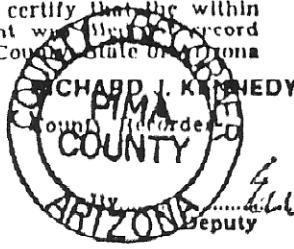


STATE OF ARIZONA }
COUNTY OF PIMA } ss.

I hereby certify that the within instrument was duly recorded in Pima County, State of Arizona



No. 163703
Book 7914 Page 1489-1498
Date: NOV 19 '86 - 1 PM
Request of: OFFICE OF THE COUNTY RECORDER
Fee: 13.00

Indexed	Paged	Blotted

FORM 4-12

Attn: Nikki Trust Dept.

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by BH PROPERTIES, Inc., hereinafter referred to as "Developer".

WITNESSETH:

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

Lots 1 through 117 and Common Areas "A" and "B" of Mountain View Terrace, Pima County, Arizona as shown by map on file in Book 40 of Maps and Plats at Page 49, Pima County Recorder.

AND WHEREAS, Developer hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

Section 1. "Association" shall mean and refer to Mountain View Terrace Homeowners Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property herein described.

Section 3. "Common Areas" and "Common Elements" shall be synonymous and shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association, including, but not limited to, all of the real property described as Common Area "A" and "B" on the Mountain View Terrace Final Plat Map recorded in Book 40 Page 49, County Recorder, Pima County, Arizona. The common elements shall include all recreational facilities, trees, sidewalks, streets, pipes, drainageways, walls, conduit, and public utility lines, located within Common Areas "A" and "B".

Section 4. "Lot" shall mean and refer to the separately designated and legally described freehold estate of any plot of land and the improvements thereon shown upon the recorded subdivision Plat of Mountain View Terrace.

Section 5. "Roadways" shall mean those areas designated as roadways and private drives of the Mountain View Terrace Plat hereinabove mentioned.

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

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

Section 8. "Developer" shall mean and refer to BH Properties, Inc., their successors and assigns who acquire more than one undeveloped Lot from BH Properties, Inc., their successors and assigns.

ARTICLE II

Membership and Voting Rights

Section 1. Every owner of a Lot shall be a member of the Mountain View Terrace Homeowners Association. Such membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessments.

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

Class A - Class A members shall be all owners, except the Developer. Each Class 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 the interest required for membership, all such persons shall be members, but 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 lot.

Class B - The Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each Lot in which it holds a fee interest. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever is first to occur:

- (a) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or
- (b) On December 31, 1991.

ARTICLE III

Property Rights

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

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

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

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

(d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulation; and

(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 Owners. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes of each class of membership, if any, 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) nor more than sixty (60) days in advance.

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

Section 3. Title to the Common Area. The Developer hereby covenants for itself, its heirs and assigns, that it will convey fee title to the Common Areas, as described in Article I, Section 3 of this Declaration, to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot.

ARTICLE IV

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The

Developer for each Lot owned within the properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is attorney fees, shall also be the personal obligation of the party who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties, for the improvement and maintenance of the Common Area, and the Association will be responsible for Ad Valorem Taxes on the Common Areas.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Ten and no/100 Dollars (\$10.00) per Lot:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without an affirmative vote of not less than two-thirds (2/3) of each class of membership.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments For Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 7. Date of Commencement of Annual Assessment. The annual assessment

for each Lot shall commence on the first day of January.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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 for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

Architectural Control

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

ARTICLE VI

Use Restrictions

Section 1. Said premises are hereby restricted to residential dwellings for single family residential use. All buildings or structures erected upon said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises, and no subsequent buildings or structures other than residence units shall be built on any parcel where the builder theretofore programmed and constructed a townhouse. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any portion of the premises at any time as a residence either temporarily or permanently.

Section 2. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for BH Properties, Inc., its builder, successors or assigns who shall construct all or a portion of said residence to maintain during the period of construction and sale of said residence, upon such portion of the premises as (con't on page 6)

such builder may choose, except those Lots on which residences have been completed and the Lots conveyed to individual owners, such facilities as in the sole opinion of said builder may be reasonably required, convenient or incidental to the construction and sale of said residence, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales offices.

Section 3. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes, unless prohibited by the rules and regulations adopted by the Association.

Section 4. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or safety or unreasonably disturb the owner of any townhouse or any resident thereof. Further, no business activities of any kind whatever shall be conducted in any building or in any portion of the premises. Provided, further, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of the builder, its agents and assigns during the construction and sale period, and of Mountain View Terrace Homeowners Association, a non-profit corporation incorporated or to be incorporated under the laws of the State of Arizona, its successors and assigns, in furtherance of its powers and purposes as herein set forth.

Section 5. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from the view of neighboring townhouses and streets. All rubbish, trash or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

Section 6. The common elements shall remain undivided, and shall at all times be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the common elements.

Section 7. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property, other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

ARTICLE VII

Owner's Responsibilities

Each Owner shall be responsible for his Lot's utility costs, ad valorem taxes and appliance repairs, including appliances within his own residence, and roof maintenance and repairs for his residence. In addition, each Owner shall be responsible for all exterior maintenance or repairs for buildings, fences, walls, trees, shrubs, grass, walks and other exterior items on his Lot. No Owner shall do any painting of the exterior portion of structures

on his Lot, including fences, except in conformance with these Declarations and Restrictions. If a roof must be repaired or replaced, it shall conform to the same architectural design and style as the original roof. Each Owner shall also be responsible for installation and maintenance of utility service lines from the main utility lines to the house on his Lot.

Each Owner shall be responsible for assuring that all construction, alterations, modification or addition to buildings, walls, fences, copings, roads, driveways, or other structures on his Lot conform to the Use Restrictions of Article V herein and any rules and regulations established by the Architectural Committee. If an Owner fails to comply with said restrictions and rules and regulations of the Architectural Committee, he shall be responsible for and pay for removal or upgrading of such non-conforming item(s) to meet said requirements. If an Owner fails or refuses to remove or upgrade such item(s), the Association may, in its sole discretion, remove the non-conforming item, and the cost of removal shall be added to and become part of the assessment to which his Lot is subject, and collected in like manner as delinquent assessments.

ARTICLE VIII

Models and Sales Office

The Developer may designate certain Lots owned by it as "Models". The Developer shall have the right to transfer the designation of "Model" from one Lot to another within the Properties. The Models may be leased or rented by the Developer.

A project sales office may be erected on one Lot in the subdivision by the Developer or its approved broker, and the use of such office shall be limited to the sale of Lots and homes in the Properties. At the time of removal of such office, the Lot on which it was located shall be restored to conform to the surrounding Lots. Notwithstanding anything to the contrary contained in these Declarations, the provisions set forth in this Article may not be amended without prior written approval of the Developer.

ARTICLE IX

General Provisions

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Amendment. the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit or and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended at any time by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendments must be properly recorded.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

ARTICLE X

Homeowners Association

Section 1. Association. the affairs of the Homeowners Association shall be conducted by the Mountain View Terrace Homeowners Association, a nonprofit organization.

Section 2. Right of Inspection. The first mortgagee of any lot in the Mountain View Terrace Homeowners Association shall have the right at reasonable times to inspect the books and records of the Association.

Section 3. Right to Notice. Any first mortgagee of any Lot in Mountain View Terrace Homeowners Association may request written notification of any default by the mortgagor in the performance of the mortgagor's obligations as a member of the Association that is not corrected within thirty (30) days. Any such request shall be in writing addressed to the Secretary of the Association.

Section 4. Restrictions. Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage) of individual townhouses have given their prior written approval, Mountain View Terrace Homeowners Association shall not be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by such Association, for the benefit of the owners of Mountain View Terrace. The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by Mountain View Terrace Homeowners Association shall not be deemed a transfer within the meaning of this clause.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Mountain View Lot.

(c) By act or omission, change, waive or abandon any scheme or

regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of residences, the exterior maintenance thereof, or the upkeep of lawns and plantings on common property owned by the Mountain View Terrace Homeowners Association.

(d) Fail to maintain fire and extended coverage on insurable common property owned by Mountain View Terrace Homeowners Association on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

(e) Use hazard insurance proceeds for losses to any common property owned by Mountain View Terrace Homeowners Association for purposes other than the repair, replacement or reconstruction of such improvements.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set their hands and seals this 19th day of September, 1986.

DEVELOPER

BH PROPERTIES, INC.

By *[Signature]*
Byron Howard

TITLE: President

STATE OF ARIZONA)
COUNTY OF PIMA) ss

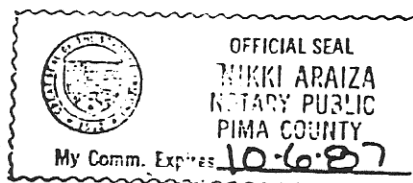
On this, the 19th day of September, 1986, before me, the undersigned Notary Public, personally appeared Bryon Howard of BH Properties, Inc., and executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]
Notary

My Commission Expires:

10-6-87



The foregoing instrument is hereby consented to and ratified by PIONEER TRUST COMPANY OF ARIZONA, an Arizona Corporation, as Trustee under Trust No. 11,735.

Pioneer Trust Company of Arizona, an Arizona Corporation, as Trustee under Trust No. 11,735

By [Signature]
Eleanor Ortega, Trust Officer

STATE OF ARIZONA)
) ss
COUNTY OF PIMA)

This instrument was acknowledged before me this 19th day of September, 1986, by Eleanor ORTEGA as Trust Officer of PIONEER TRUST COMPANY OF ARIZONA, an Arizona Corporation.

My Commission Expires:

10.6.87

[Signature]

NOTARY PUBLIC

