

8080163

WHEN RECORDED RETURN TO:
James R. Blakesley
Attorney at Law
2595 East 3300 South
Salt Lake City, Utah 84109
(801) 485-1555

8080163
12/04/2001 12:03 PM 69.00
Book - 8536 Pg - 1317-1323
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
JAMES R. BLAKESLEY
2595 E 3300 S 3RD FLOOR
SLC UT 84109
BY: RDJ, DEPUTY - WI 7 P.

**RE-RECORDED
FIRST SUPPLEMENT TO THE
CONDOMINIUM DECLARATION FOR MT. VERNON ESTATES CONDOMINIUMS
(To Correct Legal Descriptions)**

This FIRST SUPPLEMENT TO THE CONDOMINIUM DECLARATION FOR MT. VERNON ESTATES CONDOMINIUMS is made and executed by the MT. VERNON ESTATES HOMEOWNERS ASSOCIATION, of P.O. Box 171014, Salt Lake City, Utah 84117 (the "Declarant").

RECITALS

A. The original CONDOMINIUM DECLARATION FOR MT. VERNON ESTATES CONDOMINIUMS was recorded in the office of the County Recorder of Salt Lake County, Utah on the 1st day of December, 1998, as Entry No. 7172786 in Book 8181 at Page 1002 of the Official Records (the "Declaration").

B. This document affects the real property located in Salt Lake County, Utah, described with particularity on Exhibit "A," attached hereto and incorporated herein by this reference.

C. All of the voting requirements of Article XXVII of the Declaration, entitled "AMENDMENT," have been satisfied.

A M E N D M E N T

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Owners thereof, Declarant hereby executes this FIRST SUPPLEMENT TO THE CONDOMINIUM DECLARATION FOR MT. VERNON ESTATES CONDOMINIUMS.

1. First Amendment - Rental Cap. The following section is hereby added to Article XXXIII, entitled "GENERAL PROVISIONS," of the Declaration:

6. Leases. At all times at least ninety percent (90%) of the Units in the Project must be owner-occupied and the leasing of more than ten percent (10%) of the Units is prohibited in order for the Association to:

- a. Protect the equity of the individual property owners at the Mt. Vernon Estates Condominiums (the "Project");
- b. Carry out the purpose for which the Project was formed by preserving the

BK8536PG1317

character of the Project as a homogeneous residential community of predominantly owner-occupied Units and by preventing the Project from assuming the character of an apartment, renter-occupied complex; and

c. Comply with the eligibility, requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of a Unit or Units shall be prohibited, except in the case of undue hardship as provided below.

For purposes of this Section, the term "owner-occupied" means occupied by the vested owner of record or his spouse, son, daughter, mother or father.

The Management Committee, in its sole discretion, shall be empowered to allow reasonable leasing of Units upon written application to avoid undue hardship on an Owner. By way of illustration and not by limitations, examples of circumstances which would constitute undue hardship are those in which: a) an Owner must relocate his residence and cannot, within ninety (90) days from the date the Unit was placed on the market, sell the Unit while offering it for sale at a reasonable price no greater than its current appraised market value; b) the Owner dies and the Unit is being administered by his estate; c) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit; (d) the Unit is to be leased to a member of the Owner's immediate family, which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents, and spouses. Those Owners who have demonstrated that the inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Management Committee may lease their Units for such duration as the Management Committee reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he must lease his Unit to avoid undue hardship shall submit a written application to the Management Committee setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Management Committee may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Management Committee's written approval of the Owner's application. When a lease is approved, a copy of the lease, signed by the lessee and lessor, shall be submitted to the Management Committee within ten (10) days after it has been signed by both parties.

Any agreement for the leasing, rental, or occupancy of a Unit (collectively, "lease") shall be in writing and a copy thereof shall be delivered to the Management Committee upon request. By virtue of taking possession of a Unit, each lessee agrees to be subject to and abide by these restrictive covenants, and that any covenant violation shall be deemed to constitute a default under the lease. No Owner shall be permitted to lease his Unit for transient, hotel, seasonal, rental pool or corporate/executive use purposes, which shall be deemed to be any rental with an initial term of less than one (1) year. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Unit.

BK8536PG1318

Within ten (10) days after delivery of written notice of the creation of a nuisance or material violation of these restrictive covenants, the Owner shall proceed promptly to abate the nuisance or cure the default, and notify the Management Committee in writing of his intentions. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit. The Management Committee shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and By-Laws, in order to enforce the provisions of this subparagraph. Any transaction which does not comply with this Section shall be voidable at the option of the Management Committee.

2. Second Amendment - Smoking. The following section is hereby added to Article XXXIII, entitled "GENERAL PROVISIONS," of the Declaration:

7. Smoking. Smoking or the use of tobacco or related products is prohibited in the Units. Smoking or the use of tobacco or related products is allowed on the outside deck, porch, balcony, or in the Common Areas. In addition:

a. Nuisance Defined. Utah Code Annotated, Section 76-3-203.1 (1997) defines a "nuisance" so as to include tobacco smoke that drifts into any Unit a person rents, leases or owns from another Unit more than once in each of two (2) or more consecutive seven (7) day periods which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. The Association adopts this definition until such time as it is amended or repealed by the Utah legislature at which time this definition shall be similarly and automatically amended or repealed.

b. Release, Waiver & Indemnity. By accepting a deed or other document of conveyance to a Unit, each Owner hereby expressly waives, releases and forever discharges, and further agrees to indemnify, save and hold the Association, Management Committee and members of the Management Committee harmless against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatever, arising out of the smoking of tobacco products in, on or about the Project, including but not limited to any claim that the Association or Management Committee abate or attempt to abate any alleged nuisance caused by smoking tobacco products.

c. Reservation of Right of Action. Anything to the contrary notwithstanding, the right of action of a Unit Owner or resident created by Utah Code Annotated, Section 78-38-1 (1997) against

another Unit Owner or resident who creates a nuisance by generating tobacco smoke is expressly recognized and reserved, conditioned upon the existence of the statutory remedy or its equivalent, and the Association shall approve any reasonable structural alterations to the Common Areas and Facilities provided the alterations (a) do not impair the structural integrity of the buildings or improvements, (b) do not materially alter the nature of the Project, (c) do not damage another Unit, and (d) are paid for by the Unit Owner or resident.

d. Delivery of Copy of Project Documents to Purchaser or Resident. By accepting a deed or other document of conveyance to a Unit, each Unit Owner promises and agrees, when he sells, rents, or leases his Unit, to deliver written notice of the smoking prohibition to the buyer, renter, tenant, lessee, or resident.

3. Conflict. In the event of any conflict, inconsistency, or incongruity between the provisions of this Supplement to the Declaration and the provisions of the Declaration, the former shall in all instances control with regard to the Phase III Property and any Additional Land subsequently added to the Project.

4. Severability. Any provision in this contract, or part thereof, prohibited by the laws of the State of Utah, shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this document.

5. Effective Date. The effective date of this First Supplement to the Declaration shall be the date on which said instruments are filed for record in the Office of the County Recorder of Salt Lake County, Utah.

EXECUTED the 12 day of October, 2001.

MT. VERNON ESTATES HOMEOWNERS ASSOCIATION

By: John Zaby
Title: John Zaby, President

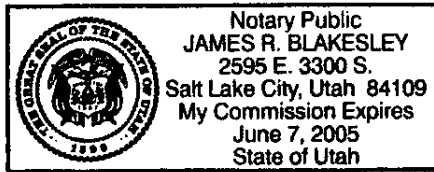
By: Emily Kehl
Title: Emily Kehl, Secretary

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

BK8536PG1320

On the 12 day of October, 2001, personally appeared before me John Zaby and Emily Kehl, who by me being duly sworn, did say that they are the President and Secretary of MT. VERNON ESTATES HOMEOWNERS ASSOCIATION, and said John Zaby and Emily Kehl duly acknowledged to me that said Association executed the same.

NOTARY PUBLIC
Residing At:



BK8536PG1321

Exhibit "A"

**MT. VERNON ESTATES CONDOMINIUM
LEGAL DESCRIPTION**

The land described in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

<u>Building No.</u>	<u>Unit No.</u>	<u>Parcel No.</u>
A	3979	16-33-383-002
B	3979	16-33-383-001
C	3979	16-33-383-003
D	3979	16-33-383-004
A	3980	16-33-383-006
B	3980	16-33-383-005
C	3980	16-33-383-007
D	3980	16-33-383-008
A	3998	16-33-383-010
B	3998	16-33-383-009
C	3998	16-33-383-011
D	3998	16-33-383-012
A	4008	16-33-383-014
B	4008	16-33-383-013
C	4008	16-33-383-015
D	4008	16-33-383-016
A	4049	16-33-383-018
B	4049	16-33-383-017
C	4049	16-33-383-019
D	4049	16-33-383-020
A	4053	16-33-383-022
B	4053	16-33-383-021
C	4053	16-33-383-023
D	4053	16-33-383-024
A	4050	16-33-383-026
B	4050	16-33-383-025
C	4050	16-33-383-027
D	4050	16-33-383-028

BK8536PG1322

<u>Building No.</u>	<u>Unit No.</u>	<u>Parcel No.</u>
A	4046	16-33-383-030
B	4046	16-33-383-029
C	4046	16-33-383-031
D	4046	16-33-383-032
A	4042	16-33-383-034
B	4042	16-33-383-033
C	4042	16-33-383-035
D	4042	16-33-383-036
A	4026	16-33-383-038
B	4026	16-33-383-037
C	4026	16-33-383-039
D	4026	16-33-383-040
A	4022	16-33-383-042
B	4022	16-33-383-041
C	4022	16-33-383-043
D	4022	16-33-383-044
A	4018	16-33-383-046
B	4018	16-33-383-045
C	4018	16-33-383-047
D	4018	16-33-383-048