy, or may be added by endorsement to the general policies carried by the Association. The Board shall have the discretion to determine the amount of coverage. However, in no event may the aggregate amount of these bonds be less than one and one-half (1 1/2) million dollars.

- 9.5 **Other Association Insurance.** The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association may purchase such other insurance that the Board considers necessary or advisable upon the approval of a majority of the voting power of the Association.
- 9.6 **Review, Notice of Cancellation or Modification.** The limits, coverage, and deductibles of insurance carried by the Association shall be reviewed at least annually by the Board and increased or decreased at its discretion. Such policies shall include a provision for at least thirty (30) days' prior written notice to the Association of any cancellation or substantial modification of coverage.
- 9.7 **Owner and Lender Notification of Insurance.** The Association shall disclose such information regarding insurance coverage as and when required by any applicable statute or law. This includes a notice to the Owners and Eligible Lenders by first class mail of any significant changes made in the policy. All policies shall be available at the office of the management company for review by Owners and may be copied for a reasonable copy fee.
- 9.8 **Failure to Acquire Insurance.** The Association shall have no liability to any Owner or Lender if it does not obtain any of the insurance referenced in Section 9.5. The Board may determine that obtaining any of the discretionary insurance is unreasonable or unnecessary.
- 9.9 **Trustee for Policies.** The Association is appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. Except as provided in Section 9.1.2, all insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article 10 herein. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action and to execute loss claim forms and release forms in connection with such settlements.
- 9.10 **Insurance Premiums.** Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular or special assessments. That portion of the assessments necessary for the required insurance premiums shall be used solely for the payment of the premiums when due.
- 9.11 **Owner Property Insurance.** Owners are responsible for obtaining and maintaining insurance, at their sole expense, to protect against any damage to, loss of, or cost of repair or replacement of any personal property. This includes, but is not limited to, furniture, belongings, window coverings, floor coverings, wall coverings, appliances not permanently

attached to the building, and any improvements or upgrades that may not be covered by the Association policy. Their policy's Building coverage should bridge any gap between the Association's coverage for cash value and the actual replacement cost, any assessments necessitated by a catastrophe, and any deductible required to avail themselves of additional funds through the Association policy.

Owners need not separately insure their Dwelling against loss by fire or other casualty covered by the Association's blanket insurance carried under Sections 9.1 or 9.5.

- 9.12 **Owner Liability Insurance.** Owners may carry any personal liability and property damage liability insurance for their exclusive use area that they desire.
- 9.13 **Limitation of Liability.** The Association shall not be liable to any Owner, tenant, guest, or others for damage to or loss of property listed in Sections 9.11 and 9.12.

ARTICLE 10 - DAMAGE OR DESTRUCTION

- 10.1 **Duty to Restore Lot.** If all or any portion of any Lot or Dwelling is damaged or destroyed by fire or other casualty it shall be the duty of the Association and the Owner of such Lot to rebuild, repair, or reconstruct the Dwelling and the Lot in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the Board and a majority of the voting power of the Association. Updates to conform to currently applicable building codes shall be deemed to be repairs and restoration in accordance with the original plans.

The Owner of any damaged Lot or Dwelling and the Association shall be obligated to proceed with all due diligence and shall mitigate any danger caused by such damage or destruction. Thereafter, reconstruction shall commence within three (3) months and be completed within one (1) year unless prevented by causes beyond their reasonable control.

- 10.2 **Duty to Restore Common Area.** The Common Area must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved in writing by the Board and a majority of the voting power of the Association. It must be repaired or replaced promptly by the Association unless (1) the Project is terminated, (2) repair or replacement would be illegal under a state statute or municipal ordinance, (3) the damage is declared practically and economically unrepairable by qualified professionals (for example, a slope failure where the slope must be reconstructed), or (4) the damaged or destroyed portion of the Project is partitioned in accordance with California Civil Code 1359.

Updates to conform to currently applicable building codes shall be deemed to be repairs and restoration in accordance with the original plans.

- 10.3 **Cost of Repair.** Any cost of repair or replacement of the Common Area and Buildings on the Lots (as insured by the Association) in excess of insurance proceeds and reserves shall

be a common expense levied against Lots in the same proportion as regular assessments are levied.

- 10.4 **Insurance Proceeds.** An insurance trustee appointed by the Board or insurance company, or if there is no trustee, then the Board, shall hold any insurance proceeds from Association policies in trust for the Association, Owners and lien holders as their interests may appear. Subject to the provisions of this Restated Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property. Then any surplus after all repairs have been made shall be transferred to the Association's reserve accounts.
- 10.5 **Certificates by the Board.** The trustee, if any, may rely on the following certifications in writing made by the Board:
- 10.5.1 Whether or not damaged or destroyed property is to be repaired or restored; and
- 10.5.2 The amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.
- 10.6 **Disbursements upon Termination.** If the Project is terminated, any insurance proceeds for Owners and Lenders shall be distributed proportionately according to the fair market values of the Lots at the time of the destruction as determined by an independent appraiser who shall be selected by the Board and who shall be a member of and apply the standards of a nationally recognized appraiser organization.
- 10.7 **Certificates by Attorneys or Title Insurance Companies.** If payments are to be made to Owners or Lenders, the Board and/or trustee shall obtain and may rely on a title insurance company's or attorney's title certificate or a title insurance policy based on a search of the Official Records of the County Recorder, stating the names of the Owners and the Lenders.

ARTICLE 11 - EMINENT DOMAIN

- 11.1 **Association as Trustee for Members.** If any of the Common Area is threatened to be, or is taken or condemned by any authority having the power of eminent domain, all compensation and damages for the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be payable to the Association. As trustee for all Members and Lenders, the Association shall have the right to act on their behalf.
- 11.2 **Condemnation of a Lot.** If all or any part of a Lot is taken by eminent domain, the award shall be disbursed to the Owner of the Lot subject to the rights of the Owner's Lenders. If the taking renders the Lot uninhabitable, the Owner shall be divested of any further interest in the Project, including membership in the Association, and the interest of the remaining Owners shall be adjusted accordingly.

ARTICLE 12 - AMENDMENTS

- 12.1 **Owner Approval of Amendments.** This Restated Declaration may be amended by the vote or written consent of Owners representing not less than two-thirds (2/3) of the voting power of the Association. An amendment becomes effective after: (a) the approval of the required percentage of Owners has been given, (b) that fact has been certified in the form of a written document executed and acknowledged by the President and the Secretary of the Association, and (c) the document has been recorded in San Diego County.
- 12.2 **Approval of Specified Amendments.** Notwithstanding Section 12.1 above, amendments to Sections 7.9 and 9.1 also require the approval of fifty-one percent (51%) of Eligible Lenders.

An Eligible Lender who receives a written request to approve additions or amendments by certified or registered mail who does not respond with a negative response within thirty (30) days after receipt thereof shall be deemed to have approved the request. No lender may charge a fee for such response. A request for a fee shall not be deemed a "negative response" in this section.

ARTICLE 13 - EASEMENTS

- 13.1 **Drainage and Slope Easements.** Owners shall permit free access to slopes or drainageways located on their Lot for the maintenance of permanent stabilization of said slopes, or maintenance of the drainage facilities. Owners shall not in any way interfere with the established drainage pattern over their Lot from adjacent or adjoining Lots. In the event it is necessary to change the established drainage over their Lot, Owners will make adequate provisions for proper drainage. For the purpose herein, "established drainage" is defined as the drainage which occurred at the time the overall grading of the Project was completed.
- 13.2 **Easements over Lots.** The Association has an easement over each Lot, as the servient tenement, for the purpose of allowing the Association's agents to enter the Lot to perform such duties as may be required by the Governing Documents. Each Owner subject to this Restated Declaration acknowledges and expressly consents to this easement.
- 13.3 **Encroachment Easements.** None of the rights and obligations of the Owners as stated herein, or by the deed creating the Project shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments over the Common Area or contiguous Lot upon which the encroachment exists. In no case shall a valid easement for encroachment be created in favor of an Owner or Owners if the said encroachment occurred due to the willful conduct of said Owner or Owners. If a structure on a Lot is partially or totally destroyed and then rebuilt or repaired, the Owners of such Lots agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for maintenance of such encroachment as long as they shall exist.

- 13.4 **Utility Easements.** The Owner of a Lot on whose property a utility facility is located must grant access to other Owners, or their agents, who are serviced by that utility in order to perform repairs, maintenance or replacements.

ARTICLE 14 - GENERAL PROVISIONS

- 14.1 **Term.** The provisions of this Restated Declaration shall continue in effect for a term of fifty (50) years from the date of execution. Thereafter, it shall be automatically extended for successive periods of ten (10) years, until the membership of the Association decides to terminate it with the vote of a majority of the voting power of the Association.
- 14.2 **Severability; Invalidity.** The provisions of this Restated Declaration shall be deemed independent and severable. The invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision. If for any reason this Restated Declaration is declared completely invalid in its entirety, the Original Declaration shall be automatically revived and thereafter become effective without any further action.
- 14.3 **Number and Headings.** As used in this Restated Declaration, the plural shall include the singular, unless the context requires the contrary. The headings are not a part of this Restated Declaration, and shall not affect the interpretation of any provision.
- 14.4 **Attorney Fees.** In the event an attorney is engaged by the Board to enforce the Governing Documents, the Association shall be entitled to recover from the adverse party to the controversy its attorney fees and costs so incurred. If litigation is necessary to enforce the Governing Documents, the prevailing party shall be entitled to its attorney fees and costs. Collection is enforceable pursuant to Article 8.
- 14.5 **Document Priorities.** In the event of a conflict between the Governing Documents, or any provision thereof, the following documents shall take precedence in the order given: (1) the Articles of Incorporation, (2) this Restated Declaration, (3) the Bylaws, and (4) the Rules and Regulations and Architectural Rules and Guidelines.
- 14.6 **Conflict with Statutes.** Provided any federal, state or local statute, law or ordinance ("Law") is inconsistent with any provision or provisions of the Governing Documents, and compliance with that Law is mandatory, neither the Association, the Board, nor any member thereof shall have any liability for complying with the Law or for failing to comply with provisions of the Governing Documents if compliance would violate such Law.

EXHIBIT "A" - DEFINITIONS

The following definitions shall apply to the terms of the Restated Declarations:

"Articles" means the Articles of Incorporation of Oceanside Manor Homeowners Association, filed in the Office of the Secretary of State of the State of California on December 26, 1973, as File No. 695517, and any amendments thereto now existing or hereafter adopted.

"Association" means the Oceanside Manor Homeowners Association, a California nonprofit mutual benefit corporation created for the purpose of managing a common interest development.

"Board" means the Board of Directors of the Association.

"Building" shall mean a structure or structures intended for the shelter, housing or enclosure of any person, animal, or property of any kind.

"Bylaws" means the Bylaws of the Association and any amendments thereto.

"CC&Rs" means the conditions, covenants, and restrictions contained in this Restated Declaration.

"Common Area" means those portions of the Project, the landscape easement areas, and all improvements thereon owned by the Association for the common use and enjoyment of the Owners.

"Dwelling" shall mean a residential structure or structures, including any enclosed yard, patio areas, and garages located on a Lot.

"Eligible Lender" means a holder, insurer or guarantor of a First Mortgage that provides a written request to the Association stating the name and address of such holder, insurer or guarantor and the Lot number, and requesting notice to which such Eligible Lender is due under the governing Documents.

"Exclusive Use Area" shall mean the Owners' interior of the Dwelling and private backyards.

"Governing Documents" means this Restated Declaration and any other documents such as the Articles, Bylaws, Rules and Regulations, and the Architectural Rules and Guidelines which govern the operation of the Association as may be amended from time to time.

"In Equity" means actions that seek equitable remedies rather than legal remedies.

"Landscape Easement Areas" are the areas on the Lots maintained by the Association.

"Lot" shall refer to all the Lots within the Project, including all improvements now or hereafter thereon, with the exception of the Common Area.

“Member” means an owner who is entitled to membership in the Association as provided in this Restated Declaration.

“Notwithstanding” means in spite of.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, or any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

“Party Wall” means commonly shared wall in a duplex.

“Person” means a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

“Personalty” means personal property owned by the Association.

“Privacy Walls” are those exterior walls on the front portions of a Lot maintained by the Association.

“Project” means the entire common interest development as described in Recitals “A” and “B” of the Restated Declaration including all improvements thereon.

“Property” means the real property described in Recital “A” of the Restated Declaration.

“Restated Declaration” means this Amended and Restated Declaration of Restrictions and any amendments thereto.

“Seniors” shall mean and refer to those persons fifty-five (55) years of age or older.

IN WITNESS WHEREOF, the undersigned has executed this Restated Declaration of Restrictions this 30th day of July, 1998.

ASSOCIATION:

OCEANSIDE MANOR HOMEOWNERS ASSOCIATION,
a California nonprofit corporation

By: Sheila M. Kitting
President

By: Elaine J. Menzel
Secretary

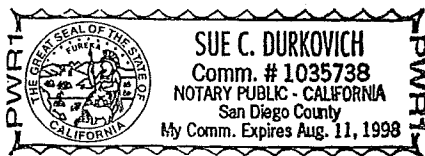
STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

On July 30, 1998, before me, Sue C. Durkovich,
Notary Public, personally appeared Sheila M. Kitting and

personally known to me
- OR -
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/~~they~~ executed the same in ~~his~~/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Sue C. Durkovich
Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

1190

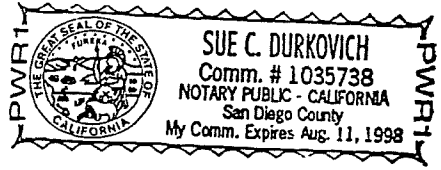
State of California

County of San Diego

On July 31, 1998 before me, Sue C. Durkovich, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Elaine J. Menzel
Name(s) of Signer(s)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Sue C. Durkovich
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: 1998 Restated Declaration of Restrictions for Oceanview Manor (Pacific)

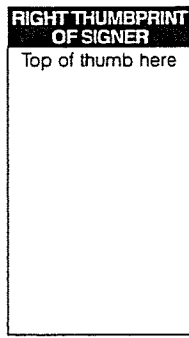
Document Date: 7/30/98 Number of Pages: 32

Signer(s) Other Than Named Above: Sheila M. Ketting

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): Secretary
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

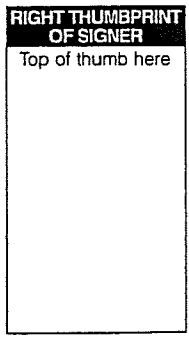


Signer Is Representing:

Secretary of Oceanview Manor

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:



PROFESSIONAL
COMMUNITY
MANAGEMENT

Serving Community Associations Since 1972

906 Sycamore Avenue, Suite 201 • Vista, California 92083 • (760) 599-9151 • Fax (760) 599-8050 • (800) 599-9151

Memorandum

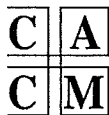
To: OCEANSIDE MANOR HOMEOWNERS

From: GLORIA BURNS, COMMUNITY MANAGER

Date: JANUARY 15, 2001

Re: CC&R AMENDMENT

Please place the amended CC&R's document with your Articles of Incorporation, CC&R's and Bylaws.



California
Association
of
Community
Managers



Building Industry Association
of San Diego County

NOV 09, 2000 3:43 PM



2000-0611561

OFFICIAL RECORDS
 SAN DIEGO COUNTY RECORDER'S OFFICE
 GREGORY J. SMITH, COUNTY RECORDER
 FEES: 20.00

RECORDING REQUESTED BY
 AND WHEN RECORDED MAIL TO:

Epsten Danow Howell & Gatlin, APC
 16835 W. Bernardo Drive, Suite 109
 Rancho Bernardo, California 92127

(Above Space for Recorder's Use)

**AMENDMENT
 TO THE
 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS
 FOR OCEANSIDE MANOR (PACIFICA)**

This document is recorded for the purpose of amending that certain Amended and Restated Declaration of Restrictions for Oceanside Manor (Pacifica), as amended from time to time (hereafter "Declaration"), that was recorded in the Office of the County Recorder of San Diego County, California on recorded on August 6, 1998 as Document No. 1998-0495224 against the property (hereafter "Property") legally described below:

Lots 1 through 87, inclusive, of Oceanside Manor Unit No. 1, in the City of Oceanside, in the County of San Diego, State of California, according to Map thereof No. 7648 filed in the Office of the County Recorder of San Diego County on May 30, 1973, the boundaries of some of which Lots having been changed by Parcel Map No. 2123, filed in the Office of the County Recorder of San Diego County of November 30, 1973;

Lots 88 through 155, inclusive, of Oceanside Manor Unit No. 2, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 8348, filed with the County Recorder of San Diego County on July 26, 1976;

Lots 156 through 237, inclusive of Oceanside Manor Unit No. 3, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 8462 filed with the County Recorder of San Diego County on January 19, 1977; and

Lots 55 and 56, inclusive, of Pacific Hermosa, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 8419 filed with the County Recorder of San Diego County on November 24, 1976;

a. *If the damage or loss is limited to an area on one Lot, the Owner of that Lot shall be responsible for the deductible on the Association's master insurance policy.*

b. *If the damage or loss occurs on adjacent Lots on which there is one residential Building, the deductible shall be apportioned between the two affected Owners based on the ratio of the cost of repair on each Lot to the total cost of repair.*

c. *If the damage or loss occurs to property owned by the Association, or to the Common Area, the Association shall be responsible for the deductible.*

d. *Notwithstanding the above, the Association shall be responsible for paying the deductible, (1) if damage or loss from an insured claim occurs to more than one residential Building (i.e. to two or more non-contiguous structures) from the same occurrence, or (2) if the total insured loss from any claim under the Association's policy equals or exceeds \$25,000.*

e. *Because flood and earthquake insurance has been expensive, and the deductibles have been very high, the Association did not carry either flood or earthquake insurance at the time this amendment was enacted. Thus, the above policies shall not apply to claims arising out of flood or earthquake insurance policies. If, at a future date, the Association contemplates purchasing flood or earthquake insurance, the Board shall consult with the Owners about the options for the payment of premiums and the payment and apportionment of deductibles, but the Board shall have the right to determine who will pay the deductibles and how the deductibles will be apportioned for claims arising under any flood or earthquake policy.*

f. *The policies for apportioning deductibles or the duty to pay deductibles, under subparagraphs a through e above, apply without regard to any determination of fault or liability on the part of any party or parties for the insured loss. This section is not intended to preclude any party who pays a deductible from having the right to seek recovery through appropriate legal proceedings from the party or parties alleged to have fault or liability for the insured loss.*

9.1.7 *The Board of Directors shall have the power to determine the amount of any deductible applicable to any insurance policy carried by the Association.*

9.11 **Owner Property Insurance.** Owners are responsible for obtaining and maintaining insurance, at their sole expense, to protect against any damage to, loss of, or cost of repair or replacement of personal property. This includes, but is not limited to, furniture, belongings, window coverings, floor coverings, wall coverings, appliances not permanently attached to the building, and any improvements or upgrades that may not be covered by the Association's policy. Their policy's Building coverage should bridge the gap between the Association's policy for cash value and the actual

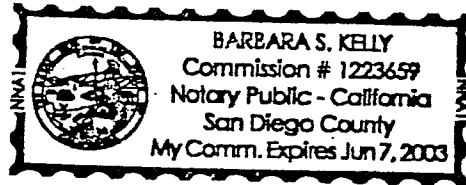
STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On November 7, 2000 before me, the undersigned, a Notary Public in and for said State, personally appeared James C. Goodrich and Beverly L. Thomas, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person S whose name is subscribed to the within instrument and acknowledged that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature S on the instrument the person S, or the entity upon behalf of which the person S acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Barbara S. Kelly
Notary Public in and for said State



STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On _____, 2000 before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person _____ whose name _____ is/are subscribed to the within instrument and acknowledged that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature _____ on the instrument the person _____, or the entity upon behalf of which the person _____ acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Notary Public in and for said State