


WHEN RECORDED, RETURN TO: ^M 
Kaufman and Broad of Utah, Inc.
6925 Union Park Center, Suite 525
Midvale, Utah 84047

ENT 119013 BK 4862 PG 692
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1998 Nov 18 12:08 pm FEE 100.00 BY SS
RECORDED FOR KAUFMAN & BROAD

DECLARATION
OF
RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
OF
KAUFMAN AND BROAD AT PILGRIMS LANDING

WHEREAS, KAUFMAN AND BROAD OF UTAH, INC., a California corporation ("Declarant"), is the legal and beneficial owner of a certain tract of land known as Kaufman and Broad at Pilgrims Landing, a subdivision of Pilgrims' Landing Planned Community, situated in Lehi City, Utah County, State of Utah, described as in Exhibit "A" attached hereto (the "Subdivision").

WHEREAS, the Subdivision is a portion of the property constituting that certain project known as "Pilgrim Landing" concerning which a Master Declaration of Covenants, Conditions and Restrictions was filed with the Utah County Recorder's office on July 30, 1998, as Entry No. 75697 in Book 4719, at pages 588, et seq. (the "Master CC&Rs"); and

WHEREAS, Declarant is about to sell individual lots in the Subdivision, which it desires to subject, pursuant to a general plan of improvement, to certain additional restrictions, conditions, covenants, and agreements as hereinafter set forth.

NOW, THEREFORE, the undersigned Declarant declares that the property described heretofore is held and shall be sold, conveyed, leased, occupied, resided upon, hypothecated and held subject to the following restrictions, conditions, covenants and agreements between itself and the several owners and purchasers of said property and between themselves and their heirs, successors and assigns:

1. MUTUAL AND RECIPROCAL BENEFITS. All of the restrictions, conditions, covenants and agreements set forth herein shall be made for the direct, mutual and reciprocal benefit of each and every lot created on the above-described property and shall be intended to create a mutual and equitable servitude upon each of said lots in favor of each other lot created on the aforesaid property and to create reciprocal rights and obligations between the respective owners of all of the lots so created and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owners of each lot in the Subdivision, their heirs, successors and assigns, operate as covenants running with the land for the benefit of all other lots in the Subdivision.

2. PERSONS BOUND BY THESE RESTRICTIONS AND COVENANTS.

All covenants and restrictions herein stated shall run with the land comprising the Subdivision, and all owners, purchasers or occupants thereof shall by acceptance of contracts or deeds be conclusively deemed to have consented and agreed with the present and future owners of said land and with his or their successors and assigns to conform to and observe the following covenants, restrictions and stipulations as to the use thereof and construction of residences and improvements thereon, for a period from the date hereof to January 1, 2025, at which time said covenants and restrictions shall be automatically extended for successive periods of 10 years, unless, by a vote of at least two-thirds (2/3) of the then owners of said lots, it is agreed to amend or release said covenants in whole or in part by an appropriate agreement in writing specifying the restrictions or covenants to be amended or released, and by filing said agreement with the office of the Utah County Recorder.

3. LAND USE AND BUILDING TYPE. The lots in the subdivision are limited to one of two residential building types as designated on the final plat map of the Subdivision: the "Traditional Lot" and the "Cluster Lot". No lot shall be used except for residential and related purposes. No building shall be erected, altered, or permitted to remain on any lot other than one detached single-family dwelling and a private garage for not more than three (3) vehicles. The Harbor Point Committee (as described below) shall have power to further limit the number of stories and the height of structures for new construction on the lots in its sole and exclusive discretion, as described herein.

4. MAINTENANCE ASSOCIATION.

a. Establishment of Maintenance Association.
Pursuant to paragraphs 2.4 and 2.5 of the Master CC&Rs, Declarant shall establish a Maintenance Association (the "Harbor Point HOA") to carry out the obligations so designated in this Declaration and in the Master CC&Rs.

b. Voting Membership. The Harbor Point HOA shall consist of one class of membership. All of the owners of Lots in the Subdivision shall be "Members". When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

c. Architectural Control Committee. The management and maintenance of the Subdivision and the administration of the affairs of the Harbor Point HOA shall be conducted by an Architectural Control Committee (the "Harbor Point Committee"), consisting of three (3) natural persons, who need not be Members of the Harbor Point HOA. The Harbor Point Committee is distinct in rights and responsibilities from the Architectural Control Committee created pursuant to Article 9 of the Master CC&Rs (the "Master Committee") as concerning the Pilgrims Landing Project, and its actions shall not be in opposition to the rules and regulations promulgated by the Master Committee, rather they shall be consistent with the obligations of such Committee and the Harbor Point HOA as specifically set forth in paragraphs 2.4 and 2.5 of the Master CC&Rs. The Harbor Point Committee may act by any two (2) of its members, and any authorization approval or power made by the Harbor Point Committee must be in writing signed by at least two (2) members.

It is intended that Declarant shall control the Harbor Point Committee and may fill any vacancies therein for so long as the Declarant owns any lots in the Subdivision. Declarant shall also have the right, at any time, at its sole discretion, to permit one or more of the members of the Harbor Point Committee to be elected by the vote of a majority of the lot owners. Any member of the Harbor Point Committee may resign from the Harbor Point Committee, at any time, upon at least thirty (30) days written notice to the other Harbor Point Committee members. When Declarant no longer owns any lots in the Subdivision, or at such earlier time as the Declarant may determine, the members of the Harbor Point Committee may be removed, replaced or elected by the majority vote of lot owners, at any meeting of the owners at which owners of at least 51% of the lots in the Subdivision are present. However, nothing herein shall preclude the Declarant from relinquishing control over the Committee at an earlier date, at the Declarant's sole discretion. The number of members of the Harbor Point Committee may be changed by amendment of the Bylaws of the Harbor Point HOA. At the first annual meeting, three (3) Committee Members shall be elected for a term of one (1) year as provided in the Bylaws.

The rights, duties and functions of the Harbor point Committee may be exercised by Declarant until the date the Articles are filed with the State of Utah, after which the initial Harbor Point Committee named in paragraph 6 below

shall serve until the date of the first meeting of the Harbor Point HOA. The Harbor Point Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by this Declaration, the Articles and Bylaws, including, but not limited to, the following:

(1) To make and enforce all rules and regulations covering the operation and maintenance of the Subdivision.

(2) To maintain the common areas of the Subdivision.

(3) To pass upon, approve or reject any plans or specifications for improvements to be made on lots in the Subdivision, and to enforce the covenants and restrictions set forth herein, so that all structures shall conform to the restrictions and general plans of the Master CC&Rs, the Declarant, the Harbor Point HOA, and of the Harbor Point Committee, for the improvement and development of the whole Subdivision.

(4) To enter into contracts, deeds, leases and/or other written instructions or documents and to authorize the execution and delivery thereof by the appropriate officers.

(5) To assess and collect fees from its Members to cover the costs of the maintenance of the common areas of the Subdivision and administration of the Harbor Point HOA.

(6) To open bank accounts on behalf of the Harbor Point HOA and to designate the signatures therefor.

(7) To bring, prosecute and settle litigation for itself, the Harbor Point HOA and the Subdivision.

(8) To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Members or Owners, items of personal property necessary or convenient to the management of the business and affairs of the Harbor Point HOA or for the operation of the Subdivision, including, without limitation, furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

(9) To keep adequate books and records.

(10) To do all other acts necessary for the operation and maintenance of the Subdivision and the performance of its duties as agent for the Harbor Point HOA Association, including the maintenance and repair of any portion of the Subdivision if necessary to protect or preserve the Subdivision.

d. Liability. Members of the Harbor Point Committee, the officers and any assistant officers, agents and employees of the Harbor Point HOA shall not be liable to the Members or Owners as a result of their activities as such for any mistake of judgment, negligent or otherwise, except for their own willful misconduct or bad faith; shall have no personal liability in contract to a Member, Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Master Association in their capacity as such; shall have no personal liability in tort to any Member, Owner or any person or entity, direct or imputed, by virtue of acts performed by them in their capacity as such, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and shall have no personal liability arising out of the use, misuse or condition of the Subdivision, which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

e. Indemnity. The Members shall indemnify and hold harmless any person, his heirs and personal representatives, from and against all personal liability and all expenses, including attorneys' fees, incurred, imposed or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more Members or Owners, or any other persons or entities, to which he shall be, or shall be threatened to be, made a party by reason of the fact that he is or was a member of the Harbor Point Committee or an officer or assistant officer, agent or employee of the Harbor Point HOA, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided that in the case of any settlement, the Harbor Point Committee shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a

matter of law, by agreement, by vote of the Harbor Point Committee or otherwise. The indemnification as contained herein shall be paid by the Harbor Point Committee on behalf of the Members and shall be assessed and collectible from the Members, including Declarant, on a pro rata basis in accordance with the number of votes of each Member or of Declarant.

f. Fidelity Bond. The Harbor Point Committee may procure appropriate fidelity bond coverage for any person or entity handling funds of the Harbor Point HOA.

5. HARBOR POINT COMMITTEE MEMBERS: The initial members of the Harbor Point Committee shall be as follows:

Richard Welch
6975 Union Park Center
Suite 120
Midvale, Utah 84047

Ken C. Krivanic
6975 Union Park Center
Suite 120
Midvale, Utah 84047

Griffin Johnson
6975 Union Park Center
Suite 120
Midvale, Utah 84047

6. ARCHITECTURAL AND STRUCTURAL CONTROL.

a. Approval Required. For the purpose of further insuring the development of the Subdivision as a residential area of high standards, the owner or occupant of each lot, by acceptance of title thereto, or by taking possession thereof, covenants and agrees that no building, wall, fence, or other structure shall be placed upon said lot unless and until the plans and specifications and plot plan have been approved in writing by the Harbor Point Committee. Each such building, wall, fence, or other structure shall be placed on the lot only in accordance with the plans and specifications and plot plan so approved in writing by the Harbor Point Committee. No material alteration of the exterior appearance of any home or other structural improvement in the Subdivision shall be made without the Harbor Point Committee's written approval.

b. Plans and Specifications. In connection with said approval, complete plans and specifications of all proposed buildings, structures (including all concrete and masonry walls), and exterior alterations, together with detailed plans showing the proposed location of the same on the particular lot, shall be submitted to the Harbor Point Committee before construction or alteration is started, and such construction or alteration shall not be started until written approval thereof is given by the Harbor Point Committee. All plans and specifications for such approval must be submitted at least fourteen (14)

business days prior to the proposed construction starting date.

c. Approval or Denial. As to all improvements, construction and alterations within the Subdivision, the Harbor Point Committee shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations, which is not suitable or desirable in the Harbor Point Committee's opinion, for any reason, aesthetic or otherwise, and in so passing upon such design, the Harbor Point Committee shall have the right to take into consideration the suitability of the proposed improvement, the material of which it is to be built and the exterior color scheme of the proposed improvement, the harmony thereof with the surroundings, the effect or impairment that such improvements will have on the view of surrounding building sites, and any and all facts which, in the Harbor Point Committee's opinion, shall affect the desirability or suitability of such proposed structure, improvements or alterations. The approval of the Harbor Point Committee of any plans or specifications submitted for approval as herein required shall not be deemed to be a waiver by the Harbor Point Committee of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in the plans and specifications of any other improvements submitted for Harbor Point Committee approval.

7. ARCHITECTURAL PROCEDURE. The Harbor Point Committee's approval or disapproval shall be in writing. All decisions of the Harbor Point Committee shall be final, and neither the Declarant, the Harbor Point Committee nor their designated representatives shall be subject to any liability therefore. Any errors or omissions in the design of any building or landscaping, and any violations of county ordinances are the sole responsibility of the lot owners and/or their designer or architect. The Harbor Point Committee's review of plans shall in no way be construed as an independent review of the structural or mechanical adequacy of the proposed improvements, or with architectural soundness thereof, and neither the Declarant or the Harbor Point Committee shall have responsibility for a determination of such adequacy or soundness.

8. MOVING OF STRUCTURES. No structure of any kind shall be moved from any other place to the Subdivision without written approval of the Harbor Point Committee.

9. COMPLIANCE WITH ZONING ORDINANCES. All improvements in the Subdivision shall be placed and used upon the lots in accordance with the provisions of the applicable provisions of the Lehi City and Utah County zoning ordinances, unless otherwise modified or restricted by the covenants herein.

10. TEMPORARY STRUCTURES. No trailer, tent, shack or other out-building shall be placed upon or used at any time within the Subdivision as a temporary or permanent residence.

11. NUISANCES AND RELATED MATTERS.

a. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood or the owners or occupants of any other lots in the Subdivision.

b. Pets. No barn, coop, shed, sty or building of any type shall be constructed for the purpose of housing pigs, cows, sheep, goats, horses, poultry, or livestock, and none of the foregoing shall be kept, maintained or permitted at any place within the limits of the Subdivision. A reasonable number of household pets will be permitted in accordance with Lehi City and Utah County ordinances, so long as such pets do not constitute a nuisance for other residents of the Subdivision.

c. Storage. No campers, boats, boat-trailers, house-trailers, automobiles, trucks, motorhomes, horse or other trailers shall be stored in excess of five (5) days in driveways, on streets, or other areas in open view within the Subdivision. Any of the above vehicles, or any part thereof, not in actual use shall be stored or placed in a garage, behind a fence, or other walled-off or enclosed space. No commercial vehicle exceeding three quarters (3/4) of a ton shall be kept or stored upon any lot unless such vehicle is kept or stored in an enclosed garage when not in use. No commercial vehicle owned or in the possession or under the control of any resident or occupant in the Subdivision shall be parked overnight in any street within the Subdivision. "Commercial vehicle" for this purpose shall include, but not be limited to, any truck, pickup, van, bus, tractor, station wagon, taxi, automobile, or other vehicle used primarily for business or other commercial purposes as distinguished from vehicles used primarily for the transportation of persons other than for hire or other than for business or other commercial purpose.

d. Signs. Except for signs displayed by the developer during the construction and lot sales period, no signs, other than name plates, shall be displayed to the public view on any lot except one sign not exceeding four square feet advertising the sale or lease of a lot.

e. Drilling and Mining. There shall be no oil drilling, mining, quarrying or related operations of any kind permitted upon any lot.

f. Rubbish. No rubbish shall be stored or allowed to accumulate anywhere in the Subdivision, except in sanitary containers. Rubbish shall include, but not be limited to bushes or weeds, household wastes, and automobiles, campers, trailers, boats, or parts thereof, which have been in a state of disrepair or unassembled for a period exceeding fourteen (14) days. Trash, garbage or other wastes shall be kept in sanitary containers, maintained in a clean and sanitary condition, and stored in garages screened by adequate planting or fencing so as to be concealed from view of neighboring lots and streets.

g. Transmitting and Receiving Equipment. No external radio, citizen's band, ham radio or any similar transmitting and/or receiving antennas or equipment shall be placed upon any structure or lot; provided, however, television and radio antennas or other electronic reception devices may be erected so long as they shall be completely erected, constructed and placed within the enclosed area of the dwelling or garage on the lot. Exceptions must first be approved in writing by the Harbor Point Committee. Any installation of a satellite reception dish on any lot shall be located so that it is obscured from view of the street and neighbors by fencing, plants or tasteful construction to obscure the dish.

12. EASEMENTS. Easements and rights of way are hereby reserved to the Declarant, its successors and assigns, in and over the real property subject to this Declaration for the erection, construction, maintenance and operation therein or thereon of drainage pipes or conduits and pipes, conduits, poles, wires and other means of conveying to and from lots in said tract, gas, electricity, power, water, telephone services, sewage and other things for convenience to the owners of lots in the Subdivision, including but not limited to, those shown on the Subdivision plat. No structures of any kind shall be erected over any of such easements except upon written permission of the Declarant, its successors or assigns. All purchasers of lots shall, by acceptance of contracts or deeds

for every lot, thereby be conclusively deemed to have granted an easement to the Declarant to permit the Declarant take any and all actions necessary to develop the Subdivision, and to improve, market and sell all lots owned by the Declarant therein.

13. SET BACKS. No dwelling house or other structure shall be constructed or situated on any of said lots created except in conformity with the "set back" lines as established in each instance by the Harbor Point Committee or by law, and in conformity with any additional "set back" lines which may be fixed by the undersigned, its successors and assigns, on the recorded subdivision plat, contracts or deeds to any or all of the lots created on said property. Technical terms such as "set back" and all other such terms as used in this Declaration shall be defined, where possible, and shall have the meaning assigned by the Lehi City and Utah County Zoning Ordinances or the Uniform Building Code, as applicable.

14. MANNER OF VOTING. In any matters where the owners are given the right to vote herein, each lot owner of record shall be entitled to one vote for each lot owned by him, provided, however, where there is more than one record owner of a lot, all of such owners must act unanimously in order to cast a vote for that lot.

15. ADDITIONAL COVENANTS.

a. Installation and Maintenance of Landscaping. The Declarant shall plant the front and rear yards of all Cluster Lots and the front yard of each Traditional Lot. The Harbor Point HOA shall thereafter maintain said landscaping, including but not limited to irrigation, fertilizing, lawn mowing, weed extraction, and leaf and snow removal. Each owner of a Traditional Lot shall plant and maintain the back yard of his said lot with grass or other approved vegetation. The initial planting by the individual owner must be performed within 90 days following the closing of the purchase of the Lot, unless seasonal conditions preclude such planting, in which case the planting will be performed as soon as possible, but in no case later than the June 1 of the first summer of ownership. All owners of Traditional Lots shall maintain their back yards, including all hedges, plants, shrubbery, trees, and lawns therein, in a neat and trim condition at all times. Under no circumstances shall there be any fences in the rear yards of Cluster Lots.

b. Pressurized Irrigation. The Harbor Point HOA shall procure from Lehi City pressurized irrigation for the Subdivision, and shall regularly pay all reasonable and customary costs therefor in a timely manner. The Harbor Point HOA shall assess and collect from each Owner that Owner's proportionate share of the costs of said irrigation.

c. Fences and Walls. No fence or wall shall be erected, placed or altered on yard of any Lot unless prior approval is given by the Harbor Point Committee. All fences shall be maintained by the Harbor Point HOA. Under no circumstances shall there be any fences in the rear yards of Cluster Lots.

d. Change in Grade. The surface grade or elevation of the various lots in the Subdivision shall not be substantially altered or changed in any manner which would affect the relationship of such lot to other lots in the Subdivision, or which would result in materially obstructing the view from any other lot in the Subdivision.

e. Utilities. All electric, television, cable television, telephone and other utility line installments and connections from the property line of any lot to the residence or structures thereon shall be placed underground.

16. BREACH OR VIOLATION OF COVENANTS. In the event of a violation or breach or attempted violation or breach of any of these covenants, restrictions, limitations, conditions, or agreements by any person or concern claiming by, through or under Declarant, or by virtue of any judicial proceedings, Declarant or Harbor Point HOA, or the owner of any Lot of residential site in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent such violation or breach. In the event that the Harbor Point HOA fails to enforce the restrictions and covenants set forth in this Declaration and in the Master CC&Rs, Lehi City shall be authorized to take such legal or administrative action as it deems appropriate and is consistent with the laws of the State of Utah, to enforce said covenants, conditions and restrictions. Nothing in this paragraph shall be construed to require Lehi City to take any enforcement action unless it determines to do so.

17. RECOVERY. In the event of that the Declarant, the Harbor Point Association, the Harbor Point Committee, Lehi City, or any property owner in this subdivision are successful in prosecuting any violation of these restrictive covenants, he may recover, in addition to any other damages, costs, and expenses of the litigation, including reasonable attorneys fees from the party found to be in violation thereof.

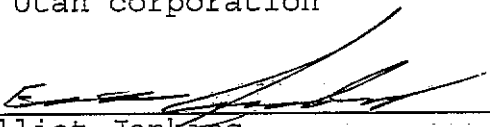
18. EFFECT OF WAIVER OR BREACH OR FAILURE TO ENFORCE. Each and all of the covenants, conditions, restrictions and agreements contained herein shall be deemed and construed to be continuing, and the extinguishment of any right of re-entry or reversion for any breach shall not impair or affect any of the covenants, conditions, restrictions or agreements, so far as any future or other breach is concerned. It is understood and agreed by and between the parties hereto that no waiver of a breach of any of the covenants, conditions, restrictions, and agreements herein contained shall be construed to be a waiver of any other breach of the same, or other covenants, conditions, restrictions, and agreements; nor shall failure to enforce any one of such restrictions, either by forfeiture or otherwise, be construed as a waiver of any other restriction or condition.

19. SEVERABILITY. Invalidation of any one or any portion of any one of these covenants and restrictions by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

20. DECLARANT'S RIGHT TO AMEND. The Declarant shall have the right, at any time, at its sole discretion, to amend the this Declaration in a manner in which it believes will be most beneficial for the Subdivision, so long as it owns a majority of the lots within the Subdivision.

IN WITNESS WHEREOF, the undersigned has executed this document on this ____ day of November, 1998.

KAUFMAN AND BROAD OF UTAH, INC.
a Utah corporation



Elliot Jenkins,
Assistant Secretary

STATE OF UTAH)
)
) ss.
)
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 12 day of November, 1998 by Elliot Jenkins, the Assistant Secretary of Kaufman and Broad of Utah, Inc., a California corporation.

Jennifer G. Beavers
NOTARY PUBLIC

My Commission Expires:
4/5/02

Residing At:
Salt Lake

222977-6

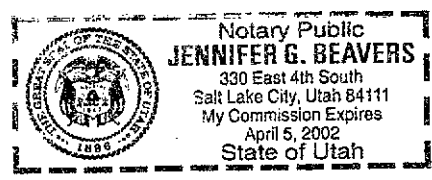


EXHIBIT A

Beginning at a point located 1901.00 feet North 89°51'26" West along the Section line from the South quarter corner of Section 25, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence: North 89°51'26" West 424.36 feet; thence North 39°19'21" West 526.02 feet; thence South 1°26'24" West 114.12 feet; thence North 38°44'35" West 900.26 feet; thence North 38°50'43" West 426.24 feet; thence South 89°21'33" East 88.17 feet; thence North 49°38'21" West 350.32 feet; thence North 48°49'11" East 1364.31 feet to a point located 200.00 feet South 0°24'17" West from the West quarter corner of said Section 25; thence North 32°45'59" East 237.67 feet; thence North 32°45'31" East 406.24 feet; thence South 46°07'15" East 409.50 feet; thence South 48°02'33" East 87.42 feet; thence South 47°16'20" East 46.90 feet; thence South 42°38' West 325.00 feet; thence South 47°16' East 546.00 feet; thence North 42°38' East 130.48 feet; thence South 47°22' East 867.50 feet; thence South 56°52' West 19.02 feet; thence South 47°22' East 267.51 feet; thence South 89°56'47" West 1088.23 feet; thence South 1325.82 feet to the point of beginning.

TOGETHER WITH ALL RIGHTS, titles and interest in Grantors Prorata Well right 55-7794 (A-266327).

* * *