

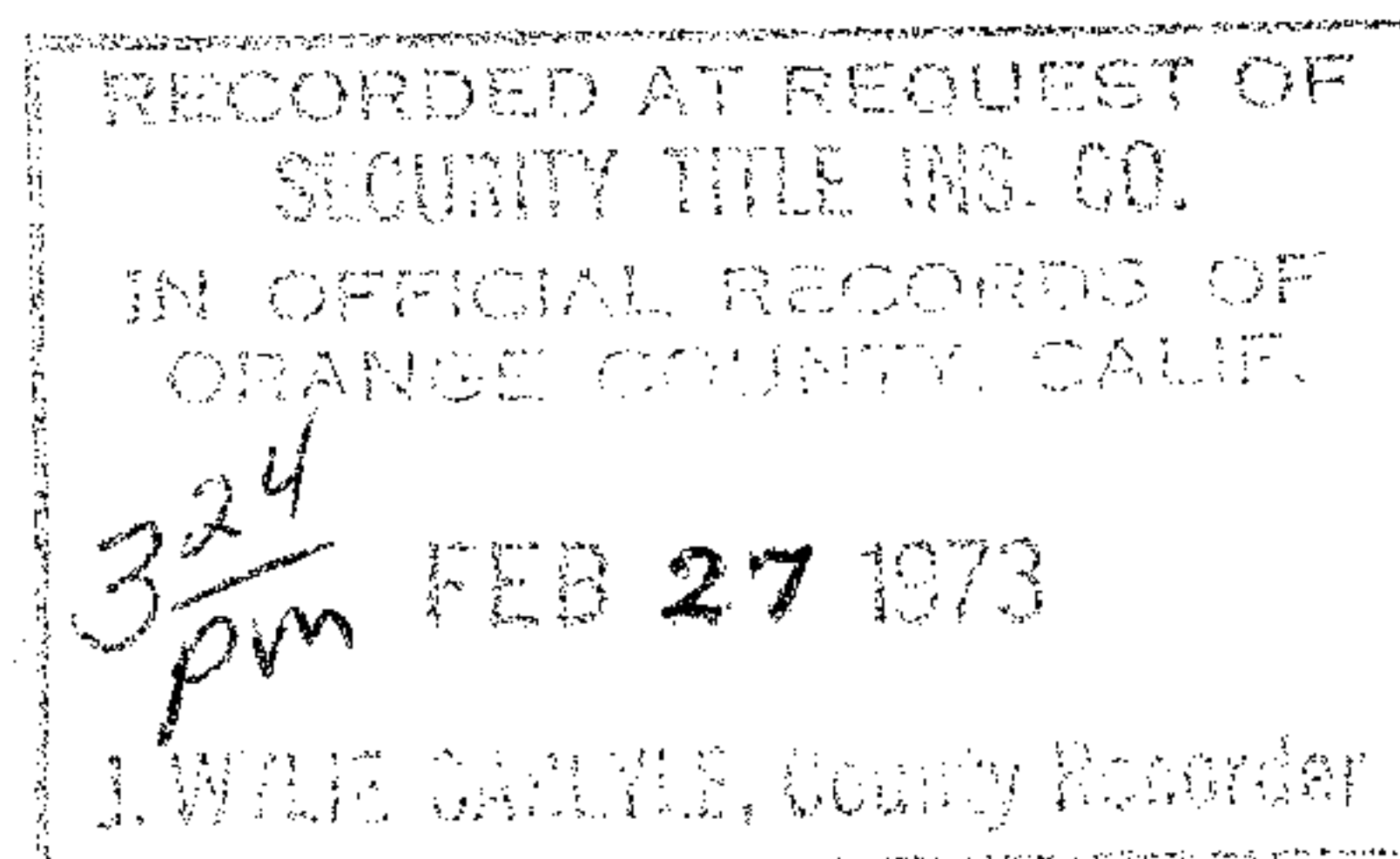
WHEN RECORDED MAIL TO:

22032

BOOK 10571 PAGE 938

The Irvine Company  
550 Newport Center Drive  
Newport Beach, California 92660

\$ 19.00



Attn: Residential Property Management - CM

Above space for Recorder's use only

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

TRACTS NO. 1014, 1102, 1140, 2095 and 3277  
ORANGE COUNTY, CALIFORNIA

THIS DECLARATION, made this 27th day of February, 1973, by THE IRVINE COMPANY, a West Virginia corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, this Declaration is being imposed by Declarant upon the following real property in the City of Newport Beach, County of Orange, State of California, as to which Declarant is the owner and Lessor, which shall be the initial Covered Property under this Declaration:

Lots 2 through 73 inclusive of Tract No. 1014, and those portions of Bayshore Drive, Circle Drive, Crestview Drive, Vista Drive and Waverly Drive, and that certain 10 foot strip labeled "Pedestrian Lane", lying within said Tract No. 1014, as shown on a Map recorded in Book 33, page 31 of Miscellaneous Maps, records of Orange County, California;

Lots 1 through 66 inclusive of Tract No. 1102, and those portions of Bayshore Drive, Arbor Drive, Circle Drive, Crestview Drive and Vista Drive, lying within said Tract No. 1102, as shown on a Map recorded in Book 35, page 36 of Miscellaneous Maps, records of Orange County, California;

Lots 1 through 95 inclusive of Tract No. 1140, and those portions of Bayshore Drive, Circle Drive, Crestview Drive, Marino Drive and Vista Drive, lying within said Tract No. 1140, as shown on a Map recorded in Book 36, page 28 of Miscellaneous Maps, records of Orange County, California;

Those portions of Tract No. 2095, as shown on a Map recorded in Book 58, page 19 of Miscellaneous Maps, records of Orange County, California, described as follows:

Lot 1, Tract No. 2095, EXCEPTING that portion of said Lot 1 described as follows: Beginning at the most Southerly corner of said Lot 1; thence Northeasterly along the Southeasterly line of said Lot 1 a distance of 33.53 feet to the existing sea wall; thence Northwesterly along said sea wall to a point in the Northwesterly line of said Lot 1, said point being 24.3 feet Northeasterly from the most westerly corner of said Lot 1; thence Southwesterly along said Northwesterly line of said Lot 1 to the most Westerly corner of said Lot 1; thence Southeasterly along the Southwesterly line of said Lot 1 to the point of beginning; said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 2, Tract No. 2095; EXCEPTING that portion of said Lot 2 described as follows: Beginning at the most Southerly corner of said Lot 2, thence Northeasterly along the Southeasterly line of said Lot 2, a distance of 24.3 feet to the existing sea wall; thence Northwesterly along said sea wall to a point in the Northwesterly line of said Lot 2, said point being 22.3 feet Northeasterly from the most Westerly corner of said Lot 2; thence Southwesterly along said Northwesterly line of said Lot 2 to the most Westerly corner of said Lot 2; thence Southeasterly along the Southwesterly line of said Lot 2 to the point of beginning; said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 3, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 4, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 5, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 6, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 7, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 8, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 14, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 15, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 16, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 17, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 18, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 19, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lot 20, Tract No. 2095, EXCEPTING therefrom the Southwesterly 22.3 feet, more or less, of said lot lying bayward of the existing sea wall, said exception including the waters of Newport Bay adjacent to and in front of said lot.

Lots 21, 22 and 23 of Tract No. 2095, as shown on a Map recorded in Book 58, page 19 of Miscellaneous Maps, records of Orange County, California.

Lots 1 through 4 inclusive of Tract No. 3277, as shown on a Map recorded in Book 101, page 13 of Miscellaneous Maps, records of Orange County, California;

Those portions of Lot 171 in Block 54 of Irvine Subdivision, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 1, page 88 of Miscellaneous Maps, in the office of the County Recorder of said County described as follows:

POINT - LOT 1:

Beginning at the most westerly corner of Lot 73 of Tract No. 1014 in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 33, page 31 of Miscellaneous Maps, in the office of the county recorder of said county; thence South  $39^{\circ} 08' 28''$  East, 163.74 feet along the southwesterly side of said Lot 73 to a point on the U. S. Bulkhead Line as established and approved by the U. S. War Department, May 2, 1936; thence South  $19^{\circ} 52' 07''$  West along said U. S. Bulkhead Line, 182.34 feet; thence North  $23^{\circ} 08' 28''$  West 279.59 feet to a point on the southeasterly right of way of Bayshore Drive; thence northeasterly along a curve concave to the northwest having a radius of 287.50 feet and through a central angle of  $16^{\circ} 00' 00''$  a distance of 80.29 feet to the point of beginning;

POINT - LOT 2:

Beginning at the most westerly corner of Lot 73, of Tract No. 1014 as shown on a Map recorded in Book 33, page 31 of Miscellaneous Maps, records of Orange County, California; thence following the southeasterly right of way line of Bayshore Drive Southwesterly along a curve concave to the northwest having a radius of 287.50 feet and through a central angle of  $16^{\circ} 00' 00''$  a distance of 80.29 feet to the true point of beginning; thence South  $23^{\circ} 08' 28''$  East 279.59 feet to a point in the U. S. Bulkhead Line as established and approved by the U. S. War Department, May 2, 1936; thence South  $19^{\circ} 52' 07''$  West along said U. S. Bulkhead Line 82.66 feet to the U. S. Bulkhead Station 130; thence North  $61^{\circ} 01' 07''$  West along said U. S. Bulkhead Line 147.04 feet; thence North  $7^{\circ} 08' 28''$  West 244.58 feet to a point in the Southeasterly right of way line of Bayshore Drive; thence Northeasterly along a curve concave to the Northwest having a radius of 287.59 feet and through a central angle of  $16^{\circ} 00' 00''$  a distance of 80.29 feet to the true point of beginning;

POINT - LOT 3:

Beginning at the most westerly corner of Lot 73 of Tract No. 1014 as shown on a Map recorded in Book 33, page 31 of Miscellaneous Maps, records of Orange County, California; thence following the Southeasterly right of way line of Bayshore Drive Southwesterly along a curve concave to the Northwest having a radius of 287.50 feet and through a central angle of 32 Degrees, a distance of 160.58 feet to the true point of beginning; thence South  $7^{\circ} 08' 28''$  East 244.58 feet to a point in the U. S. Bulkhead Line as established and approved by the U. S. War Department, May 2, 1936; thence North  $61^{\circ} 01' 07''$  West along said U. S. Bulkhead Line 156.20 feet, thence North  $8^{\circ} 51' 32''$  East 170.23 feet to a point in the Southerly right of way line of Bayshore Drive, thence Easterly along a curve concave to the North having a radius of 287.50 feet and through a central angle of  $16^{\circ} 00' 00''$  a distance of 80.29 feet to the true point of beginning.

POINT - LOT 4:

Beginning at the most westerly corner of Lot 73, of Tract No. 1014, as shown on a Map thereof recorded in Book 33, page 31 of Miscellaneous Maps, records of Orange County, California; thence following the Southeasterly right of way line of Bayshore Drive Southwesterly and Westerly along a curve concave to the Northwest having a radius of 287.50 feet and through a central angle of  $48^{\circ}$ , a distance of 240.87 feet to the true point of beginning; thence South  $8^{\circ} 51' 32''$  West 170.23 feet to a point in the U. S. Bulkhead Line as established and approved by the U. S. War Department, May 2, 1936; thence North  $61^{\circ} 01' 07''$  West along said U. S. Bulkhead Line 118.87 feet; thence North  $23^{\circ} 51' 00''$  East 144.05 feet to a point in the Southerly right of way line of Bayshore Drive; thence Easterly along a curve concave to the North and having a radius of 287.50 feet and through a central angle of  $14^{\circ} 59' 28''$  a distance of 75.22 feet to the true point of beginning.

WHEREAS, Declarant has deemed it desirable to establish covenants, conditions and restrictions upon the Covered Property and each and every Lot and portion thereof, which will constitute a general scheme for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the value, desirability and attractiveness of the Covered Property to create a corporation to which should be delegated and assigned the powers of maintaining and administering the Common Area and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessment and charges hereinafter created and referred to; and

WHEREAS, BAYSHORES COMMUNITY ASSOCIATION, a non-profit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid; and

WHEREAS, Declarant will hereafter convey title to all of the Covered Property subject to certain protective covenants, conditions and restrictions hereafter set forth;

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of its interests as the same may from time to time appear in the Covered Property shall be sold and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of said interest in the Covered Property, and the owners of said interests, their successors and assigns. These covenants, conditions, restrictions and easements shall run with said interests and shall be binding upon all parties having or acquiring any right or title in said interests or any part thereof, and shall inure to the benefit of each owner thereof and are imposed upon said interests and every part thereof as a servitude in favor of each and every of said interests as the dominant tenement or tenements.

#### ARTICLE I DEFINITIONS

The following terms used in these covenants, conditions and restrictions shall be applicable to this declaration and are defined as follows:

Section 1. "Association" shall mean and refer to BAYSHORES COMMUNITY ASSOCIATION, a non-profit corporation, incorporated under the laws of the State of California, its successors and assigns.

Section 2. "Covered Property" shall mean and refer to all of the real property known as and particularly described on pages 1 through 3 hereof, and, subsequent to the annexation thereof pursuant to Article IX of this Declaration, any real property which shall become subject to this Declaration.

Section 3. "Common area" and "common facilities" shall mean all real property, if any, owned by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to a recorded lot within any tract to the extent such lots are part of the Covered Property, including Point Lots 1 through 4 as described on page 3 hereof, or any properties annexed pursuant to this Declaration, provided, however (i) "Lot" shall not include any parcel which is Common Area and (ii) to the extent that the description of the initial Covered Property described commencing on page 1 hereof or the description of property which may be annexed and become part of the Covered Property contained on Exhibit "B" excepts from the coverage hereof portions of parcels of real property identified as numbered lots in a recorded tract map, "Lot" shall mean and refer only to such portion of said numbered lots as are not so excepted.

Section 5. "Member" and "Compulsory Member" shall have equivalent meanings and shall mean and refer to every person or entity who is required to be a Member in the Association pursuant to Section 1 of Article IV of this Declaration. "Member" shall also mean and refer to Declarant so long as Declarant is a Member pursuant to Section 1 of Article II hereof. The Association must also accept as Members persons or entities who are the holders of leasehold interests to a Lot which leasehold is not subject to assessment pursuant to Section 1 of Article IV and such persons or entities shall be entitled to each and all of the rights of Members of the Association.

Section 6. "Owner" shall mean and refer to one or more persons or entities who are (i) the record owner of a fee simple title to a Lot; or (ii) the record Lessee of a Lot under a lease with Declarant; provided, however, to the extent a Lot is leased under a lease with Declarant, Declarant shall be deemed the Owner until such lessee becomes subject to the covenant for maintenance assessments pursuant to Section 1 of Article IV of this Declaration and thereafter Declarant shall not be deemed an Owner by reason of its ownership of the fee underlying such leasehold estate.

Section 7. "Declarant" shall mean and refer to The Irvine Company, a West Virginia corporation, its successors and assigns.

Section 8. "Deed of Trust" shall mean the conveyance of any Lot or other portion of the property to secure the performance of an obligation.

Section 9. "Conveyance" shall mean and refer to conveyance of a fee simple title or leasehold title to any Lot.

## ARTICLE II MEMBERSHIP

Section 1. Membership. Every Owner whose interest in a Lot is subject to assessment by the Association, as set forth in Section 1 of Article IV of this Declaration, shall be a Compulsory Member of the Association. The terms and provisions set forth in this Declaration, which are binding upon all Compulsory Members, are not exclusive, as such Compulsory Members shall, in addition, be subject to the terms and provisions of the Articles of Incorporation and the By-Laws of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership of Owners shall be appurtenant to and may not be separated from the fee ownership or lease of any Lot which is subject to assessment by the Association. Declarant shall hold one membership and shall be entitled to all the rights of and subject to all the obligations of a Member, for each Lot owned by it which is not subject to assessment, but such membership shall cease (i) as each such Lot becomes subject to assessment pursuant to Section 1 of Article IV hereof, or (ii) as to all such Lots upon the effective date of the Covenant for Maintenance Assessments established in Section 8 of Article IV hereof.

Section 2. Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance or encumbrance of such Lot or lease, and then only to the purchaser or deed of trust holder of such Lot or lease. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in his name to the purchaser of such Lot or lease, the Association shall have the right to record the transfer upon the books of the Association.

Section 3. Voting Rights. The Association shall have only one class of membership. A Member shall be entitled to one vote for each Lot in which he holds the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. Said voting rights shall be subject to the restrictions and limitations provided hereinafter and in the Articles and By-Laws of the Association.

ARTICLE III  
PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Members' Right of Enjoyment. Every Member shall have a right of enjoyment in and to the Common Area, if any, and such rights shall be appurtenant to and shall pass with the fee or leasehold title to every Lot subject to assessment, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of Members.
- (b) The right of the Association to establish reasonable rules and regulations pertaining to the use of the Common Area and the recreational facilities thereof.
- (c) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, to mortgage said property, provided that the rights of such mortgages shall be subordinated to the rights of the Members.
- (d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by a Member for any period during which any assessment against his Lot remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the rules and regulations of the Association, provided that any suspension of such voting rights or right to use the recreational facilities, except for failure to pay assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the By-Laws of the Association.
- (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 signed by Members entitled to cast two-thirds of the votes of the membership has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance.

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

Section 3. Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or the abandonment of his Lot.

ARTICLE IV  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each person or entity who (a) subsequent to the recording of this Declaration, whether or not expressed in the instrument of conveyance, has acquired (i) from anyone a fee interest in a Lot, or (ii) from Declarant a leasehold interest in a Lot, or (b) acquired his leasehold interest in a Lot prior to the recording of this Declaration and subsequent to the recording of this Declaration has consented to his interest in a Lot being subject to this Declaration, shall be a Compulsory Member of the Association and is deemed to covenant and agree to pay to the Association: (1) regular assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge upon such Lot and shall be a continuing lien upon such Lot against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable

attorney's fees, shall also be the personal obligation of the person who was the Owner at the time when the assessment fell due. Such personal obligation for such assessments as are delinquent at the time of transfer of an Owner's interest in a Lot shall not pass to his successors in title unless expressly assumed by them. From and after the time the Owner of a Lot becomes subject to Compulsory Membership and covenants to pay assessments as hereinabove provided, such covenant shall burden and run with the Lot and each successive Owner of such Lot shall likewise be subject to such covenant and be a Compulsory Member.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association and in particular, for the improvement and maintenance of the properties, services and facilities devoted to this purpose, and related to the use and enjoyment of the Common Area.

Section 3. Regular Assessments. The amount and time of payment of regular assessments shall be determined by the Board of Directors of the Association pursuant to the Articles of Incorporation and By-Laws of said Association after giving due consideration to the current maintenance costs and future needs of the Association. Written notice of the amount of an assessment, regular or special, shall be sent to every Member, and the due date for the payment of same shall be set forth in such notice.

Section 4. Special Assessments for Capital Improvements. In addition to the regular assessments, the Association may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days in advance of the meeting, setting forth the purpose of the meeting.

Section 5. Uniform Rate of Assessment. Both regular and special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 6. Certificate of Payment. The Association shall, upon demand, furnish to any Member liable for said assessment, a certificate in writing signed by an officer of the Association setting forth whether the regular and special assessments on a specified Lot have been paid, and the amount of delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Exempt Property. The following portions of the Covered Property shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; and (b) the Common Area. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 8. Effective Date of Covenant. The covenant for maintenance assessments set forth in Section 1 of Article IV of this Declaration shall not become effective unless and until the Owners of Fifty-One Percent (51%) of the total Lots shall have become subject to Compulsory Membership in the Association.

Section 9. Declarant Not Subject to Assessment. Declarant, as the holder of a fee interest in all or part of the Covered Property subject to a leasehold, shall not be subject to the covenant for maintenance assessments.

ARTICLE V  
NON-PAYMENT OF ASSESSMENTS

Section 1. Delinquency. Any assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such assessment is not paid within thirty (30) days after the delinquency date, a late charge of \$10.00 shall be levied and the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum. The Association may, at its option, bring an action at law against the Member personally obligated to pay the same, or upon compliance with the notice provisions set forth in Section 2 hereof, to foreclose the lien (provided for in Section 1 of Article IV hereof) against the Lot. If action is commenced, there shall be added to the amount of such assessment the late charge, interest, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said late charge, interest, and a reasonable attorney's fee, together with the costs of action. Each Member vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure against such Member or other Members for the collection of such delinquent assessments.

Section 2. Notice of Lien. No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the County Recorder in which County the properties are located; said notice of claim of lien must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid assessment at the rate of ten percent (10%) per annum, a late charge of up to \$10.00, plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

Section 3. Foreclosure Sale. Said assessment lien may be enforced by sale by the Association, its attorney or any other person authorized to make the sale after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above is to be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c of the Civil Code of the State of California, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot, using Association funds, at the sale, and to acquire and hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association, but not to exceed \$15.00, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

Section 5. Cumulative Remedies. The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 6. Subordination of Assessment Liens. If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a deed of trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such deed of trust; and (2) the foreclosure of the lien of deed of trust or the acceptance of a deed in lieu of foreclosure of the deed of trust shall not operate to affect or impair the lien hereof, except that the lien hereof for said charges as shall have accrued up to the foreclosure or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the deed of trust, with the foreclosure-purchaser or deed-in-lieu grantee taking title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure or deed given in lieu of foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure or deed given in lieu of foreclosure.



ARTICLE VI  
ARCHITECTURAL CONTROL

Section 1. Approval and Conformity of Plans. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Covered Property, nor shall any exterior addition to or change or alteration in any such structure, including without limitation, patio covers and antennas, be made;

- (a) until there has been approved by the Architectural Committee described below, plans and specifications showing the nature, kind, shape, height, materials and location of such structures. Before granting such approval, the Architectural Committee shall have in its reasonable judgment determined that the plans and specifications conform to such architectural standards, if any, as may from time to time be promulgated by the Association ("Architectural Standards"), and provide for a structure which is in harmony as to external design and location with surrounding structures and topography; and
- (b) which are not constructed in accordance with such approved plans and specifications.

Such plans and specifications are not approved for engineering design and the Architectural Committee, by approving such plans and specifications, assumes no liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. In the event the Architectural Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, and provided that there is submitted to the Architectural Committee the certificate of a licensed architect stating that in his judgment the plans and specifications submitted are substantially in conformity with the Architectural Standards, such plans and specifications will be deemed approved.

Section 2. Landscaping Approval. Following a written complaint filed with the Architectural Committee, the Architectural Committee shall have the right to require any Member (other than Declarant while not in possession of a Lot) to remove, trim, top or prune any tree or shrub which, in the reasonable belief of the Architectural Committee, unduly impedes or detracts from the view of any lot; provided, however, that the full costs of the work shall be paid for by the person or persons making such complaint, and no such work shall be required until such amount has been deposited by Complainant with the Association.

Section 3. Appointment of Architectural Committee. The Architectural Committee shall be appointed by the Board of Directors of the Association to serve for one (1) year, concurrently with the term of the Board of Directors, and shall be composed of three (3) or more representatives who need not be Members of the Association.

Section 4. Variance Procedure. In the event plans and specifications submitted to the Architectural Committee are disapproved thereby for the reason that in the judgment of the Architectural Committee such plans and specifications are not in conformity with the Architectural Standards, the party or parties making such submission may submit a Request for Variance. Said Request shall be reviewed by the Architectural Committee whose written recommendation of approval or disapproval shall be submitted to the Board of Directors of the Association. The Board of Directors shall, in writing, either approve or disapprove the Request for Variance. In the event the Board of Directors fails to approve or disapprove said Request within sixty (60) days after said Request has been submitted to the Architectural Committee, said Request shall be deemed approved.

Section 5. Conformity of Completed Buildings. Subsection (b) of Section 1 of this Article VI shall be deemed to have been complied with if, upon the completion of construction, there is mailed to the Architectural Committee the certificate of a licensed architect stating that the structures upon the property have been erected in substantial conformity with plans and specifications approved or deemed approved by the Architectural Committee.

Section 6. General Provisions. The powers and duties of such committee shall cease on and after forty (40) years from the date of the recording of this Declaration. Thereafter the approval described in this covenant shall not be required unless, prior to said date and effective thereon, a written instrument shall be executed and duly recorded by those Members possessing a majority of the voting power of the Association, appointing a representative or representatives who shall thereafter exercise the same powers previously exercised by said committee. Said representatives may be members of the Board of Directors of the Association. The provisions of this Article shall be applicable to the Covered Property only if at the time of commencement of any act covered by this Article there exists a duly appointed Architectural Committee.

ARTICLE VII  
DUTIES AND POWERS OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- (a) Enforce the provisions of this Declaration;
- (b) Own, maintain and otherwise manage all of the Common Areas and all facilities, improvements and landscaping thereon, and all other property acquired by the Association;
- (c) Pay any real and personal property taxes and other charges assessed against the Common Areas;
- (d) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric services and refuse collections;
- (e) Grant easements where necessary for utilities and sewer facilities over the Common Areas to serve the Common Areas and Lots;
- (f) Maintain such policy or policies of insurance as the Board of Directors of the Association deem necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;
- (g) Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association;
- (h) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association; and
- (i) Have the duty to maintain the private streets, beaches, alleys and walkways described in Exhibit "A" attached hereto and by this reference made a part hereof, and any other private streets, beaches, alleys, walkways owned by the Association, or other common area, at its sole cost and expense, keeping and maintaining all improvements now existing or hereafter erected in good order and repair and said premises and the whole thereof in a clean, sanitary, neat and attractive condition.

ARTICLE VIII  
EASEMENTS

Section 1. The rights and duties of the Owners with respect to water, sewer, electricity, gas and telephone and Cable Television lines and drainage facilities shall be governed by the following:

- (a) Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone, and Cable Television lines or drainage facilities are installed within the Covered Property, the Owners of any Lot served by said connections, lines or facilities shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or

